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THIRD UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

OFFICIAL RECORDS

Volume XVII

PLENARY MEETINGS

SUMMARY RECORDS OF MEETINGS: 183rd AND 184th MEETINGS
VERBATIM RECORDS OF MEETINGS: 185th TO 193rd MEETINGS

DOCUMENTS

Resumed Eleventh Session: New York, 22 and 24 September 1982
Final Part of the Eleventh Session and Conclusion of the Conference: Montego Bay, 6 to 10 December 1982

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UNITED NATIONS — New York, 1984

INTRODUCTORY NOTE

The Official Records of the Third United Nations Conference on the Law of the Sea comprise the following volumes:

First and second sessions: volumes I-III (United Nations publications, Sales Nos. E.75.V.3, E.75.V.4 and E.75.V.5).

Third session: volume IV (United Nations publication, Sales No. E.75.V.10).

Fourth session: volume V (United Nations publication, Sales No. E.76.V.8).

Fifth session: volume VI (United Nations publication, Sales No. E.77.V.2).

Sixth session: volumes VII and VIII (United Nations publications, Sales Nos. E.78.V.3 and E.78.V.4).

Seventh session: volumes IX and X (United Nations publications, Sales Nos. E.79.V.3 and E.79.V.4).

Eighth session: volumes XI and XII (United Nations publications, Sales No. E.80.V.6 and E.80.V.12).

Ninth session: volumes XIII and XIV (United Nations publications, Sales Nos. E.81.V.5 and E.82.V.2).

Tenth session: volume XV (United Nations publication, Sales No. E.83.V.4).

Eleventh session: volume XVI (United Nations publication, Sales No. E.84.V.2).

Resumed eleventh session: volume XVII (United Nations publication, Sales No. E.84.V.3).

The agenda of the Conference and the allocation of the items included in the agenda appear in paragraph 40 of document A/CONF.62/L.8/Rev.1 (see vol. III). The rules of procedure of the Conference have been issued as a United Nations publication (Sales No. E.81.I.5).

For the list of delegations participating in the resumed eleventh session, and the final part of the eleventh session, see document A/CONF.62/INF.17.

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol in the text indicates a reference to a United Nations document. The Conference documents bear the symbol A/CONF.62/. . .

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SUMMARY RECORDS OF MEETINGS: 183rd AND 184th MEETINGS

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PLENARY MEETINGS

183rd meeting

Wednesday, 22 September 1982, at 10.50 a.m.

President: Mr. T. T. B. KOH (Singapore)

Organization of work

1. The PRESIDENT said that the main purpose of the resumption of the eleventh session was to enable the Conference to complete the processing of the Drafting Committee's recommendations. The Conference would also have to decide on a venue for the signing of the Final Act, the Government of Venezuela having informed the Secretary-General that it was withdrawing its invitation to the Conference to sign the Final Act at Caracas (A/CONF.62/L.153).

2. The Collegium had requested that the draft final act prepared by the secretariat should be issued in all the languages of the Conference. He would be grateful if delegations could submit to him, in writing, any comments or suggestions concerning that draft.

Report of the Chairman of the Drafting Committee

3. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that at its intersessional meetings in Geneva in July and August 1982, the Drafting Committee had completed the work assigned to it. It had made recommendations (A/CONF.62/L.152 and Add.1–22) concerning Parts XVI and XVII, annexes III, IV, VI, VII, VIII and IX, the preamble, article 1 and draft resolution II. It had also made recommendations concerning pending items on all parts of the Convention. The Drafting Committee had approved certain proposals submitted by the co-ordinators of the language groups, even though those proposals had not, at the time of the intersessional meetings, been reformulated in the type of document that was normally submitted to the Committee. It had so acted on the understanding that some of the proposals were being approved ad referendum and on the understanding that the Committee would have an opportunity at the current session to consider the proposals in their proper form.

4. Mr. ARIAS SCHREIBER (Peru), speaking on behalf of the Group of 77, said that the Group, without prejudice to and with all due respect for the positions of its members, realized that opinion was heavily in favour of the signing and prompt entry into force of the Convention, which had established a new legal order for the rational use of ocean space as an instrument of justice, peace, development and co-operation among States. At the same time, the Group of 77 reiterated that any unilateral action or multilateral agreement relating to activities in the international sea-bed area that departed from the régime envisaged in the 1970 Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction[1] and the rules agreed upon by the Conference would lack international validity and would lead to the adoption of appropriate measures to defend the interests of all States with regard to the use of that area as the common heritage of mankind.

5. The Group of 77 intended to urge the General Assembly to allocate the necessary resources to enable the Preparatory Commission and the International Tribunal of the Law of the Sea to discharge their mandate under the Convention effectively and expeditiously.

6. The Group of 77 was grateful to the Secretariat for its valuable assistance to participating States in the past; it trusted that that co-operation would again be manifested in the studies and measures necessary for the implementation of the resolutions adopted by the Conference on 30 April 1982[2] and in the subsequent performance of the functions entrusted to the Secretary-General by the Convention.

7. He reported that the Group of 77 had begun considering the question of the applicability of the Convention when it entered into force. In negotiating and adopting the Convention, the Conference had borne in mind that the problems of ocean space were closely interrelated and had to be dealt with as a whole. The "package deal" approach ruled out any selective application of the Convention. According to the understanding reached by the Conference from the outset and in conformity with international law, no State or group of States could lawfully claim rights or invoke the obligations of third States by reference to individual provisions of the Convention unless that State or group of States were themselves parties to the Convention. States which decided to become parties to the Convention would likewise be under no obligation to apply its provisions vis-à-vis States that were not parties. That held true both for the new rules laid down by the Convention for areas under national jurisdiction (inland waters, territorial sea, contiguous zone, exclusive economic zone, continental shelf, archipelagic waters and straits used for international navigation), and for the régime instituted, by virtue of the Convention and the relevant resolutions adopted by the Conference, for the use of the area of the sea-bed beyond the limits of national jurisdiction.

8. The Group of 77 had not yet concluded its consideration of the question of applicability of the Convention, and would make a further statement at a later date.

9. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics) said that the Soviet Union believed that the Convention could make a major contribution to the strengthening of peace and co-operation among States. His Government had therefore decided to sign the Convention when it was opened for signature in December 1982 and hoped that other States would do likewise, so that the Preparatory Commission could begin its work by February or March 1983.

10. Speaking on behalf of the group of Eastern European (Socialist) States, he expressed full support for the statement made on behalf of the Group of 77. Those States appealed to all participants in the Conference to sign and ratify the Convention so that it could enter into force as soon

[1] General Assembly resolution 2749 (XXV).

[2] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI, 182nd plenary meeting.

as possible. They were against any agreement to use the oceans or their resources in violation of the provisions of the Convention or any attempt to circumvent those provisions; they therefore strongly condemned the agreement concluded on 2 September 1982 by the United States of America and three Western States. That agreement was in violation of the provisions of the Convention and detrimental to the interests of other States with regard to areas of the sea most likely to yield mineral resources. The international community was fully entitled not to recognize that agreement, or any similar agreement for that matter, which had no legal force. While States which refused to become parties to the Convention would not have the obligations imposed on States parties, they would also be denying themselves the advantages and privileges accruing to States parties.

11. Mr. JUNG (Federal Republic of Germany), speaking on behalf of the delegations of France, the United Kingdom, the United States and the Federal Republic of Germany, said that those delegations reserved the right to respond at some later time to the statement made on behalf of the Group of 77. As to the statement made on behalf of the group of Eastern European (Socialist) States, the delegations on whose behalf he was speaking wished to state that the interim agreement signed on 2 September 1982 by France, the United Kingdom, the United States and the Federal Republic of Germany was designed to encourage mining companies to settle, by voluntary procedures, any disputes which might arise concerning the overlapping of exploration sites.

12. It had been recognized within and outside the Conference that the elimination of overlapping in areas where pioneer explorers were conducting deep-sea operations was a prerequisite for further exploration for polymetallic nodules. There was a real likelihood of such overlapping in areas of the deep-sea bed where explorers had been, and wished to continue, prospecting and exploring. France, the United Kingdom, the United States and the Federal Republic of Germany had (like some other countries) enacted interim legislation in order to ensure that, pending the adoption of generally agreed arrangements, such operations were conducted in an orderly and peaceful manner, and the solution of the problem of overlapping was a necessary corollary of such legislation. The main purpose of the agreement signed on 2 September was to encourage explorers who had applied to the parties under that interim legislation to solve the problem of overlapping by voluntary procedures. The agreement also made provision for exchanges of information on the procedures for examining such applications. The parties had agreed to have further consultations on those matters.

13. Those limited arrangements were so framed as not to prejudice the position of any of the parties in relation to the Convention. They did not prejudice the decision that France, the United Kingdom and the Federal Republic of Germany had yet to take with respect to participation in the Convention. Finally, the arrangements were compatible with the documents adopted by the Conference.

14. Mr. CLINGAN (United States of America) noted that reference had been made to the applicability of the Convention. It could not be denied that many provisions of the Convention reaffirmed pre-existing international rights. The argument that the Convention established only new rights was untenable. The United States believed that the pre-existing international rights continued to exist.

15. His delegation reserved the right to make a more detailed statement at a later date.

The meeting rose at 11.25 p.m.

184th meeting

Friday, 24 September 1982, at 3.40 p.m.

President: Mr. T. T. B. KOH (Singapore)

Report of the Chairman of the Drafting Committee

1. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, recalled that the Conference must take a decision on the Drafting Committee's recommendations which it had considered informally on 22, 23 and 24 September and which dealt with the following provisions of the Convention: Preamble; Part I; Part II: articles 10, 19, 22, 26; Part III: articles 34, 36, 37, 42, 45; Part IV: article 47; Part V: articles 61, 62, 63, 66, 69, 70, 71, 74; Part VI: articles 76, 77, 79, 83, 85; Part VII: articles 91, 94, 96, 109; Part IX: article 122; Part X: article 127; Part XI: articles 133, 137, 138, 142, 144, 150, 151, 155, 156, 160, 161, 162, 168, 171, 188, 189; Part XII: articles 194, 200, 201, 202, 208, 211, 212, 216, 217, 218, 219, 220, 221, 223, 227, 230, 231, 232, 235, 236; Part XIII: articles 240, 241, 244, 246, 249, 252, 253, 254, 261, the title of section 5, article 263; Part XIV: articles 266, 267, 268, 269, 271, 275, 276, 277; Part XV: articles 286, 288, 294, 297; Part XVI; Part XVII: articles 308 to 317, 319, 320; annex I; annex II: articles 2, 3, 5 and 6; annexes III and IV; annex V: articles 2 and 3; annexes VI, VII, VIII and IX and paragraph 5 (*h*) and (*i*) of resolution I and paragraphs 8 and 9 of resolution II appearing in annex I of the Final Act (A/CONF.62/121). In addition, other proposals had been made by certain delegations concerning articles 56, 218 and 283 and annex V, article 10. The Chairman would make sure that the report of the Drafting Committee should reflect in the addenda to document A/CONF.62/L.152 all the proposals which had been made.

2. He thanked members of the Drafting Committee, the representative of the Secretary-General and the Secretary of the Committee. He also paid tribute to the quality of the efforts of members of the language groups and to the dedication and competence of the revisers who had participated in those groups.

3. Replying to a question from the representative of Israel, he said that, on the basis of the consultations he had had with the co-ordinators of the six language groups it seemed that the titles of the parts, sections and articles of the Convention contributed to the understanding of and clarified the meaning of the provisions considered.

4. The PRESIDENT proposed that all the proposals listed by the Chairman of the Drafting Committee should be adopted as a whole.

5. Mr. JUNG (Federal Republic of Germany) recalled that the representative of Iraq had not submitted his proposal concerning article 70 in writing. The proposal, however, introduced a change of substance. His delegation could not take a decision on the matter as long as it did not have a written text.

6. Mr. HATTINGA VAN'T SANT (Netherlands) supported the statement made by the representative of the

Federal Republic of Germany; unlike the other recommendations, the proposed amendment to article 70 was not merely an amendment of form.

7. Mr. BEESLEY (Canada), Chairman of the Drafting Committee, said that a distinction should be made between recommendations of the Drafting Committee and the proposals which delegations had made during the recent informal meetings.

8. Mr. TORRAS de la LUZ (Cuba) said it was the condition added by the delegation of the United States of America to the proposal made by the representative of Iraq concerning article 70 that changed the substance. The meaning of article 70 was not changed by the Iraqi proposal which, in fact, helped to make it clearer. He regretted that the delegations of the Netherlands and the Federal Republic of Germany were not being more co-operative than they had been in the past.

9. The PRESIDENT said that the condition added by the delegation of the United States of America to the Iraqi proposal simply gave the expression "geographically disadvantaged State" the same meaning in the various articles in which it appeared. Leaving aside for the moment the proposal made by the representative of Iraq, he suggested that the Conference should accept all the proposals contained in the report of the Chairman of the Drafting Committee.

It was so decided.

10. Mr. TREVES (Italy) speaking as co-ordinator of the French language group of the Committee, said that the expression used in the French text, "*entité ou personne*", had been used so as to align the French text with the other texts; in fact, the meaning of the term "*entité*" was more restricted in French than in the other languages aside from Spanish. The fact that "*personne*" had been added did not in any way change the substance of the wording in the articles in which the expression appeared.

11. Mr. BRÜCKNER (Denmark), speaking on behalf of the member countries of the European Economic Community concerning the proposals which had just been adopted, read out a passage from the report of the President of the Conference on the question of participation in the Convention (A/CONF. 62/L.86)[1] which stated, in connection with annex IX, article 7, "that the intention of article 7, paragraph 1, was to provide for the application of the entire system of the settlement of disputes under the Convention in respect of organizations party to it". Thus, for example, annex VI, articles 31 and 32 applied to organizations party to the Convention.

12. Mr. POWELL-JONES (United Kingdom) said that the changes to the text of annex VI, article 38, underlined the fact that the rules, regulations and procedures to be applied by the International Tribunal of the Law of the Sea included those adopted by the Preparatory Commission and provisionally applied by the Authority in accordance with article 308, paragraph 4, of the Convention.

13. Mr. CAFLISCH (Switzerland) drew attention to the fact that the text of the Convention still contained, in Part XV, two provisions which no longer had any raison d'être. Article 285 prescribed that Part XV, section 1, applied to any dispute which, pursuant to Part XI, section 5, was to be settled in accordance with procedures provided for in Part XV. Article 285 had been inserted in the informal composite negotiating text because articles 188 and 189 provided that certain disputes referred to in Part XI could be submitted to the procedures provided for in Part XV. However, those two articles had later been amended and the present text of Part XI, section 5, no longer provided for the submission of said disputes to the procedures of Part XV; article 285 was therefore superfluous. The situation was similar in respect of article 298, paragraph 4, of the informal composite negotiating text. That provision, which referred to subparagraph 1 (*a*) of the same article, according to which States could make a unilateral declaration excepting certain types of disputes, including those concerning delimitation, from the compulsory settlement system laid down in Part XV, section 2, on the condition that they accepted another binding settlement procedure. Article 298, paragraph 4, referred to that acceptance. Since that condition no longer appeared in the present text but had been replaced by the obligation to resort to a conciliation procedure, article 298, paragraph 4, no longer made sense and should therefore have been deleted together with article 285. His delegation regretted that it had not been possible to make those necessary adjustments.

14. Mr. TOULOUPAS (Greece) said that his delegation had not opposed the amendment to article 36 inasmuch as it had been understood that the amendment did not introduce any new element to the text of the article.

15. Mr. JUNG (Federal Republic of Germany) said that in spite of the Drafting Committee's efforts the text of the Convention was still far from perfect. Interpreting rule 53 of the Conference's rules of procedure, according to which the Drafting Committee was to "co-ordinate and refine the drafting of all texts referred to it, without altering their substance", did, in fact, pose problems. The imperfections in the text of the Convention and the problems of consistency that cropped up not only in terminology but in the substance were not simply due to the conditions under which the Committee had recently had to work, but had origins that went deeper. His delegation regretted that it had not been possible to advance further with the harmonization of the versions in the different languages. Given present circumstances, it felt it would have to accept the text as submitted.

16. The PRESIDENT said that he was in a position to fill in a blank unintentionally left, in April 1982, in resolution II, paragraph 9 (*g*). Following the consultations he had held in the past two days, he suggested that the Conference should adopt the wording "means provided in paragraph 5 (*c*)", which seemed to command general approval, to fill the space. If his suggestion were accepted, a corrigendum would be issued in due course.

It was so decided.

17. Mr. HAMOUD (Iraq) said that, as a result of consultations with the delegations concerned, an acceptable solution had been found for the wording of article 70. He proposed replacing the phrase "States with special geographical characteristics" in article 70, paragraph 1, by "geographically disadvantaged States", and replacing "for the purposes of this Convention" in article 70, paragraph 2, by "for the purposes of the Part". He pointed out that the same expression was used in article 69, paragraph 2 (*c*).

18. The PRESIDENT suggested that the Conference should adopt the changes to article 70 recommended by the Iraqi delegation after its consultations.

It was so decided.

19. Mr. HALL (Executive Secretary of the Conference) said that document A/CONF.62/L.154 had been issued to members by mistake and was not, strictly speaking, a document of the Conference.

Date and venue for the signing of the Final Act

20. The PRESIDENT reminded members that in April 1982 the period from 6 to 10 December had provisionally been set aside as the date for the signing.

21. Mr. ZULETA (Special Representative of the Secretary-General) read out, at the Secretary-General's request, the

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

provisions of various General Assembly resolutions which would have to be taken into account in selecting the date and venue for the signing of the Final Act: paragraph 5 of resolution 31/140 of 17 December 1976; paragraph 4 of resolution 3067 (XXVIII) of 16 November 1973, paragraph 4 of resolution 3334 (XXIX) of 17 December 1974; and paragraph 5 of resolution 36/79 of 9 December 1981. He wished to thank the Venezuelan Government for its constant co-operation with the Secretariat and for the welcome it had given the Conference in 1974.

22. The Secretary-General had not received any offer, of the kind provided for in paragraph 5 of resolution 31/140, to host the Conference for the signing of the Final Act. In the light of consultations held during the past few days, there were grounds for thinking that a number of delegations were ready to accept that the signature of the Final Act could take place at Headquarters.

23. Mr. ARIAS SCHREIBER (Peru), speaking in his capacity as Chairman of the Group of 77, commented with satisfaction that the Jamaican Government was prepared to host the Conference for the signing of the Final Act. He thanked the Jamaican Government for its offer, which he fully supported provided that the dates originally scheduled would not have to be changed.

24. Mr. TELLO (Mexico) urged that the dates scheduled for the session, 6 to 10 December, should be retained regardless of the venue chosen.

25. Mr. RATTRAY (Jamaica) said that during the intensive consultations over the venue for the signing of the Convention that had taken place once it was known that Venezuela could no longer host the Conference, many delegations had indicated that it was not desirable for the Convention to be signed in New York, that from a practical point of view Geneva was no better, and that, given the importance of the Convention to the developing countries, it should, if possible, and in the spirit of Caracas, be signed in a developing country. A large number of delegations had, accordingly, asked his delegation whether it might be possible for his Government to invite the Conference to Jamaica to sign the Convention, Jamaica being a developing country in the Caribbean and the intended seat of the International Sea-Bed Authority. It was understood that the dates already agreed upon for the signing, from 6 to 10 December, should not be changed, that all negotiations on the substance of the Convention, its annexes and the Final Act of the Conference should be completed at the current session, and that an appropriate setting should be provided for the solemn ceremony at which the Convention was officially signed and statements might be made. It was equally important, in making the choice, that as many delegations should be able to get to the venue selected as to Caracas. Most countries had, in fact, already made their arrangements on the assumption that the signing would take place in Caracas, and had made financial provisions accordingly. Since Jamaica was geographically close to Caracas, delegations had felt that opting for Jamaica would not result in any additional financial burden for them; indeed, it would reduce the costs for some. Faced with their appeals, his delegation had tried to determine the nature and possible extent of the additional costs that holding the solemn signing session in Jamaica would involve for his Government, and had had consultations with the Secretariat on that subject. The information it had been given suggested that if the signing had been held in Caracas the additional costs would have amounted to between 120,000 and 158,000 dollars, independent of documentation costs. Given that situation he had consulted his Government, and was now authorized to announce that his Government would be very happy to invite the Conference to Jamaica from 6 to 10 December to sign the Convention. Consultations would have to take place with the Secretary-General, in accordance with General Assembly resolution 31/140, as to the nature and possible extent of the actual additional costs directly or indirectly involved.

26. The PRESIDENT asked whether the Conference was able to accept the invitation from the Jamaican Government to go to Jamaica from 6 to 10 December to sign the Final Act and open the Convention for signature. He pointed out that the invitation had the full support of the Group of 77.

27. Mr. ZULETA (Special Representative of the Secretary-General) thanked the Jamaican Government for its invitation and asked whether, as he thought he had understood from the Jamaican representative's statement, the Government of Jamaica agreed, after consultations with the Secretary-General as to their nature and possible extent, to defray the actual additional costs directly or indirectly involved.

28. Mr. RATTRAY (Jamaica) said that he had been at pains in his statement to use the precise wording of resolution 31/140 calling for consultation with the Secretary-General as to the nature and possible extent of the additional costs, and to indicate that such consultation was in progress and that a formal communication had been sent to the Secretariat regarding those costs, in conformity with the resolution.

29. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat had not yet transmitted official information regarding the nature and possible extent of such additional costs to the delegation of Jamaica and requested that that fact should be reflected in the summary record of the meeting. He mentioned that the official communication had not been received by his office until 10 a.m. that morning.

30. The PRESIDENT, recalling that the invitation from the Government of Jamaica had the total support of the Group of 77, said that he did not believe it was absolutely necessary for all the members of that Group to take the floor to express their support for that invitation. Only those delegations for which the invitation presented difficulties should make statements.

31. Mr. STARČEVIĆ (Yugoslavia) said that, although his delegation naturally supported the invitation from Jamaica, it believed unlike the representative of Mexico, who had proposed that the Conference should first approve the dates set for the signing session, namely, from 6 to 10 December, before taking a decision on the venue of that session, that the Conference should first select the venue. That decision could have implications for the dates of the session; if the session was to take place at New York the dates set would not have to be changed, but if it was to be held away from Headquarters certain representatives who had to attend might be detained by the General Assembly, which would still be meeting. It would perhaps be desirable in such an event to postpone the date of the session by a few days, which was a step that would certainly not be out of the question.

32. The PRESIDENT said that, assuming that there were no compelling circumstances calling for a change in that regard, it would be preferable to retain the agreed dates, in view of the effort that had been required in order to reach agreement in that connection. He therefore suggested that the Conference should accept the invitation from the Government of Jamaica to host it in Jamaica from 6 to 10 December for the signing of the Final Act and the opening of the Convention for signature.

It was so decided.

33. Mr. TER HORST (Venezuela) thanked the delegations for the understanding with which they had received his Government's decision, particularly the delegation of Jamaica, whose invitation would enable the Conference to sign the Final Act on the agreed dates. The decision taken by his Government had been a distressing one, but it had been in

response to exceptional circumstances relating to his country's national interest, as indicated by the Minister for Foreign Affairs of Venezuela in the letter circulated in document A/CONF.62/L.153.

34. Mr. TAHINDRO (Madagascar) noted that the Conference had just taken a decision on the venue for the signing of its Final Act and expressed regret at not having learned about the decision of the Government of Venezuela until an extremely late date, with the result that his country's competent authorities had been unable to hold consultations at the bilateral and regional levels. Naturally, his delegation would be present at the venue set for the signing of the Final Act, but it was regrettable that a decision concerning a problem of such great importance should have been taken in such a hasty manner, before the Secretary-General could hold more extensive consultations with all member States. His delegation nevertheless supported the decision taken by the Conference, while at the same time requesting that its statement should be reflected in the summary record of the meeting.

35. Mr. CALERO RODRIGUES (Brazil) noted that the Conference had taken a decision and that, as a following step, the Secretariat would have to hold consultations with the Government of Jamaica in order to establish the conditions under which the signing session would take place. One of the most important requirements was that that Government should defray the additional costs involved. Problems might arise if the Secretariat and the Government of Jamaica did not reach agreement on that point. He wondered whether it might be possible to make acceptance by the Conference tentative, so that, if the consultations in question were not productive, the Conference could meet in New York on the dates set. The Conference, which was not to meet again before the signing of the Final Act, would thus not run the risk of finding itself in a dilemma.

36. The PRESIDENT said that the Secretariat used objective criteria in establishing the proportion of costs arising from the holding of a conference away from Headquarters to be defrayed by the host country and that those criteria would be used in the case under consideration. Moreover, the amount in question was minimal and he was therefore convinced that agreement would be reached without difficulty. In the highly unlikely event that that did not prove to be the case, he would contact all participants in the Conference.

37. Mr. OLSZOWKA (Poland) said that his Government had decided to sign the Convention, which he regarded, upon careful consideration, as an appropriate basis for regulation of use of the seas and oceans for the benefit of the international community as a whole. That Convention would make a considerable contribution to the maintenance and strengthening of international peace and security. Although not all the provisions of the Convention were entirely to its satisfaction, his Government welcomed the adoption of the Convention as a compromise document prepared in the course of lengthy and arduous negotiations in which his delegation had actively participated. All delegations had had to make concessions during those negotiations, and the compromise document that had resulted from the negotiations took account of the legitimate interests of all States. His country was particularly pleased that, in the future, international relations in the field of the use of oceans would be regulated by a convention since, in recent years, it had made a major economic effort to develop its scientific and technical capacity with a view to exploiting marine resources. It therefore hoped, in the interest of all States and the international community as a whole, that the vast majority of States would sign the Convention in Jamaica. It also considered it vital that no State or group of States should engage in activities contrary to the principles set forth in the Convention, particularly the principle of the common heritage of mankind.

Title of the Convention

38. In the course of a discussion on the title of the Convention, Mr. ROSENNE (Israel) and Mr. ALBORNOZ (Ecuador) said that it would be necessary to make a reference to Jamaica in that title, such as "Jamaica Convention on the Law of the Sea" or "United Nations Convention on the Law of the Sea (Jamaica Convention)"; Mr. TELLO (Mexico), Mr. ARIAS SCHREIBER (Peru), Mr. CHARRY SAMPER (Colombia), Mr. ZEGERS (Chile) and Mr. BEESLEY (Canada) believed that reference should be made to the United Nations in the title. Mr. ENGO (United Republic of Cameroon) and Mr. TORRAS de la LUZ (Cuba) considered it preferable to defer a decision on that point to a later date; Mr. RATTRAY (Jamaica) and Mr. MUDHO (Kenya) said that they were prepared to accept a decision taken by the Conference or to accept a title established as a result of use; and Mr. CAFLISCH (Switzerland) proposed to keep the title "United Nations Convention on the Law of the Sea".

39. The PRESIDENT proposed that the official title "United Nations Convention on the Law of the Sea" should be retained.

It was so decided.

Approval of the Final Act

40. The PRESIDENT drew the attention of the Conference to the draft final act (FA/1 and Add.1, FA/2, FA/1/Annexes 1 to 3 and FA/1/Appendix 1). He suggested that document FA/1 should be considered paragraph by paragraph, in view of the changes proposed by the Collegium (FA/2). He would indicate the suggestions and observations communicated to him with regard to various paragraphs at the appropriate points.

Paragraph 1

41. Mr. HAMOUD (Iraq) said that paragraph 1, which reproduced provisions from General Assembly resolutions on the law of the sea, contained, with respect to related issues concerning the régimes of the high seas, the continental shelf and the territorial sea, the words "including the question of its breadth and the question of international straits" in parentheses. His delegation believed that the words in parentheses should be deleted because the Conference, in its work, had dissociated those two questions and any such mention could lead to misunderstandings.

42. The PRESIDENT said that the terms used were strictly in line with the mandate of the Conference as it appeared in the relevant General Assembly resolution. He did not believe it desirable to omit one element of that mandate, and he appealed to the representative of Iraq not to insist on his proposal.

Paragraph 1 was approved.

Paragraph 2

43. Mr. EL-BANHAWY (Egypt) asked why the resolutions referred to in paragraph 2 were of an earlier date than those mentioned in paragraph 1. It seemed to him that it would be preferable to cite the resolutions in chronological order.

44. Mr. ZULETA (Special Representative of the Secretary-General) said that it was the usual practice in final acts to mention first the resolution which was the point of departure for a conference and which contained its mandate, and then, as had been done in paragraph 2, to refer to the earlier basic texts.

45. Mr. ENGO (United Republic of Cameroon) said that the paragraph had been drafted with the strictest respect for accuracy. The Conference should not, at the current stage, waste time on minor drafting details.

46. The PRESIDENT said that Malta had proposed the addition in the first line, after the words "the General Assembly had", of the following words: "considered an item introduced in 1967 on the initiative of the Government of Malta, and had subsequently".

Paragraph 2, as amended by Malta, was approved.

Paragraph 3

47. The PRESIDENT drew the attention of the Conference to the change suggested by the Collegium in paragraph 5 (iii) of its memorandum (FA/2). Peru had also made a proposal to add, after the first sentence, the following two sentences: "The General Assembly, by resolution 2750 C (XXV), decided to enlarge that Committee and requested it to prepare draft treaty articles and a comprehensive list of items and matters for the United Nations Conference on the Law of the Sea. The Committee as thus constituted held six sessions and a number of additional meetings between 1971 and 1973 at the United Nations Office at Geneva and at United Nations Headquarters in New York". Since the Collegium supported that proposal, he would suggest that, instead of the Collegium's proposal, the Conference should approve that of Peru.

48. Mr. EL-BANHAWY (Egypt) suggested that United Nations Headquarters should be mentioned before the United Nations Office at Geneva.

Paragraph 3, as amended by Peru and sub-amended by Egypt, was approved.

Paragraphs 4 to 10

Paragraphs 4 to 10 were approved.

Paragraph 11

49. Mr. ROSENNE (Israel) said that his delegation had made it known in writing that it was opposed to the inclusion of paragraph 11 and that at the proper time it wanted to be able to state the reasons why it sought a separate recorded vote on that paragraph.

50. The PRESIDENT said that the Israeli delegation would have that opportunity once all the paragraphs had been discussed; he, as President, would then make a ruling in that regard.

Paragraphs 12 to 16

Paragraphs 12 to 16 were approved.

Paragraph 17

51. The PRESIDENT said that the Collegium had suggested the changes which appeared in paragraph 5 (i) and (v) of its memorandum.

Paragraph 17 was approved with the changes suggested by the Collegium.

Paragraphs 18 to 21

Paragraphs 18 to 21 were approved.

Paragraph 22

52. The PRESIDENT said that the Collegium had suggested the change which appeared in paragraph 5 (iv) of its memorandum.

Paragraph 22 was approved with the change suggested by the Collegium.

Paragraphs 23 to 26

Paragraphs 23 to 26 were approved.

Paragraph 27

53. The PRESIDENT said that the Collegium had suggested the changes which appeared in paragraph 5 (ii) and (vii) of its memorandum.

54. Following an exchange of views between Mr. ROSENNE (Israel), Mr. ZULETA (Special Representative of the Secretary-General) and Mr. ARIAS SCHREIBER (Peru) about the usefulness of footnote 41 in document FA/1, the PRESIDENT proposed the deletion of that footnote since footnote 40 adequately explained the information provided in paragraph 27.

It was so decided.

Paragraph 27 was approved with the three changes suggested by the Collegium, footnote 41 being deleted.

Paragraphs 28 to 36

Paragraphs 28 to 36 were approved.

Paragraphs 37 and 38

55. The PRESIDENT said that the Peruvian delegation had proposed the addition of the following sentence at the end of paragraph 38: "At the resumed tenth session, the Conference agreed that the decisions taken in the informal plenary concerning the seats of the International Sea-Bed Authority (Jamaica) and the International Tribunal for the Law of the Sea (Free and Hanseatic City of Hamburg in the Federal Republic of Germany) should be incorporated in the revision of the draft convention; and that the introductory note to that revision should record the requirements agreed upon when the decisions concerning the two seats were taken."

Paragraphs 37 and 38, as amended by the proposal of Peru, were approved.

Paragraph 39

Paragraph 39 was approved.

Paragraph 40

56. The PRESIDENT said that two amendments had been proposed to paragraph 40. First, Romania, on the ground that the texts referred to in the last sentence were not the "only formal proposals" before the Conference, proposed that either mention should also be made of the amendments submitted formally or the words "only formal proposals" should be deleted. Secondly, the Federal Republic of Germany wished it to be indicated that the Conference had noted, at the 174th meeting,[1] that all efforts at reaching general agreement had been exhausted.

57. Mr. DUISBERG (Federal Republic of Germany) said that while leaving it to the Collegium to select the appropriate wording, he suggested the inclusion, before the last sentence in paragraph 40, of the following sentence: "The Conference decided that all efforts at reaching general agreement had been exhausted".

58. Mr. ARIAS SCHREIBER (Peru) said that he had nothing to add to the proposal of the representative of the Federal Republic of Germany. With respect to that of the representative of Romania, it would be simpler to delete the last sentence of paragraph 40 altogether. The texts referred to were already mentioned in the preceding paragraphs and it would therefore be pointless to repeat those references; besides, a comprehensive list of formal proposals would make the text too long.

59. Mr. BENA (Romania) observed that paragraph 40 made no mention of the amendments which had been formally submitted at the eleventh session. There was certainly no need to refer to them one by one, but a general reference, at least, was called for. He feared that paragraph 40 would be seriously defective if there was no mention of those amendments. Moreover, since paragraph 42 gave an impartial and balanced

account of the deliberations at the eleventh session, the last sentence of paragraph 40 was superfluous. It would therefore be desirable to delete it.

60. The PRESIDENT suggested that the Conference should delete the last sentence of paragraph 40.

It was so decided.

61. The PRESIDENT asked the representative of the Federal Republic of Germany where it would be appropriate to insert the sentence whose addition he had proposed and whether it should be included in paragraph 40 or at the end of paragraph 42.

62. Mr. DUISBERG (Federal Republic of Germany) suggested that, unless the Conference decided otherwise, the sentence in question should be inserted in paragraph 40, which already contained a number of particulars concerning the final stages of the Conference.

63. The PRESIDENT suggested that the Conference should approve the substance of the proposal made by the representative of the Federal Republic of Germany and should leave it to the secretariat of the Conference to determine where the proposed sentence should be inserted.

It was so decided.

Paragraph 40, as amended, was approved.

Paragraph 41

64. The PRESIDENT drew attention to the Collegium's suggested change to paragraph 41 (FA/2, para. 5 (vi)).

65. Mr. BEESLEY (Canada), speaking as Chairman of the Drafting Committee, said that it would be desirable for the secretariat to amplify paragraph 41 through the addition of a number of details on the way in which the Drafting Committee had conducted its work. The Drafting Committee had indeed harmonized the text and concorded the different language versions in an initial stage but then, in a second stage, it had undertaken a veritable finalization of the drafting. The co-ordinators of the language groups and the other informal collaborators had rendered an extremely important service to the Conference in that respect. He therefore suggested that their names should appear in the Final Act.

It was so decided.

Paragraph 42

66. The PRESIDENT suggested that, in accordance with a proposal by the representative of Sri Lanka, the reference to the statement of understanding should appear at the head of the list of resolutions.

It was so decided.

67. The PRESIDENT observed that paragraph 42 had been the subject of a number of proposals, all of which noted the fact that the instrument as a whole (convention and resolutions) had been adopted by a recorded vote. There was no precedent for that. Although conventions had been adopted by a vote in the past, that particular had never been recorded in the relevant final act. However, because the representatives of the Federal Republic of Germany, Israel and Turkey held a firm position on that point, he suggested that the voting should be mentioned in the Final Act.

68. Mr. ARIAS SCHREIBER (Peru) said that, if it was stated that the Convention had been adopted by a vote without it being specified at whose request the vote had been held, the impression would be given that the majority of States had misused their power, which was not true. The Group of 77 and the majority of States had shown much flexibility. It was solely because of the insistence of one delegation that the Conference had felt compelled to hold a vote. If that vote must be mentioned, then so should the delegation concerned.

69. Mr. STARČEVIĆ (Yugoslavia) suggested that the difficulty could be remedied through the insertion of a footnote at the beginning of the second paragraph of paragraph 42, after the words "on 30 April 1982"; the footnote would refer the reader to the summary record of the meeting at which the vote had taken place.

70. Mr. KOROMA (Sierra Leone) emphasized the necessity of following established practice. Not to do so would prejudice the Convention. If particulars of the vote held were required, it would always be possible to refer to the documents of the Conference.

71. Mr. ENGO (United Republic of Cameroon) expressed his full agreement with the representative of Sierra Leone. It would not be possible to detail all the circumstances in which each of the decisions had been taken and it was sufficient to indicate that the rules of procedure had been followed. Any other information would be contrary to established practice and utterly superfluous.

72. Mr. ARIAS SCHREIBER (Peru) said that no reference to the vote was necessary. If a reference was desired, however, the delegation which had requested it and the result of the vote should be mentioned.

73. Mr. SIBAY (Turkey) endorsed the comments made by the representative of Peru. It was extremely important that the Final Act should detail all the facts concerning the way in which the Convention had been adopted after every attempt to reach a consensus had failed. If essential facts were omitted and if it was not indicated how States participated in the decision, the legal worth of the Final Act would be impaired. Moreover, the argument concerning established practice was not entirely applicable, since the drawing up of the Convention had been an undertaking without precedent. Every development must therefore be accurately recorded, even if that meant naming one country.

74. The PRESIDENT suggested the approval of the following compromise: the first sentence of the second paragraph of paragraph 42 should be replaced by a sentence indicating that at the request of one delegation, which would be mentioned in a footnote, the Convention, together with resolutions I to IV, forming an integral whole, had been adopted on 30 April 1982 by a recorded vote of 130 votes in favour and 4 against, with 17 abstentions, subject to drafting changes subsequently approved by the Conference, which were then incorporated in the Convention and in resolutions I to IV annexed to the Final Act.

It was so decided.

75. Mr. ZEGERS (Chile) said that, without detriment to what had already been decided, he would like it to be indicated, before the new sentence, that apart from the vote on the instrument as a whole the Conference had always taken its decisions on substantive questions by consensus.

76. Mr. ROSENNE (Israel) reminded the representative of Chile that at the 38th meeting[2] a substantive question had been put to a roll-call vote.

77. Mr. BEESLEY (Canada) said that it would be appropriate, in his view, to emphasize in the Final Act that the Conference had worked on a consensus basis in its deliberations over the years. That that was the method by which apparently intractable questions had been resolved should be recorded for posterity and emphasized for the benefit of those who chose to regard the Convention as an instrument of limited scope and to remember solely the stumbling-blocks, while glossing over the important advances which had been made thanks to the consensus method.

[2] *Ibid.*, vol. I.

78. Mr. KOROMA (Sierra Leone) agreed that the idea of consensus should be stressed in the Final Act.

79. Mr. LACLETA MUÑOZ (Spain) noted that the Conference had voted not only on the draft convention and the related texts, but also on the amendments thereto.

80. The PRESIDENT proposed that the Conference should also state in the text of the Final Act that, except for the voting at the 38th meeting and during the adoption of the Convention as a whole and the amendments thereto, the Conference had always proceeded on the basis of consensus, without putting any substantive question to the vote.

It was so decided.

Paragraph 11

81. The PRESIDENT stated that the "package deal" should also apply to the Final Act and its annexes, addenda and appendix. He therefore ruled that there was no reason to have separate votes on the various paragraphs of those texts, or on paragraph 11 of document FA/1.

82. Mr. ROSENNE (Israel) noted that the President had made his ruling even before the Israeli delegation had had an opportunity to state its views. It therefore had no choice but to appeal against the President's ruling, in accordance with rule 25 of the rules of procedure. He requested that his appeal should be immediately put to a recorded vote.

83. The PRESIDENT said he was surprised that Israel had requested a vote concerning a text that undeniably reflected the facts.

At the request of the representative of Israel, a recorded vote was taken on the ruling of the President.

In favour: Algeria, Angola, Australia, Austria, Bangladesh, Barbados, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chad, Chile, China, Colombia, Costa Rica, Cuba, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Egypt, El Salvador, Fiji, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lao People's Democratic Republic, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saudi Arabia, Sierra Leone, Somalia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Thailand, Trinidad and Tobago, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Israel.

Abstaining: Argentina.

The ruling of the President was sustained by 102 votes to 1, with 1 abstention.

84. Mr. ROSENNE (Israel) said that his delegation was unable to accept the Final Act with the inclusion of paragraph 11. At the 38th meeting, it had raised objections concerning the competence of the Conference to deal with a proposal regarding the participation of certain national liberation movements as observers in the Conference. It had objected to the substance of the proposal in so far as it related to one national liberation movement. At that meeting, however, the Conference had adopted, by a roll-call vote, the decision referred to in paragraph 11 by 88 votes to 2, with 35 abstentions. It should be noted, in that connection, that the General Assembly itself had never specifically invited the national liberation movement in question to participate in the Conference; the most it had done had been to take note of the Conference's decision in a preambular paragraph of resolution 3334 (XXIX) of 17 December 1974, the text of which had been carefully negotiated.

85. Hamilton Shirley Amerasinghe, the then President of the Conference, had specifically stated, at the 40th meeting,[2] that he had been solemnly assured that the presence of the national liberation movements would not be used to divert the attention of the Conference from its fundamental work. His delegation believed that that undertaking had not been honoured and that the issue dealt with in resolution IV and certain related amendments had been one of the most divisive before the Conference ever since a proposal had first been introduced in 1978.

86. In those circumstances, his delegation had found it necessary to request a separate recorded vote on paragraph 11 of the Final Act. In view of the decision just taken, Israel would have to dissociate itself from any consensus regarding the Final Act. It would re-examine that document in the light of the proceedings and would make its final view known in due course.

87. Mr. VELLA (Malta) requested that his country should be designated by its official name "Republic of Malta" on page 33 of document FA/1/Add.1.

The Final Act of the Conference was approved.

88. Mr. DE LA GUARDIA (Argentina) said that on 30 April 1982 the Conference had adopted, as a whole, the text of the Convention and four resolutions. His delegation had voted in favour of those texts as a whole, in keeping with the commitment made by the Group of 77 to have the text of the Convention adopted as soon as possible. His delegation had reaffirmed on that occasion, with regard to resolution III, the reservation it had expressed at the informal meeting held on 31 March 1982. Had there been a separate vote on the various documents, his delegation would have voted against resolution III, which it considered unacceptable. The wording, particularly in paragraph 1 (*b*), betrayed the principles set forth in paragraph 2 of the old transitional provision concerning territories in dispute. In Argentina's opinion, resolution III had no bearing on the question of the Malvinas, which was related to the decolonization process undertaken by the United Nations. Argentina deeply regretted that it would be unable to sign either the Final Act or the Convention, which were the outcome of efforts made by a number of delegations, including his own, with a view to achieving a balanced international system in an area in which the Conference had been active for so many years.

89. Mr. POWELL-JONES (United Kingdom) said that, in view of the statement made by the Argentine delegation, his delegation also wished to make a statement concerning Conference resolution III. When the so-called transitional provision had been introduced, his delegation had questioned its relevance to the Convention. The text of the resolution was not one that his delegation would have wished to see adopted. Paragraph 2 contained an element which was not consistent with the provision in Article 73 of the United Nations Charter, which stated that the interests of the inhabitants of a territory were paramount. However, with a view to reaching a compromise, the United Kingdom had been prepared to go along with that text, provided the other parties concerned, including Argentina, were also prepared to go along with it. That resolution had been evolved in negotiations over which the President of the Conference had presided and in which the United Kingdom delegation and the Argentine delegation had taken part. The fact that the text had been adopted

demonstrated that all the parties concerned had been prepared to go along with it at that time.

90. The United Nations Conference on the Law of the Sea was not the place to discuss political differences between particular States. It had long been a tradition of the Conference to respect that fact, a tradition essential for its work. For its part, the United Kingdom intended to exercise any offshore rights around the Falkland Islands for the benefit of the people of the Territory. It would do so in Compliance with Article 73 of the United Nations Charter.

91. Mr. ARIAS SCHREIBER (Peru) said that, for lack of time, the group of Latin American States had been unable to meet before the Argentine delegation had made its most recent statement. As co-ordinator of that group, he believed he was echoing the views of all its members in stating his profound regret that Argentina, a State which had been so active in the development of the law of the sea, found it impossible to subscribe to the new Convention, because of a resolution whose shortcomings had certainly been highlighted in the wake of the Malvinas conflict.

92. He also took the view that, in the current circumstances, that resolution could not apply to the Malvinas, until the parties reached a satisfactory agreement in accordance with the procedures and relevant resolutions of the United Nations. His delegation hoped that the Argentine Government would, after all, become a party to the Convention and secure recognition of the rights it was legitimately demanding, at a time when there continued to exist a situation that was inconsistent with the decolonization process successfully under way throughout the world. His delegation was convinced that its statement reflected the views of most, if not all, members of the Group of 77.

93. The PRESIDENT declared the closure of the resumed eleventh session of the Conference.

The meeting rose at 6.45 p.m.

185th meeting

Monday, 6 December 1982, at 10.30 a.m.

President: Mr. T. T. B. KOH (Singapore)

Opening of the final part of the eleventh session

1. The PRESIDENT: We are meeting here in Montego Bay for two purposes: first, to sign the Final Act of the Conference and to open the United Nations Convention on the Law of the Sea for signature and, secondly, to hear statements by delegations on the Convention and the related resolutions.

2. I should like, on behalf of the Conference, to express our gratitude to the Government of Jamaica for having invited us to hold this historic meeting in Montego Bay.

Welcoming address by Mr. Edward Seaga, Prime Minister of Jamaica

3. The PRESIDENT: The Conference will now hear a statement by the Prime Minister of Jamaica.

Mr. Edward Seaga, Prime Minister of Jamaica, was escorted to the rostrum.

4. The PRESIDENT: Mr. Prime Minister, may I on behalf of the Conference thank you very much for gracing this historic meeting and for agreeing to speak to us.

5. May I also take this opportunity, on behalf of all my colleagues, to express to you and to your delegation our appreciation for the wonderful arrangements you have made to welcome us here in Montego Bay.

6. I have great pleasure in welcoming you and inviting you to address us.

7. Mr. SEAGA (Jamaica): It is a great pleasure for me, on behalf of the Government and people of Jamaica, to welcome the Third United Nations Conference on the Law of the Sea to Jamaica and to the city of Montego Bay. I extend to you all our hospitality. Indeed, all Jamaica hopes that we may have the pleasure of welcoming many of you back for the meetings of the Preparatory Commission beginning in March 1983.

8. Jamaica is conscious of the historic nature of this session and, although this opportunity came unexpectedly and with such short notice, we have spared no effort to ensure that the Conference is well serviced in an appropriate setting.

9. Jamaica notes the many provisions in the Convention which deal with the common concerns of Africa, the Caribbean and the other developing countries. We can be forgiven if we are especially mindful in these surroundings of, for example, the provision that covers the protection and preservation of the marine environment, as this has a special relevance to tourism and to the safeguarding of national treasures such as beaches, reefs and marine life.

10. But the scope of this Convention is far wider in its implications than that of the particular concerns of any group of countries. The international community is well aware of the terrible consequences suffered in the twentieth century because of competing national claims to resource-rich areas. It is a source of great pride to the Jamaican delegation that this Conference has addressed this problem in respect of the resources of the international sea-bed area by declaring them the common heritage of mankind.

11. This enlightened principle requires that the area be used exclusively for peaceful purposes and that it not be subject to competing national claims, and that the resources of the area be exploited for the benefit of mankind as a whole.

12. This formal signing session, which is the final part of the eleventh session, will conclude the deliberations of the Third United Nations Conference on the Law of the Sea.

13. This Conference represents a multilateral undertaking of the greatest significance, and we, the members of the international community, must recognize that its successful conclusion is a historic event.

14. The mandate of this Conference was to formulate a new and generally acceptable convention on the law of the sea which would avoid the defects inherent in the four 1958 Geneva Conventions and take cognizance of the emergence of new countries and of new technologies. I congratulate you on the way the Conference has fulfilled its mandate.

15. A major defect of the 1958 Geneva Conventions was their inability to reflect adequately the views and interests of developing countries. Many of today's leading members of the Group of 77 were colonial Territories in 1958 and without a voice in international affairs. The Convention now before this Conference is a remarkable attempt to arrive at a compromise protecting the legitimate concerns of all interest groups, including the developing countries.

16. Nowhere is this more apparent than in the establishment of the parallel system for exploiting the resources of the Area, resources which are the common heritage of mankind.

17. The Geneva process was also weakened by the adoption of four separate Conventions on interrelated subjects which, by allowing States to choose which of those Conventions they wanted to be a party to, defeated any claim to universality. This experience led the present Conference to recognize as a basic premise that the problems of the law of the sea were closely interrelated and needed to be considered as a whole.

18. Thus the Convention we have before us is a single text on all ocean uses and will become the universal legal régime for the oceans.

19. It is also interesting to note that this Third United Nations Conference on the Law of the Sea is the first to succeed in establishing an outer limit of the territorial sea. The 1958 and 1960 Conferences failed in this regard, and consequently the law of the sea in the 1960s and 1970s was characterized by a lack of response to the legitimate demands of States for expanded zones of maritime jurisdiction.

20. The 1982 Convention meets these demands by providing for a 12-mile territorial sea and by establishing a 200-mile exclusive economic zone and an extended definition of the continental shelf. To have satisfied the demand for expanded maritime boundaries while preserving rights of navigation is one of the major triumphs of this Conference.

21. The Third United Nations Conference on the Law of the Sea also dealt with vital issues ignored by previous conferences. Among these is the régime of archipelagic States, which is a significant development in international law in respect of island States. Also worthy of mention is the Convention's recognition of the rights and interests of land-locked and geographically disadvantaged States.

22. Chief among the provisions relating to developments which have occurred since 1958 are those concerning sea-bed mining, and I should like to stress the significance of the institutional machinery established by the Conference to administer the common heritage of mankind. The International Sea-Bed Authority, and its commercial mining arm, the Enterprise, together represent a response to the institutional realities of the 1970s and the 1980s. This international organization is a product of the monetary, energy and financial crises that have beset the past decade. Its financing, functions and decision-making structure represent a compromise between the voting majority of the third world and the financial and technological resources of the industrialized countries.

23. The Enterprise, through which the international community will engage in sea-bed mining directly for the benefit of mankind as a whole, is an innovative concept in international institutions.

24. Together, the establishment of the Authority and that of the Enterprise give us confidence that the international community can find appropriate institutional responses to the need for a more balanced international economic system.

25. Perhaps we need to be reminded that the provisions of the Convention must be taken as a whole. If they are examined in isolation they will encourage a narrow construction of national interests and may even in some circumstances inflame passions. We of Jamaica see our national interests served if we have secured the best interests of the international community through effective use of the multilateral process. Jamaica is prepared to make sacrifices, for without sacrifice there is no compromise. We regard the Law of the Sea Convention as an integral package consisting of numerous mini-packages governed by two fundamental principles: compromise and consensus. Interestingly, these are also the principles which commonly underlie the art of practical politics.

26. Jamaica accepts this Convention because, although it cannot meet all our demands, it best represents the collective interests of the international community and it reflects the collective will of the international community to promote peace and security and economic development. This Convention is the product of the momentous journey from Caracas to Montego Bay, and each delegation represented here must respond in its own way to the mandate given this session of the Conference.

27. We are gathered here today to consider the product of nine years of labour. I should like to take this opportunity to pay a tribute to the two men who above all others guided this effort to its fulfilment here today. I refer to the late Mr. Hamilton Shirley Amerasinghe of Sri Lanka and to Mr. Tommy Koh of Singapore.

28. Each country represented here may opt on Friday, 10 December 1982, to sign the Final Act of this Conference, or the Convention, or both documents.

29. The Final Act is in reality the log of the Conference, and therefore it is Jamaica's hope that all who took part in it will sign this document. Such signature will, as representatives know, permit participation in the work of the Preparatory Commission, without a vote, which will allow universality in the vital preparatory work for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea.

30. The mandate which each delegation must acknowledge is to ensure that through the Convention the prevention of threats to international peace and security and the realization of a just and equitable international economic system in years to come will be achieved.

31. Jamaica recognizes that this mandate can be fully met at this time only by signing both the Final Act and the Convention. However, we also recognize that the journey does not end in Montego Bay. Therefore we express the hope that delegations which can only partly fulfil the mandate of Montego Bay will participate in the work of the Preparatory Commission through signing the Final Act, with a view to becoming parties to the Convention at a later date.

32. In this way the international community will send a clear signal to all corners of the globe that the Convention represents the only viable legal régime for the oceans.

33. Jamaica's commitment to fulfilling this mandate and to sending this signal does not derive from our being the host of the International Sea-Bed Authority, the Enterprise or the Preparatory Commission. We are indeed deeply grateful to the international community for this expression of confidence that a country so small can perform such a considerable task.

34. However, Jamaica views the Convention as being the most significant international agreement since the Charter of the United Nations, because it provides a régime for approximately 70 per cent of the earth's surface and, through compromise and consensus, has achieved a remarkable degree of agreement. It provides a solid basis for the political and economic development of the international community through collective right rather than individual might.

35. In this connection, we note that a small number of countries have raised the spectre of a "mini-treaty" as an alternative legal régime to the Convention in respect of these provisions. But it cannot be possible that the proposed "mini-treaty" could occupy any legal status, in that it is contrary to the provisions of the Law of the Sea Convention. The financial as well as the legal status of any activity conducted under the aegis of the "mini-treaty" would be profoundly affected by this fact.

36. To the market and production risks inherent in sea-bed mining under any régime would consequently be added considerable legal, political and economic risks for sea-bed mining undertaken under the "mini-treaty".

37. On the other hand, the provisions of the Convention grant assured access to sea-bed miners, provide expressly for security of title to minerals of the Area and create a stable climate for security of investment. The inescapable conclusion is that the Convention on the Law of the Sea is the only possible option that offers a universally acceptable legal régime to conduct activities in the Area which protect all interests, including sea-bed mining States, while assuring that mankind as a whole benefits.

38. Let me urge all representatives here to come to terms with the mandate of Montego Bay. This mandate will remain long after this Conference ends, and we all must recall the consequences in this century when similar mandates were not fulfilled.

39. To avoid these dangers we must all work together, for only through co-operation can the international community achieve lasting peace and meaningful economic development.

40. It is in that context that I encourage all States represented here to fulfill the mandate of Montego Bay, which has materialized from the spirit of Caracas into this historic moment. We who are gathered here have an obligation to mankind and to history.

41. The PRESIDENT: On behalf of the Conference I thank the Prime Minister of Jamaica for the very important statement he has just made.

Statement by the Special Representative of the Secretary-General

42. The PRESIDENT: I call on the Special Representative of the Secretary-General.

43. Mr. ZULETA (Special Representative of the Secretary-General): Although the Secretary-General in his formal address to this Conference during the closing ceremony will express the appreciation of the United Nations for the most generous and gracious hospitality extended by Jamaica to this Conference, I should like to convey to the Prime Minister, Mr. Edward Seaga, on his behalf, on behalf of my colleagues in the United Nations Secretariat and on my own behalf, our warm thanks for the efficient and friendly co-operation given to the Secretariat by all the different sectors of the Government of Jamaica that were involved in making it possible to hold this unique ceremony in Montego Bay. Thanks to the enthusiasm of the very able team that co-operated with the United Nations Secretariat, it is possible today for us to meet here in this beautiful environment and to make of the closing of the largest and most ambitious conference ever held under United Nations auspices a most memorable occasion.

44. I am sure that the same spirit will prevail during the work of the Preparatory Commission that is to lead to the establishment in Jamaica of the International Sea-Bed Authority, which will act on behalf of mankind as a whole in administering the resources of the international sea-bed area beyond the limits of national jurisdiction.

45. As the Prime Minister himself has pointed out, Jamaica is a country of wide-ranging ethnic and cultural components with a richly woven fabric of multicultural strands. It is only fitting that such a country should be the site of an international endeavour of such magnitude.

46. We are greatly honoured by the presence of the Prime Minister, which underlines the historic importance of this occasion, and we are greatly inspired by his statement, which will long be remembered.

Mr. Edward Seaga, Prime Minister of Jamaica, was escorted from the hall.

Statement by the President

47. The PRESIDENT: We have come to the end of a long and arduous journey. Some of us started this journey as far back as 1968, when the United Nations first established the Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.[1] Others joined in 1970, when the United Nations decided to convene the Third United Nations Conference on the Law of the Sea and the preparatory work commenced. Still others joined in late 1973 when the Conference began. When we set out on this long journey in quest of a convention on the law of the sea covering some 25 subjects and issues, there were many who told us that our goal was too ambitious and not attainable. We have proved the sceptics wrong and we have succeeded in adopting a Convention covering practically every aspect of the uses and resources of the sea. The question is whether we have achieved our fundamental objective of producing a comprehensive constitution for the oceans which will stand the test of time. My answer to this question is in the affirmative, and for the following reasons.

48. First, the Convention will promote the maintenance of international peace and security because it will replace a plethora of conflicting claims by coastal States with universally agreed limits on the territorial sea, on the contiguous zone, on the exclusive economic zone and on the continental shelf. Second, the world community's interest in freedom of navigation will be facilitated by the important compromises on the status of the exclusive economic zone, by the régime of innocent passage through the territorial sea, by the régime of transit passage through straits used for international navigation and by the régime of archipelagic sea-lanes passage. Third, the world community's interest in the conservation and optimal utilization of the living resources of the sea will be enhanced by the conscientious implementation of the provisions of the Convention relating to the exclusive economic zone. Fourth, the Convention contains important new rules for the protection and preservation of the marine environment from pollution. Fifth, the Convention contains new rules on marine scientific research which strike an equitable balance between the interests of the research States and those of the coastal States in whose economic zones or continental shelves the research is to be carried out. Sixth, the world community's interest in the peaceful settlement of disputes between States has been advanced by the mandatory system of dispute settlement in the Convention. Seventh, the Convention has succeeded in translating the important principle that the resources of the deep sea-bed constitute the common heritage of mankind into fair and workable institutions and arrangements. Eighth, though far from ideal, we can nevertheless find in the Convention elements of international equity, such as revenue-sharing on the continental shelf beyond 200 miles, giving land-locked and geographically disadvantaged States access to the living resources of the exclusive economic zones of their neighbouring States, the relationship between coastal fishermen and distant-water fishermen and the sharing of the benefits to be derived from the exploitation of the resources of the deep-sea bed.

49. In the report of the Secretary-General on the work of the United Nations, dated 7 September 1982, he wrote, "We have seen, in the case of the law of the sea . . . , what remarkable results can be achieved in well-organized negotiations within the United Nations framework, even on the most complex of issues . . .".[2]

50. It may be helpful if I attempt to identify some of the features of the negotiating process of this Conference which were productive and to distil some wisdom from our negotiating experience. I would point, first of all, to the importance of reaching agreements by consensus on substantive matters in which States have important interests. The Conference has

[1] General Assembly resolution 2340 (XXII).

[2] *Official Records of the General Assembly, Thirty-Seventh Session, Supplement No. 1, p. 4.*

been wise to resist the temptation of putting substantive proposals to the vote, because those who vote against a proposal would naturally not feel bound by it. The consensus procedure, however, requires all delegations, those in the majority as well as those in the minority, to make efforts in good faith to accommodate the interests of others. Second, the Conference took the wise decision that the package-deal approach did not preclude the Conference's allocating the 25 subjects and issues to different negotiating forums so long as the results were brought together to form an integral whole. Third, the group system in the Conference contributed to its work by helping delegations to identify their positions and by enabling negotiations to take place between competing interest groups. The group system should however be used with flexibility and not be allowed to paralyse the negotiating process with rigidity. Fourth, the negotiations in this Conference could not have been brought to a successful conclusion if we had failed progressively to miniaturize the process. It is obvious that no meaningful negotiations can take place in a forum consisting of 160 delegations. Fifth, there is a role for the main committees, for formal negotiating groups, for informal negotiating groups and even for privately convened negotiating groups. In general, the more informal a negotiating group, the more likely we are to make progress. Some of the most intractable problems of the Conference were resolved in privately convened negotiating groups, such as the Evensen group and the Castañeda group. Sixth, the Drafting Committee and its language groups played a very important role in the negotiating process. It is due to their hard work that we have one treaty in six languages and not six treaties in six languages. Seventh, the leaders of a conference can play a significant role in determining its success or failure. In our case, we were extremely fortunate that the members of the Collegium worked well together. The Conference could well have floundered during one of its many crises if the members of the Collegium had not been united and if they had failed to provide the Conference with leadership. Eighth, the secretariat played an important role in the work of this Conference. The members of the secretariat, under the able leadership of the Special Representative of the Secretary-General, not only provided the Conference with excellent services but also assisted the President and the Chairmen of various committees and groups in the negotiating process. I should like to take this opportunity to thank Mr. Bernardo Zuleta and his loyal deputy, Mr. David Hall. Ninth, I should like also to acknowledge the role played by the non-governmental organizations, such as the Neptune group. They provided the Conference with three valuable services: they brought independent experts to meet with delegations, thus enabling us to have an independent source of information on technical issues. They assisted representatives from developing countries to narrow the technical gap between them and their counterparts from developed countries. They also provided us with opportunities to meet, away from the Conference, in a more relaxed atmosphere, to discuss some of the most difficult issues confronted by the Conference.

51. I cannot conclude my statement without recalling once again our collective debt to two men—Hamilton Shirley Amerasinghe and Arvid Pardo. Arvid Pardo contributed two seminal ideas to our work: first, that the resources of the deep sea-bed constitute the common heritage of mankind and, secondly, that all aspects of ocean space are interrelated and should be treated as an integral whole. Hamilton Shirley Amerasinghe led our efforts from 1968 until his untimely death in 1979. I have recently made a modest contribution to the endowment fund established by the United Nations in his name.[3] I appeal to everyone here to make a contribution so that the first Hamilton Shirley Amerasinghe Fellowship can be awarded in 1983 as a tribute to his outstanding contributions to this Conference.

52. I should like to tell you what a pleasure and privilege it has been for me to have worked with all of you during these past eight years. In the final analysis, I believe that this Conference has succeeded because it brought together a "critical mass" of colleagues who were outstanding lawyers and negotiators. We have succeeded because we did not regard our counterparts in the negotiations as the enemy to be conquered. We considered the issues under negotiation as the common obstacles to be overcome. We worked not only to promote our individual national interests but also in pursuit of our common dream of writing a constitution for the oceans.

53. Although the Convention consists of a series of compromises and many packages, I have to emphasize that they form an integral whole. This is why the Convention does not provide for reservations. It is therefore not possible for States to pick what they like and to disregard what they do not like. In international law as in domestic law, rights and duties go hand in hand. It is therefore legally impermissible to claim rights under the Convention without being willing to assume the corollary duties.

54. My final point is addressed to those of you who intend to make statements and declarations under article 310. I would simply remind you that, in accordance with the terms of that article, such declarations must not purport to exclude or modify the legal effect of the provisions of this Convention in their application to those States. Let no nation put asunder this landmark achievement of the international community.

Statement by the President on procedure

55. The PRESIDENT: I should like to inform members of a number of procedural rules which would assist us in our work.

56. First, I appeal to all delegations to limit their oral statements to 15 minutes. I will be quite vigorous and consistent in calling speakers to order if they exceed the 15-minute rule.

57. It may help speakers to know that if they have a statement longer than 15 minutes they may prepare an abridged version for delivery and a longer version to be published in the records of the Conference. It may also assist them to know that the records of this session of the Conference will reproduce their oral statements *in extenso*.

58. Statements made in the exercise of the right of reply will have to be made in writing and will have to be delivered to the secretariat within one month of the availability of the provisional records of this meeting.

59. I should like to inform members also of our programme of work for this week. For the period Monday through Thursday, our morning meetings will start at 10 a.m. and end at 1 p.m. and our afternoon meetings will begin at 3 p.m. and end at 6 p.m. Let us hope that within the first four days we can accommodate all those who wish to speak.

60. On Friday morning, our meeting will begin at 9 a.m. in order to enable delegations which have the power and wish to do so to come up to the rostrum and sign either the Final Act alone or the Final Act and the Convention. If we start at 9 a.m. we should be able to finish this process before 2 p.m., and I intend to carry on until the process is finished. Then at 4 p.m. we will have the final ceremonial closing of the meeting, which will be attended by the President of the General Assembly and the Secretary-General.

Statements by delegations

61. Mr. MacEACHEN (Canada): It is fitting that we have returned to the Caribbean to conclude our work where nine years ago the Third United Nations Conference on the Law of the Sea began its deliberations. The Caribbean is a region where the sea is a part of the national heritage. It is a region

[3] See General Assembly resolution 36/79.

where the sea and its bounty offer the best prospects for the future.

62. But such advantages must never be taken for granted. There is always the danger of marine pollution, of over-fishing and of conflict over fisheries and maritime boundaries. Only a widely accepted Law of the Sea Convention can ensure benefits from the oceans and at the same time minimize the problems brought about by conflicting uses of ocean resources. Advancing the cause of world peace and security over nearly three quarters of the surface of the globe is and must be the greatest accomplishment of this Conference and this Convention.

63. It is fitting, too, that we have gathered here in Jamaica, the site of the International Sea-Bed Authority, to sign the Law of the Sea Convention. Mr. Rattray of Jamaica is one of the select group of men, the Collegium of the Conference, who have provided the leadership, the dedication and the drive to bring the Conference to its conclusion. The Conference President, Mr. Koh of Singapore, Mr. Engo of the United Republic of Cameroon, Mr. Aguilar of Venezuela, Mr. Yankov of Bulgaria and Mr. Beesley of Canada are also among those who deserve special mention. Like you, Sir, I should like to pay a tribute to the memory of the late Conference President, Hamilton Shirley Amerasinghe of Sri Lanka, who provided such inspiration for so many years.

64. I am especially pleased that the Convention provides for an equitable distribution of the ocean's wealth between developed and developing nations, thereby providing a substantial response to some of the imperatives of the North-South dialogue.

65. Working towards consensus, avoiding divisive votes and accepting all parts of a treaty as a package without reservation —all these features of the Third United Nations Conference on the Law of the Sea have established valuable precedents for the conduct of future international negotiations. New understandings have been formed at the Conference, between North and South, and East and West, that have built bridges and narrowed differences among nations.

66. Of all the accomplishments of the Conference, one that stands out—perhaps because it has eluded the international community for decades, even centuries—is agreement on the limit for the territorial sea. More than 80 coastal States have already incorporated into their national laws the Conference consensus setting the limit at a maximum of 12 miles. The Convention establishes the rights and obligations of both coastal and flag States within the territorial sea, provisions on which parties to the Convention will be able to rely. Parties will also be able to take advantage of the new provisions on transit passage through international straits. They offer a major inducement to maritime States especially to sign and ratify the Convention.

67. After the years of so-called fish wars prior to 1973, the Conference rightly recognized the need to assign to coastal States the control of all living resources within a 200-mile exclusive economic zone. To ensure an equitable distribution of such an important food resource, the Convention places a duty on coastal States to permit access to any surplus. The novel concept of the exclusive economic zone, which is neither high seas nor territorial sea, allows a coastal State to exercise sovereign rights over such things as fisheries and mineral resources, and specific jurisdiction over marine scientific research and the prevention of marine pollution, in accordance with the Convention and in the best interests of the international community.

68. The Convention fills a void in international law with regard to the prevention of marine pollution. This is the first multilateral treaty laying down an obligation on all States to protect and preserve the marine environment as a peremptory norm of international law. It is also a source of special satisfaction that the Convention takes into account the particular problems posed by navigation in ice-covered areas. The Conference has recognized the right of a coastal State bordering such areas to adopt and enforce non-discriminatory laws to prevent and control vessel-source pollution, steps Canada has already taken under its Arctic Waters Pollution Prevention Act.

69. The continental shelves of many of the world's nations are rich in hydrocarbon resources, the energy we shall all continue to need in the foreseeable future. Again the Convention has achieved a balance between broad and narrow continental-shelf States. Coastal-State sovereign rights over the resources of the continental margin are already part of customary international law. The Convention defines an outer limit for the legal continental shelf and requires coastal States to make payments through the International Sea-Bed Authority on a percentage of the production from the resources of the shelf beyond 200 miles to the outer edge of the shelf. These funds will go to the developing countries most in need. We must recognize, however, that there will be funds to dispense only if these resources prove to be commercially exploitable.

70. A tenet of the Canadian position since these negotiations began 14 years ago has been to ensure that the Convention gives expression to and implements the concept that the resources of the area beyond national jurisdiction are the common heritage of mankind. The Convention provides a mechanism for the management of these resources, without infringing State interests, through the International Sea-Bed Authority, composed of an Assembly, representing all parties to the Convention, and a 36-member Council. As a major land-based producer of minerals that eventually will be exploited from the sea-bed and as a potential sea-bed mining State and major financial contributor under the Convention, Canada fully expects to be a member of the Council. Our position as a sea-bed mining State has been secured under the Conference resolution on preparatory investment protection, and the Canadian delegation has initiated negotiations to resolve overlapping sea-bed mining claims in a manner compatible with the resolution and the Convention. To ensure that the Enterprise becomes a viable entity, the Convention includes several unique provisions. Parties to the Convention will be required to finance one Enterprise mine site on the basis of the United Nations scale of assessment calculated as being applicable to all nations, including non-Members of the United Nations. Private and national operators will have to agree to transfer technology to the Enterprise in certain circumstances and pursuant to defined terms and conditions. While the extent of the funds provided the Enterprise to purchase technology might well be such as to make the transfer of mining technology provisions unnecessary, their temporary and unique nature cannot make them precedents for other international negotiations.

71. We must also recognize that the best way to ensure that there are sufficient funds to establish the Enterprise is through universal acceptance of the Convention. The future will depend on how well the Preparatory Commission does its work with respect to sea-bed mining and the outer continental shelf. We know that some Governments have difficulties with the sea-bed mining provisions of the Convention. We hope that these problems can be solved through the development by the Preparatory Commission of rules, regulations and procedures. Canada looks to their satisfactory solution. If the Preparatory Commission adopts a realistic and pragmatic attitude the future is assured.

72. One of the most overlooked aspects of the Convention might well be among the most important. Provisions on the peaceful settlement of disputes are a fundamental part of the Law of the Sea Convention—a historic achievement for an international treaty of such magnitude.

73. The conclusion of the Third United Nations Conference on the Law of the Sea does not complete the work that must be done to bring the oceans under the rule of law. While many States will sign the Law of the Sea Convention, a number will not. Our work will not end until we have in force a convention with universal application. To achieve that goal we must demonstrate the same patience, understanding, tolerance of views and flexibility that have characterized these past years of negotiation. At the same time, we must maintain the principles that governed our deliberations, in particular the concept of the package deal.

74. The Convention sets out a broad range of new rights and responsibilities. If States arbitrarily select those they will recognize or deny, we will see not only the end of our dreams of a universal comprehensive convention on the law of the sea but perhaps the end of any prospect for global co-operation on issues that touch the lives of all mankind. We must not—we cannot—allow that to happen. The United Nations Convention on the Law of the Sea, and that alone, provides a firm basis for the peaceful conduct of ocean affairs for the years to come. It must stand as one of the greatest accomplishments of the United Nations and worthy of the support of every nation.

75. Mr. ENGO (United Republic of Cameroon): I wish first of all to convey to the Government and the great people of this beautiful Caribbean island of Jamaica the warm fraternal greetings of President Paul Biya, of the Government and of the people of the United Republic of Cameroon. In those greetings are entrenched sentiments of felicitations for the honour bestowed on Jamaica by the international community, not only in regard to these historic ceremonies but also for the decision to establish in this country a permanent international machinery with the implied mandate of contributing to the global effort towards attaining what John F. Kennedy aptly described as "a new world of law where the strong are just and the weak secure and the peace preserved forever".

76. I believe this must be an even greater moment for our fraternal friend Mr. Kenneth Rattray and his dynamic, hard-working and amiable Jamaican delegation. Their years of effort appear to have been clearly rewarded by our very presence here.

77. This venue is appropriate because of the multiracial and multicultural nature of this nation. Jamaica is a workshop on peaceful coexistence among peoples. Out of many, indeed one people, I come from a nation that has also embraced the same lofty ideal.

78. Cameroonians live each passing day with the imperative of infusing a durable sense of community and of nation into a curious conglomeration of peoples condemned to survive together in a cruel world. With the background experience of our two nations and of many others on my native continent of Africa, we too have something to tell the world about the great frontiers of peace and progress that await a united people in a country and—why not?—the peoples in a larger community of nations united in a common cause for international peace and the security embodied in social progress for all mankind.

79. Eight years and 11 sessions ago, we assembled in Caracas, determined to put an end to centuries of debate and conflict regarding the validity of norms of conduct in the ocean space. It is gratifying that our optimism, although shaken at times, proved in the end to have been justified. Today we have a new Convention on the Law of the Sea.

80. We thus assemble in Montego Bay today to present to a concerned world the fruits of our labours, of our dedication to the cause of international peace through the rule of law. We register a new Convention which is a product of universal consensus and compromise among nations from every political, economic and social system on this globe.

81. My delegation, and this must be true for others, is here with the constructive objective of signing the United Nations Convention on the Law of the Sea, demonstrating the commitment of our nation and joining with others to celebrate a great historic moment. We do not consider this to be an appropriate moment to enter into unproductive polemics concerning either the interpretation of the Convention or the justification of its existence. As a plenipotentiary Conference, we have no apologies to make for the quality of our product. On the contrary, we are proud that we demonstrated mature restraint and understanding through the years, ensuring that every delegation, from every corner of the globe, had more than a fair chance to have its views and interests taken into account. The Convention was adopted under a universally agreed procedure and a gentleman's agreement was accepted.

82. It is my delegation's view that in the continuing process of absorbing the reality of the new legal order we should all constantly be mindful of the basic truths attached to the mandate of this Conference and, indeed, the mandate of our generation. One of the critical phenomena is the close interrelationship between the various issues relating to the ocean space. The Montego Bay Convention is a deliberate package of compromises, the individual components of which cannot simply be treated as if they existed in isolation one from the other.

83. The consequence of this appears clear to us: individual States may not pick and choose to be bound by convenient aspects of its provisions. This is particularly true for any who may wish to reject one or more of its 17 parts, selecting only certain rights established under the rest of the Convention, or, in an attempt to take cover under the status of a non-signatory, claiming such rights from outdated sectional or non-universally recognized law.

84. A second feature is that the Third United Nations Conference on the Law of the Sea was not a mere codification conference, as was the Second United Nations Conference, which produced the short-lived 1958 Geneva Conventions. The representatives of the African nations made it clear from the outset of our endeavours that so-called customary international law emanating from the European maritime experience could not juridically form the basis for codification or even progressive development of any law which is intended to bind us Africans directly. This Convention represents for the first time a truly universal law and must be seen as such. Any of its features that bear resemblance in content or form to any custom or agreements or treaties recognized by any region or sub-region or among maritime nations sharing common interests must be viewed as purely coincidental.

85. The consensus text adopted as a treaty on 30 April of this year did not constitute a declaration of customary international law. On the contrary, it created a new conventional international legal instrument declaring the only valid law for the ocean space.

86. The true legal alternative for an individual State is equally clear: either it becomes a signatory, enjoying prescribed rights and assuming prescribed obligations, or it stays outside the universal law now adopted by opting to abstain from signature and, consequently, divorcing its case from any legal foundation regarding any claims of right.

87. Of greater importance at this time is the marked attention that must be drawn to the need to ensure dissemination of information on the new sea law to the world in general and to developing countries in particular. Governments and parliaments everywhere must know the content and implications of the Convention. They truly need this aid in their planning. They must not be exposed solely to the statements and writings of a few obstinate cynics who mischievously masquerade their unproductive opinions as information on fact.

88. The journalistic grandchildren of the same sensation-seeking opponents of the results of the San Francisco Conference that launched the United Nations are trumpeting sonnets of doom at the birth of yet another legal order. The voice of truth must be raised high enough to drown their pernicious cries. Go tell them of our success. Tell them also that we are united in the intention to make this Convention work for mankind. A legal status for the oceans has been clearly defined. It provides the only basis for decisions by the new International Tribunal on the Law of the Sea and the International Court of Justice. Go tell them that too.

89. If this is a time for contentment, it is also a time for reinforced commitment on the part of nations to use the new Convention as an effective instrument for the positive construction of international peace. The true test for all of us and, indeed, for generations to come will be the degree to which Governments and international institutions show a firm commitment to the preservation of the integrity of this new universal law at the point of its enforcement and application.

90. This Convention can serve the interests of mankind as a whole only if States collectively bring to it a new mentality for effectively applying the moralities demanded by its provisions. There is a broad underlying morality prescribing a respect for the rule of law and prescribing that nations consciously establish conditions in which justice and respect for the obligations arising from a peace-oriented treaty like this one can be maintained. This morality draws breath from the force of interdependence among States and among peoples, as well as from the nature of our common destiny.

91. As one of many examples, I cite once again the need for an accelerated programme of training of nationals from developing countries in the different fields of mineral exploitation in the deep sea-beds. The cardinal objective of effective participation by developing countries in sea-bed mining activities cannot be met if, when the new institutions of the International Sea-Bed Authority are established, the technicians are drawn almost exclusively from the industrialized countries while salaried posts of clerks, secretaries, lawyers and administrators are reserved to be shared between developing and other developed countries.

92. It is not the intention of my delegation to encourage indolence on the part of developing countries. Many, like mine, do or should understand the nature of dehydrated benevolence masquerading as aid in the field of development. Self-reliant development is a critical norm in Cameroon's national economic programme. It is my sincere hope that in Africa and elsewhere in the developing world immediate steps will be taken to ensure co-operation and avoid undue duplication in our approach to the exercise of rights and the allocation of benefits accruing from the Convention. A North-South dialogue may be very desirable, but it cannot properly be a substitute for a South-South self-help endeavour. Co-operation and a common strategy in the field of scientific research along our coastlines are important, and so are the desirable joint ventures that are possible in the domain of fisheries and ocean transport. The training of manpower also need not be undertaken wastefully through the creation of institutions of higher learning in every single one of our nations. It is our hope that in due course regional bodies in the developing world—for us Africans, the Organization of African Unity—will be seized of this aspect of the action.

93. The Convention also establishes a Preparatory Commission, whose primary function will be that of a forerunner of the International Sea-Bed Authority. The Commission must stick strictly to its mandate, and it would be undesirable to attempt to make it another forum for renegotiating any part of the Convention. Changes with respect to any provisions of the Convention must be made pursuant to the procedures it prescribes.

94. I believe, however, that in the elaboration of the detailed rules and regulations regarding Part XI, importance should be attached to providing such details as would remove any equivocation or uncertainties as to the broad rules contained in the Convention, including its annexes. The Preparatory Commission will have experts who should advise it on the practical means of implementing the objectives now expressed in legal form. In that process, the Commission need not shy away from proposing ideas for filling any lacunae or for enhancing the attainment of such objectives, while maintaining consistency with the provisions of the Convention.

95. We have noted with deep regret the announcement by certain Governments that they will not become parties to this Convention. To the developing countries among them we ask no more than that, having made the point of protest, they return to the sheltering umbrella of universal law.

96. As to the United States of America, our strong appeal goes out to the conscience of a people born of a spectacular revolution, whose ideas for social and economic development have inspired many a nation. That nation cannot now afford the discomforts of isolation, especially over a treaty the negotiation of which accorded central priority to its declared vital interests. We would prefer to believe that a decision to stay out at this time is motivated by a desire for further reflection and perhaps adjustment. The founding fathers of that nation, whose courage gave birth to its viability, left a spirit of accommodation and norms of common survival—

97. The PRESIDENT: I would point out to the representative of the United Republic of Cameroon that he has exceeded his 15-minute time-limit.

98. Mr. ENGO (United Republic of Cameroon): It is clearly because of that background that inspired declarations have been credited to many American leaders. I should like to make just a few references:

Woodrow Wilson had this to say:

> "What we seek is the reign of law based upon the consent of the governed and sustained by the organized opinion of mankind."

Dwight D. Eisenhower had this to say:

> "The world no longer has a choice between force and law; if civilization is to survive, it must choose the rule of law."

Richard M. Nixon had this to say:

> "Men face essentially similar problems of disagreement and resort to force in their personal and community lives as nations now do in the divided world. And, historically, man has found only one effective way to cope with this aspect of human nature: the rule of law."

We also heard these brilliant words from Franklin D. Roosevelt:

> "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

99. We believe as a delegation that the old American tradition, which appears to be the declared objective of the present Administration in Washington, will provide yet another declarative landmark of the same inspired thought.

100. For the rest, we look to the future with hope and a prayer. There is a simple prayer which I learnt in my childhood as a song:

> "Bless this house, O Lord, we pray;
> Make it fit by night and day."

101. Our prayer today is:
Bless this Convention, O Lord, we pray;
Make it fit by night and day.
May it be an instrument of international stability,

To each nation a means of subsistence and mobility.

But most of all, may it stimulate co-operation among States for the creation and maintenance of conditions of lasting international peace and security as well as the well-being of all mankind.

102. Mr. ABDEL MEGUID (Egypt) (*interpretation from Arabic*): It is a pleasure for the Government and people of Egypt to participate in this important, historic ceremony. Today the world is witnessing the birth of the most important convention concluded to regulate the use and exploitation of the greater part of the globe, that is, the seas and oceans, and to establish a comprehensive legal régime for it. I can even say that today we are about to sign one of the outstanding conventions of modern times.

103. This great achievement has come about in numerous stages and is a victory for the great majority of the nations of the world representing the will of the peoples and their firm resolve to realize this great hope for the benefit of all mankind.

104. The progress of the Third United Nations Conference on the Law of the Sea was fraught with numerous difficulties that made many Governments and delegations almost despair and lose hope in the success of the Conference in achieving its lofty objective of establishing a comprehensive legal régime for the seas and oceans.

105. We have before us today a comprehensive Convention which, together with its nine annexes, comprises 464 articles, in addition to the four resolutions of the Conference and the annexes to the Final Act, which supplement some aspects of the Convention and define all the necessary arrangements to implement the Convention and establish the organs provided for therein.

106. All the nations and peoples of the world contributed to the efforts made in the preparation of this Convention. States Members of the United Nations and non-Members of the United Nations, self-governing Territories and States and Associated States contributed to this.

107. It was a victory for the will of the peoples who believe in freedom and equality that Namibia was fully represented and is a party to the Convention. Moreover, it was a major victory also for all the peace-loving forces which believe in the principles of justice and equity that the recognized national liberation movements were represented. On this basis one can say that the Third United Nations Conference on the Law of the Sea was truly a unique and realistic example of universality in its most splendid form.

108. As we are gathered here today we must recall with appreciation the efforts of many unknown soldiers who stood behind this historic achievement and pay a tribute to the creativity and intelligence that inspired the initiatives that led to the convening of the Conference on the Law of the Sea.

109. We cannot but recall the role of the Government of Malta and the head of its delegation, Mr. Arvid Pardo, when, in 1967, he focused attention on the importance of the mineral resources of the sea-bed lying beyond the limits of national jurisdiction and the concept of their exploitation to serve the interests of all mankind. This fortunate initiative marks the actual début of the important event we are celebrating today, and led to the creation of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the limits of National Jurisdiction and the adoption of the fundamental principles on which the negotiations relating to the law of the sea were based—above all, those concerning the developing countries—as well as the adoption of the principle establishing that the resources of the sea-bed were the common heritage of all mankind. Also, we must recall here the important leadership role played by the first President of the Third United Nations Conference on the Law of the Sea, Mr. Hamilton Shirley Amerasinghe. The international community will always be beholden to him for the unremitting effort he put forth to ensure the success of the negotiations, and to arrive at a just resolution of the numerous problems that confronted the Conference during the years in which he served as President of the Conference.

110. After the death of Mr. Amerasinghe, the difficulties continued, including the time constraints, caused by the decision at the tenth session that the eleventh session should be the concluding session of the Conference.

111. Mr. President, you have led the Conference with outstanding ability and great competence. The best evidence of this is the adoption of this Convention on schedule.

112. The world today, while celebrating the signing of this Convention, celebrates also the effort made by all the representatives and by all who have contributed to its elaboration. We trust that our efforts will be crowned by ratification at an early date.

113. We feel it important to draw the attention of all the Member States represented at this Conference to the following significant substantive points.

114. First, the real guarantee of the effectiveness of this comprehensive Convention and its numerous annexes is its commitment to the principle of good faith and to the principle of continued consensus in the future phases of implementation. The principle of consensus was one of the bases for the negotiations: it was provided for in the "gentleman's agreement" incorporated in the declaration adopted by the General Assembly at its twenty-eighth session and subsequently included in the Conference's rules of procedure at its second session, in 1974.

115. The Final Act of the Conference includes, in paragraph 21, a reference to the content of the declaration adopted by the General Assembly and highlights the importance of the principle of consensus and calls upon States to abide by it. Moreover, it clarifies the Convention's general framework. It is truly regrettable that this great hope was not finally realized, since the Convention was not adopted by consensus but by a vote. Hence we must all seek to prevent a repetition of this procedure in future phases of the Convention's implementation by a faithful and sincere commitment to the principles of justice, equity and sound logic.

116. Secondly, the Convention, which is a new charter for the régime and the law of the sea, must be fostered by all States. Maximum efforts have been made to ensure a comprehensive and global Convention. But we all know that those are relative features, especially in view of the circumstances that obtained during the numerous phases of the Conference. Therefore the guarantee of the effectiveness of this unique Convention lies in the balanced interpretation of its provisions.

117. This new comprehensive charter for an international régime of the seas must not be a breeding-ground for wide-ranging interpretations that would transform its provisions into problems, divert them from their desired objective and hinder their effectiveness as logical and just solutions to the problems and issues of the law of the sea.

118. Thirdly, the Convention is concluded within the framework of the established and general principles of international law and is therefore not inconsistent with them. Thus its entry into force is without prejudice to these general principles.

119. All States have the right to protect their national security, and that has its effect on the stability and maintenance of international peace and security.

120. Egypt's understanding of the principles of the freedom of the seas, innocent passage and transit passage is in harmony with those established general principles.

121. Here I should like to refer in particular to the President's statement in the 176th plenary meeting of the

Conference, held on 26 April 1982,[4] that the withdrawal of the amendment to article 21, contained in document A/CONF.62/L.117, was without prejudice to the rights of coastal States to take measures to provide for the protection of their security in accordance with articles 19 and 25 of the Convention. That is a concrete and clear example of the commitment to established principles which are not at variance with the new Convention.

122. Fourthly, this Convention has an important role to play in the protection of the rights of developing countries, particularly the geographically disadvantaged States and developing countries that produce minerals. Such protection can be achieved only through a logical and fair interpretation of the provisions of the Convention. This is the first example of applying the concept of the common heritage of mankind through a comprehensive régime, and we must secure for the Convention the achievement of its desired objective; guaranteeing the interests of all peoples, in accordance with the principles of justice and equity and protecting the economic conditions of all States, especially the developing countries and those in special circumstances. Moreover, this must be done within the context of the modern concept of the principles of the new international economic order and in accordance with the provisions of the introduction to the Convention.

123. Fifthly, the new Convention, by dealing with all the topics related to the law of the sea, contributes to the completion and codification of a large part of modern international law, as well as to the codification of what could be called the economic concept of the international régime of the law of the sea. The Convention is not a mere codification of established principles or a compilation of the contents of various documents; rather, it is a codification and development of many elements. This Convention must be viewed as one of the most important innovations in contemporary international law, which is now at a stage of comprehensive development. In addition to regulations on sea-bed mining, it includes regulations governing exploitation of the living resources, both within the exclusive economic zone and outside it, in a manner compatible with the protection of the rights of the land-locked States. The Convention also includes regulations for the protection of the marine environment and its prevention from pollution. There is no doubt that through such a comprehensive régime international relations will be strengthened within the framework of the fruitful co-operation necessary for the achievement of the lofty objectives of this Convention. All this clearly affirms the effect of this Convention in preventing unfair competition between various States in exploiting the resources and the wealth of the seas and in securing lawful exploitation of the seas for the purposes of navigation within the context of mutual respect for the principles of sovereignty and the freedoms guaranteed for all kinds of vessels, in accordance with the provisions of the Convention. Thus the Convention constitutes a means of supporting international peace and security and peaceful coexistence among all peoples, in accordance with the provisions of the Charter of the United Nations and its purposes and principles.

124. Sixthly, we hope that this Convention will receive the universal and comprehensive adherence of States so as to maintain its universality, achieve its objective of establishing an international régime for the seas and ensure the inviolability of its provisions.

125. The Government of Egypt participates in this historic event today and will sign the Convention. I should like, however, to state that my Government will make the necessary declarations or statements, within the limits laid down by the provisions of the Convention.

126. I wished, through this statement, to express briefly the point of view of the Government of Egypt concerning some important points in the Convention which have a great effect on all areas of our world of today.

127. In conclusion, I cannot fail to express the thanks and appreciation of the delegation of Egypt to the Government of Jamaica for its generosity in serving as host to the Conference and for its great efforts in making the arrangements, especially at such short notice. This demonstrates that the States of the third world are capable of carrying out with competence an international task of some distinction. Together with the General Assembly of the United Nations and the Conference, we express our gratitude to the Government of Venezuela for the hospitality tendered at the second session of the Conference, held at Caracas in 1974, a session which marked the début of that which we celebrate here today, at Montego Bay. The Conference secretariat accomplished a major task throughout the sessions of the Conference, under the leadership and supervision of the Special Representative of the Secretary-General, Mr. Zuleta, and the Executive Secretary, Mr. David Hall. This expression of our thanks and appreciation cannot fully indicate how much we appreciated their diligent work and that of all the other members of the Secretariat. To all of them and to the chairmen of the main committees and of the drafting committee we express our deep gratitude for these outstanding efforts.

128. Mr. CASTAÑEDA (Mexico) (*interpretation from Spanish*): The delegation of Mexico has the honour to pay a tribute of friendship and solidarity from the people and Government of Mexico to the people and Government of Jamaica as we gather in this beloved Caribbean land to hold the historic final session of the Third United Nations Conference on the Law of the Sea.

129. My delegation is particularly pleased to see you, Sir, presiding over the final stage of the work of the Conference, and we pay a heartfelt tribute to you for the wisdom and the skill that have always marked your handling of the negotiations and consultations that have culminated in the adoption by the overwhelming majority of the international community of the United Nations Convention on the Law of the Sea.

130. Mexico wishes to place on record its deep satisfaction at being present at this epochal event, which has brought together plenipotentiaries from almost all the nations of the earth to attest by their signature to the broad support which is welcoming and formalizing the new legal order of the seas, the hard-earned fruit of over 10 years' labour, unprecedented in the history of mankind, a task that has pooled the efforts of 166 countries, the largest number ever brought together at a world conference, with the purpose of reaching understanding and international co-operation in the framework of a new legal order for the use and development of the sea and its resources, an endeavour that seeks to be universal and to address itself to the socio-economic and political realities of the world of today.

131. Indeed, what we have before us is the most extensive and ambitious international treaty ever negotiated, to govern the conduct of States in an area covering more than two thirds of the surface of the earth. This clearly represents, as is stated in the preamble to the Convention itself, an important contribution to the maintenance of peace and justice, to progress for all peoples of the world and to the realization of a new, more just and equitable international economic order.

132. Success in the adoption of this new régime, applying to all ocean areas subject to national jurisdiction as well as to the high seas and the sea-bed constituting the common heritage of mankind, decisively demonstrates what can be done when there is political will and a desire to strengthen international co-operation and understanding.

[4] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

133. Mexico participated constantly in the work of the Conference with such political will, in a constructive spirit, always demonstrating our good faith in all the efforts throughout the years of negotiation devoted to reaching this new legal order of the seas—always, of course, mindful of defending the interests of the Mexican people. With its nearly 10,000 littoral kilometres, Mexico is one of the coastal States having the largest maritime areas under their national jurisdiction, with proven abundant natural resources indispensable for the development of our country.

134. We believe that the legitimate rights of coastal States—especially those States struggling to reach full development and to administer and conserve their existing maritime resources for the benefit of their nationals—form part of the permanent effort to ensure full exercise of sovereignty over their natural resources. At the same time, for the benefit of all mankind, there was acceptance of the concomitant principle of optimum utilization of living resources to avoid wastage.

135. There is no doubt that one of the most important achievements of the new Convention that will be opened for signature at this meeting is the novel legal concept of the exclusive economic zone. Even before these protracted and difficult international negotiations came to an end, a broad consensus had already been reached as to the basic rules of law governing the exclusive economic zone. This made it possible for Mexico, in a truly pioneering act in the international context—an example that was later followed by the majority of countries—to decide to establish its exclusive economic zone as of the year 1976, elevating its rules of law to the constitutional level. Since then the Government of Mexico has steadily been strengthening the Mexican State's full exercise of its rights of sovereignty and jurisdiction in that zone, in both the preparations for and the execution of complementary national legislation and in concluding and complying with international agreements in this sphere.

136. Fortunately, in Mexico we are creating real national awareness of what the sea and its resources mean for the country's economic development and food supply. We have begun approaching this problem by drawing up an integrated, interdisciplinary programme providing for the rational use and exploitation of the sea and its resources, seeking in a balanced way to address important priorities in our national development plans, such as increasing exploitation of fishing resources, providing large and more diversified sources of food and generating employment, to mention the priorities that are perhaps most immediate for the majority of the people.

137. In this respect we believe that the régime of the sea agreed to in the Convention constitutes only the general normative framework which the countries bound by it will have to take as their point of departure in guiding their national policies and legislation; that is, the practices of States should ultimately give the new law of the sea its true content.

138. Accordingly, although some time remains before the Convention enters into force, its provisions already adopted in the competent international forums clearly constitute evidence of the political will of the international community to be bound by them. The Convention we shall soon be signing is written testimony to the customary practice of States and therefore to the governing rules in effect. This clearly explains why Mexico, like many other countries, some years ago began putting into effect the new provisions of the law of the sea, both unilaterally and through a variety of international agreements at the bilateral, sub-regional, regional and even world levels.

139. The new international régime of the sea thus constitutes a challenge that the international community has set for itself, with the twofold purpose of ensuring that the seas and their resources will be used for the benefit of mankind while ensuring ecological balance.

140. The new legal institutions and rules enshrined in the Convention, especially those relating to the exclusive economic zone and the international régime of the sea-bed lying beyond national jurisdiction, clearly will have to provide firm foundations for the progressive development of international co-operation.

141. Mexico believes that it is contrary to this spirit of international co-operation for a small number of industrialized countries, standing apart from the basic agreements on the matter achieved by the majority of members of the international community, to seek, by subscribing to what has been called a mini-convention, mutually to recognize concessions unilaterally granted their nationals for the exploitation of mineral resources to be found in the sea-bed beyond the limits national jurisdiction.

142. As we have stated on many occasions over a number of years, the international community has managed to negotiate a new universal régime applying to this matter. We therefore repeat that any measure taken unilaterally or by a small group of countries is totally lacking in legal validity, especially as regards the exploitation of resources which, according to the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the General Assembly,[5] constitute the common heritage of mankind.

143. Under a mandate of the Conference and as a result of important compromises reached at the last minute thanks to the good faith and political will of the participating countries, the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal of the Law of the Sea is to carry out fundamental work for the implementation of the mechanisms of these two pioneering institutions of the legal order of the oceans.

144. Mexico will participate in the work of the Commission in the same constructive negotiating spirit we adopted at the Conference, but it will consistently and persistently oppose special interests or the interests of a small group of countries undermining or misdirecting the Commission's specific mandate, to the detriment of the will of the majority.

145. I cannot conclude without addressing to all countries Mexico's solemn appeal that they promptly subscribe to and ratify the United Nations Convention on the Law of the Sea to ensure that that historic international instrument may enter into force as soon as possible.

146. Mr. ARIAS SCHREIBER (Peru) (*interpretation from Spanish*): I am speaking at the closing session of the Third United Nations Conference on the Law of the Sea to carry out the mandates entrusted to me as Chairman of the delegation of Peru, the group of Latin American States and the Group of 77. Given the brief time available to us, and in response to your request, Mr. President, I shall refer primarily to the first of those three mandates, and with respect to the other mandates I shall cite only the most important paragraphs contained in the written statements I have transmitted to the Conference secretariat for publication along with the documentation of this session.

147. The views of the delegation of Peru concerning the work of this historic Conference have been expressed in debates since the first session of the Preparatory Committee, in March 1971, which makes it unnecessary for me to repeat here the positions and considerations put forward in statements by our delegation on the main subjects and the development of negotiations. It will suffice to mention in recapitulation the statements made on 2 April[6] and 27

[5] General Assembly resolution 2749 (XXV).

[6] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIII, 125th plenary meeting.

August[7] 1980, which in general still stand, except for the points pertaining to matters that were later resolved.

148. A comparison of the Conventions of 1958 and the new Convention on the Law of the Sea clearly shows the basic changes made in the old rules, largely, it is only fair to say, thanks to the contributions of the developing countries. No one who has been present at the Conference can be unaware of the nature of Peru's participation in this lengthy and arduous process, nor of the extent to which it has contributed to the adoption of the two most important innovations: first, the recognition of the rights, sovereignty and jurisdiction of coastal States to administer their own natural resources and the protection of other related interests up to a limit of 200 miles, and, secondly, the establishment of an international authority that will regulate the exploitation of the sea-bed beyond national jurisdiction as the common heritage of mankind.

149. We who have taken part in the negotiations on the Convention are aware of the magnitude of the work accomplished in the search for agreed formulas for such vast and complex questions through a consensus among more than 150 States with differing conditions and interests. We also know that the new treaty, for that same reason, is not fully satisfactory to any one country but is the product of an international compromise in which we have all had to reconcile our claims. Without this spirit of reciprocal willingness to forgo individual positions in the general interest, no agreement would have been possible, and without an agreement chaos would prevail. The strongest would compete in imposing their will in the use of the sea and the exploitation of its resources, with the constant threat of clashes among them and with inevitable harm to the weaker countries.

150. The Convention is of course not perfect. Despite its defects and its omissions, however, it does constitute the maximum on which agreement could be reached, given the realities of the world in which we live. Furthermore, although it is designed to regulate this area for an indefinite period, it does not claim to be eternal, since the world is constantly changing. Transformations occurring within States and in the power relationships between them and the new uses and abuses of the sea because of scientific and technological advances will create unforeseen situations and problems that will require the adoption of other, special rules. By its very nature, international law is constantly required to adjust to the situations it regulates, just as the 1958 Conventions have had to be revised in the light of events that have occurred since that time. The same fate doubtless awaits the 1982 Convention.

151. In any event, this Convention and its annexes are being studied exhaustively by competent authorities of the Peruvian Government and have been the subject of national debate, with the participation of members of the legislative branch, the political parties, academic institutions, professional organizations, the information media and public opinion in general. This is not merely a matter of routine, for, apart from the differences that exist on specific provisions of the Convention, there are also problems of a constitutional nature that must be carefully studied and clarified, as the delegation of Peru pointed out when it agreed to the draft convention on 30 April of this year at the 182nd meeting.[4] The President of the Republic decided to await the conclusions of the debate and studies being undertaken before exercising the powers conferred upon him with respect to international treaties by the Constitution.

152. That is why Peru is not signing, here in Jamaica, the United Nations Convention on the Law of the Sea. Consequently, it will also abstain from making any statement or declaration with regard to specific provisions of the Convention, as well as from commenting on such statements or positions of other States, in accordance with article 310. This does not prejudge the final position the Peruvian Government will adopt at the appropriate time. I personally am confident that Peru will decide on what is most suitable and appropriate for the protection of its own interests on the oceans as a whole, both within and beyond national jurisdiction. However, it will in any case firmly maintain the integrity of its maritime domain, which extends 200 miles from its coast, as stipulated in its constitution, for the rights of our people in this area flow not from the arbitrary will of States but from a pre-existing, natural relationship that is inseparably linked to the continued course of our own destiny.

153. In the written statement I shall submit on behalf of the group of Latin American States, I sum up the very special contributions made by the group of Latin American States to the reform of the law of the sea. Without that support, it would not have been possible to obtain, among the most important changes to the former rules, the recognition of the rights of sovereignty and jurisdiction of coastal States to the 200-mile limit, the new definition of the continental shelf or the establishment of the International Authority with its operative arm, the Enterprise, designed to regulate, control and carry out exploitation of the sea-bed beyond the limits of national jurisdiction as the common heritage of mankind. It was thus very just and fitting that the Conference should take the initiative of concluding its work and opening the Convention for signature in a Latin American country, Jamaica, whose capital has been chosen as the seat of the International Sea-Bed Authority and which today is offering us the hospitality of its Government and people.

154. Speaking now as Chairman of the Group of 77, I should like to express our satisfaction at the work accomplished. Those who write the history of the Conference will be able to put forward various versions of the role played in this long and arduous process by every State, both individually and in concert with other States. However, there can be no doubt that all of them have made considerable efforts to reconcile, in so far as possible, national positions with the collective interest. Among them, however, owing not only to their numerical importance, but also to the quality of their members and the nature and scope of their legal contributions, as well as to the spirit of harmony in the conduct of negotiations shown by them, the delegations of the developing countries have done constructive, instructive and exemplary work. We have had recourse not to the tyranny of numbers but, rather, to the validity of ideas in formulating new rules based on principles of justice and equity, international cooperation, peace and security. The Group of 77 has shown that, with unity, preparation and good faith, the world can achieve these objectives.

155. The structure we have all built together is the most advanced expression of international law for development and a cornerstone of the task of establishing the new international economic order, which is a goal the United Nations cannot renounce. We must now put the Convention into force, with the support of the greatest possible number of States, bearing in mind that the only alternative to international law is confrontation and the use of force. On the domestic scene, law is indispensable for governing and harmonizing the conduct of citizens in spite of their political and social divergences, and the same is true on the international scene, where inequalities among States and conflicts among their interests dictate the primacy of law over conflicts or the imposition of power.

156. The new Convention, drawn up at a United Nations Conference with the participation of 164 States, negotiated by consensus through 11 sessions, and adopted in accordance with the rules of the Conference, will, when it enters into force, constitute the prime instrument of international law in

[7] *Ibid.*, vol. XIV, 139th plenary meeting.

this field. One of its basic achievements is the establishment of rules for the administration of the international zone of the sea-bed as the common heritage of mankind, in accordance with principles which have already become customary international law. No State or group of States will be able to act legally in contravention of those rules. Any measure adopted concerning that zone, under national laws or multilateral agreements incompatible with the provisions of the Convention and its annexes, would thus lack international force and would lead other States in their turn to adopt all measures necessary to protect their interests.

157. At the same time, I must repeat what I said in my statement of 22 September 1982 at the 183rd meeting, as Chairman of the Group of 77, at the resumed eleventh session of the Conference in New York—and the President has himself stressed this—namely, that the negotiation and adoption of this treaty as an indivisible package excludes the possibility of its selective implementation and that no State can claim that the new rules and rights established by the Convention apply to that State if it is not a party to the Convention.

158. Finally, the Group of 77 attaches particular importance to what has come to be known as the follow-up of the Convention, that is, the actions which will be needed to assist the developing countries especially to implement the provisions of the Convention. The scope of and modalities for that co-operation will depend on the needs of each State, but there are certain areas regarding which indications of interest and requests for assistance have already been forthcoming, such as the development of fisheries, scientific research, the transfer of technology and training for participation in ocean mining. For these purposes it will be indispensable to continue to rely on the valuable services of the United Nations Secretariat, which has done very efficient work at the Conference, as well those of the specialized agencies and other international organizations directly involved in the implementation of the provisions of the new Convention. The fate of the structure we have built by dint of so much work is now in the hands of our own countries. We hope—we are even certain—that they will carry this work forward with the conviction that they are contributing to a world order based on the solidarity of the human race.

159. The difficult challenge taken up more than a decade ago by Mr. Hamilton Shirley Amerasinghe, whose memory will always be indissolubly linked with the creation of the new Convention, has been met under your leadership, Mr. President, with the talent and tact of a very distinguished diplomat in the service of the greatest causes of the international community. You have done honour not only to your country but to all the countries of the third world in guiding our efforts and those of other nations towards the establishment of a more just régime for the utilization of the seas and their resources as an instrument for collective peace and prosperity.

160. On behalf of my delegation, of the group of Latin American States and of the Group of 77, I should like to thank you, the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and all participating authorities and delegations for the work you have done to carry out this task. We also thank the Conference staff for its outstanding and unflagging co-operation for the success of what the Secretary-General, Mr. Javier Pérez de Cuéllar, has called "the most important international legal instrument of this century."

161. Mr. BALLAH (Trinidad and Tobago): The Government and people of Trinidad and Tobago are particularly delighted that this final session of the Conference is taking place in the sister Caribbean Community State of Jamaica.

162. The delegation of Trinidad and Tobago, Sir, is very pleased to see you presiding over the final session of the Third United Nations Conference on the Law of the Sea, particularly as it is taking place in this very delightful north coast Jamaican city of Montego Bay. As a representative, you have been one of the most active and articulate of the participants in the Conference. In your capacity as President you have provided the Conference at its most critical stages with the leadership which was necessary to forge consensus or near-consensus on the sensitive issues of the Conference. Over the years, my delegation has had the opportunity to work closely with you in the many negotiating groups and in the numerous consultations that have taken place, and for that we are indeed grateful.

163. I should not like to let slip this opportunity at this closing session to pay a tribute on behalf of my delegation to Hamilton Shirley Amerasinghe of Sri Lanka, our first President. Hamilton Shirley Amerasinghe for nearly 12 years guided our deliberations with great skill and good humour. In fact, the Conference has been fortunate to have had in its most troublous times two Presidents of great good humour. The conference owes Hamilton Shirley Amerasinghe a debt of deep gratitude, and in this regard we must and will support ongoing efforts to ensure that his memory lives on through the endowment fund.[3]

164. Many of us seem to forget that a little over 15 years ago Arvid Pardo of Malta made his monumental statement at the 1516th meeting of the First Committee at the twenty-second session of the General Assembly.[8] It was in that statement—and I think other representatives will recall it as well as I do—that Mr. Pardo called for the resources of ocean space beyond national jurisdiction to be declared the common heritage of all mankind.

165. For some of us, the principle of the common heritage is not new law; it is not constitutive, but rather declaratory of existing law, and my delegation has often placed that on record during this Conference.

166. It was Mr. Pardo's statement that set in train a debate which no one at that time envisaged would have been so long and protracted. Many, including Mr. Pardo himself, felt that the debate would have been restricted to merely closing the open end of the definition of the continental shelf in the 1958 Geneva Convention. Mr. Pardo's interest in closing that open end of the definition with all its exploitability criteria and so-called notion of adjacency was to ensure that precise limits could be set for the outer limit of national jurisdiction. It would then have been clear where the international area began. That was not, however, to be.

167. What has been forgotten is that since 1960, and following General Assembly resolution 1514 (XV), a large number of States present here had become independent. Those States had not participated in the Geneva Conferences of 1958 and 1960; some of those States looked on those conventions as the creation of European Powers, particularly the major maritime Powers, and small developing States had no part to play in fashioning those conventions. Mr. Pardo therefore unwittingly provided those States and a number of us with the opportunity to seek a comprehensive review of all the interrelated subjects and issues of the law of the sea. We saw those issues as constituting an organic whole.

168. In fact, this morning the President spoke of Mr. Pardo's two seminal ideas: the first, that the international ocean area beyond national jurisdiction and its resources were the common heritage of mankind; and the second, that all the issues of the law of the sea were interrelated and formed an organic whole.

169. Hence we all worked together towards one United Nations Convention on the Law of the Sea, not four or more conventions as was the case in Geneva in 1958. We sought to

[8] See *Official Records of the General Assembly, Twenty-Second Session, 1st Committee*, vol. I.

elaborate an international régime and machinery to govern the area beyond the limits of national jurisdiction and to regulate, among other things, the deep sea-bed mining of manganese nodules. That régime was to be built on the cornerstone principle of the common heritage of mankind. That régime, which is contained in Part XI of the Convention before us, departs somewhat from the original conception and possibly from Mr. Pardo's philosophical approach in 1967. We have regretted that.

170. On the historic occasion of the signing of the United Nations Convention on the Law of the Sea, the Conference must—albeit belatedly—pay honour to Arvid Pardo for the significant contribution he has made to the evolution and development of the contemporary law of the sea. I would even dare to say that the main Assembly Hall of the International Sea-Bed Authority should be named the Arvid Pardo Hall—but that is not for me to suggest at this stage.

171. Trinidad and Tobago voted in favour of the Convention on 30 April 1982, although the Convention does not meet all its needs. At previous sessions of the Conference my delegation has placed on record its views on the Convention. It has pointed out its shortcomings and it did say that it would vote for the Convention despite those shortcomings. Surely, no convention can meet the needs of all States; nor can solutions for all current bilateral problems and disputes be found within the framework of its provisions.

172. The Convention does not properly accommodate the position of land-locked and geographically disadvantaged and some developing coastal States in respect of access to the living resources of the 200-mile exclusive economic zones of neighbouring States in the same region or sub-region. We feel that an accommodation should have been made for States which had traditionally and habitually fished in such areas prior to the declaration of exclusive economic zones. We supported the concept of the exclusive economic zone on the condition that States like Trinidad and Tobago would have continuing access to exclusive economic zones. We have experienced in recent times, particularly since the more powerful States adopted the exclusive economic zone of 200 miles, difficulties in gaining that traditional and habitual access. We hope, however—and I hope that we do not need to bridle our optimism in this respect—that the provisions of Part V of the Convention will in practice and good faith be interpreted in such a way as to permit continuing access to living resources of exclusive economic zones for developing land-locked and geographically disadvantaged States.

173. The Convention, in Parts XII and XIII, establishes satisfactory régimes for the protection and preservation of the marine environment and for the conduct of marine scientific research. Those parts of the Convention reflect a just and equitable balance of conflicting and divergent interests.

174. It has been in a spirit of compromise that my delegation has gone along with the parallel system of exploitation for the mining of deep sea-bed manganese nodules. We would have preferred—and we did form part of the consensus to this effect in the group of Latin American States—a unitary joint venture system. We believe that only one limb, the private entity limb, of the parallel system will work. The Convention does not provide adequate guarantees—and we have fought to get such guarantees, but unsuccessfully—for the other limb of the parallel system, the Enterprise, to receive technology for deep-sea mining and to engage in mining activities under the parallel system on an equal footing with private entities. The fair and reasonable commercial terms on which the Enterprise is to purchase sea-bed technology may in fact turn out to be prohibitive.

175. My delegation agrees with those jurists—some of them in the United States—who state that, once the Convention on the Law of the Sea comes into force and effect, those States not parties to the Convention cannot lawfully mine manganese nodules under an internationally unrecognized treaty, or so-called mini-treaty. This will be particularly so if an overwhelming majority of the international community ratify or accede to the Convention. The terms of the Convention would be almost like a Charter of the United Nations provision and would be the law for all States—even those that are outside its framework.

176. Once more we wish to remind those that attempt to justify their actions—illegal as they may be—in seeking unilaterally to exploit the deep sea-beds that analogy is not a source of international law. The traditional freedoms of the high seas cannot therefore be extended by analogy to mean freedom for a few technologically advanced States and entities to exploit and appropriate the manganese nodules of the deep sea-beds. They cannot exploit those nodules outside the framework of Part XI of the Convention. Those nodules belong to all mankind and in perpetuity.

177. The provisions of the new Convention do not and cannot represent the optimum positions of all States represented here, but they do represent the best that could have been achieved in the circumstances. The Convention is, in our view, a finely textured compromise which has been painfully reached after some 14 years of difficult multilateral negotiations. Some of us are sorry that they have ended.

178. The international community has a choice. It has a choice between, on the one hand, order and predictability in ocean space, and, on the other, freedom of action which will bring back memories of the old days of colonial rivalries and conflicts and lead to chaos, disorder and confusion in the seas and oceans. We agree with you, Mr. President, that the Convention will indeed promote international peace and security. On balance, the Convention is satisfactory and progressively advances the law of the sea. The Government of Trinidad and Tobago has therefore decided to sign on Friday, 10 December 1982, the Final Act of the Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea.

The meeting rose at 12.55 p.m.

186th meeting

Monday, 6 December 1982, at 3.05 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*continued*)

1. Mr. COLLINS (Ireland): At the outset I should like to pay a tribute to the officers of this Conference and to all those who have contributed to its success, in particular to you, Mr. President, to Mr. Zuleta, the Special Representative of the Secretary-General and to his staff; to the present Chairmen of the Main Committees; to former Chairman, Mr. Galindo Pohl; to all those representatives who chaired informal groups during the many sessions; and to all the others who contri-

buted to the work of the Conference. I should also like to mention in particular Mr. Amerasinghe, who guided the Conference through many difficult negotiations. Not least I should like to thank the Government of Jamaica for providing such a fitting and beautiful setting for this historic occasion.

2. My delegation recalls that my country is a member of the European Economic Community and that it has transferred competence to the Community in certain matters governed by the Convention. Detailed declarations on the nature and extent of such competence will be made in due course in accordance with the provisions of annex IX of the Convention. Ireland, as a member of the Community, also endorses the statement which will be made on behalf of the Community by the representative of Denmark as President-in-Office.

3. This Conference has before it today the crystallization of its work over many years, a Convention whose achievement involved sacrifices and compromises on the vast majority of the issues involved. It is a complex package deal comprising many maxi- and mini-packages. It combines consolidation and codification with revision and innovation. It represents an enormous achievement in negotiation and diplomacy and furnishes the opportunity for one of the most significant advances ever achieved in the rule of international law.

4. It had always been my country's hope that this Conference would adopt by consensus a comprehensive convention which would subsequently be universally endorsed and thus become the charter for mankind's use of the seas. If we were disappointed in the first part of that hope, when the Convention was put to the vote for adoption we were encouraged by the huge majority in its favour and the very small number of delegations which voted against it. We continue to hope that the Convention will be universally accepted in due course. I am pleased to indicate that my country will be among those which will sign the Convention at this session, thus participating in the first step towards that universal acceptance.

5. Perhaps the most historic achievement of the Conference is the inclusion in the Convention of the régime for the international sea-bed area beyond the limits of national jurisdiction, an entirely new branch in the international law of the sea. Not surprisingly, this was one of the most controversial fields covered by the negotiations and is at the root of the misgivings of many of the countries hesitating to give their approval to the Convention. My country does not at this stage stand to benefit directly from the exploitation of the international area as we are neither among the countries having the technology to engage in and profit from exploitation nor among those that will be the primary beneficiaries of the wealth accruing to the International Authority from that exploitation. And, while our lack of technological expertise prevents us from making a detailed assessment of the scheme, our lack of direct interest probably enables us to take a more detached view of the broad features of the régime than many other countries can take. We accordingly think that it is worth making a general observation about it.

6. We doubt that any delegation at this Conference believes that the régime contained in the Convention is perfect. Indeed it would be unrealistic to expect that the international community, with inadequate experience of the practicalities of all the aspects of the exploitation which is envisaged, and faced with a multiplicity of conflicting national interests, could at the first attempt devise a perfect régime. It is clear that misgivings about the régime are not confined to any one group of countries, nor to those that are hesitating to give their approval to the Convention. The relatively tentative nature of the régime is recognized in the Convention itself by the provision for a review conference to deal with this part of the Convention only after the lapse of an interval sufficient to see how effective the régime is in practice. Bearing all this in mind, we believe that the sensible course for all countries is to put aside their misgivings and to join together in putting the régime into practice. With the necessary goodwill and flexibility on all sides, this will be a successful venture despite any shortcomings that may be revealed by the practical operation of the scheme—shortcomings which may in the short term be met by adaptation and ultimately be remedied by the review conference. Both in the Preparatory Commission and later in the International Authority, my country's representatives will be guided by such considerations.

7. Ireland is of course an island State, and if we have no immediate direct interests affected by the international sea-bed régime, that is not the case in regard to the rest of the Convention. We have particular concern for the provisions dealing with the exclusive economic zone, the continental shelf, marine scientific research, protection of the environment, the delimitation of national zones of maritime jurisdiction and the peaceful settlement of disputes, and we played an active part in the negotiations on some of these issues. In all, the outcome was a compromise between the various interests, which usually resulted from many-sided and complex negotiations.

8. One of the clearest examples of the success of this process is the part of the Convention covering the exclusive economic zone, the development of a relatively new concept in international law. The provisions which have emerged represent a reconciliation of the interests of the coastal States and of other States through a careful combination of the jurisdiction of the former and balancing rights for the latter. Similarly the continental shelf provisions acknowledge the basic jurisdiction of the coastal State throughout its geographical continental margin, and this acknowledgment is balanced by the adoption of criteria and methods for identifying the coastal State's outer boundary, which in fact involve cutting off from national jurisdiction parts of the margin, and also by an obligation of the coastal State to share revenue from the outer shelf areas with the international community. In regard to marine scientific research, the Convention requires co-operation between States in promoting and encouraging research. Within this framework it safeguards the right of the coastal State to adequate control over research in its jurisdictional area while ensuring that research will not be unreasonably prevented or hampered in this area. All States are obliged by the Convention to protect the marine environment from pollution. The powers given to the coastal State to protect the environment in its zones of jurisdiction have been so framed as to balance adequacy for that purpose with the need to avoid unreasonable interference with navigation and other rights of other States.

9. The delimitation of maritime zones was one of the last issues to be resolved at the Conference, and the main difficulty arose in connection with setting out the criteria particularly for delimitation in the economic zone or on the continental shelf. And, while there was broad agreement that these should be as determined by relevant international law, several efforts to express that law in a provision failed to command support across the two groups representing most of the directly interested delegations. Finally, this statement was broken by abandoning efforts to express the relevant law substantively and the vast majority of the interested delegations, including the Irish delegation, endorsed the provision which now appears in the Convention.

10. This provides that delimitation shall be effected on the basis of international law as referred to in Article 38 of the Statute of the International Court of Justice. We are satisfied that the relevant principles of international law thus referred to are as identified by the International Court of Justice in its decision on the North Sea cases in 1969[1] and as confirmed by subsequent judicial and arbitral decisions.

[1] *North Sea Continental Shelf, Judgment, I.C.J. Reports, 1969*, p. 3.

11. My country is pleased at the general acceptance that disputes arising under the provisions of the Convention must be settled by peaceful means. The actual establishment of procedures which would ensure peaceful settlement, including compulsory and binding procedures, naturally proved more difficult because of the differing views among States as to what is appropriate in this field. We believe that the solutions reached, which necessarily involved stages and choices of procedures and variations according to subjects in order to accommodate the various preoccupations, will prove adequate. We welcome this additional assurance that the Convention will eliminate a significant area of potential conflict from the world scene.

12. In its statement at the opening of the general debate at this Conference my delegation urged that the States participating in the Conference should pursue the legitimate interests of their peoples in an enlightened manner so as not to damage the international community and ultimately their own peoples. We identified as the objective of the Conference the creation of rules of law which would be binding, just and reasonable, and the establishment of adequate machinery to secure their implementation. We now believe that the adoption of the Convention was a major step towards fulfilling that objective and that accordingly it is essential in the interests of the international community that it enter into force as soon as possible and that all countries become parties to it in due course.

13. Mr. KUSUMAATMADJA (Indonesia): At the outset I wish to express on behalf of the Indonesian delegation and on my own behalf, our deep feeling of gratitude to the Government and people of Jamaica for the excellent arrangements made for this session of the Law of the Sea Conference, in this beautiful resort town of Montego Bay. Since we set foot on this beautiful island we have felt the warm welcome and hospitality extended to us by the Government and people of Jamaica, with which Indonesia has always maintained cordial and friendly relations.

14. On this occasion I wish also to express our deep appreciation to you, Mr. President, to the members of the Bureau of the Conference and to the members of the Secretariat who have worked so hard for the past nine years. Furthermore, as a member of the Association of South-East Asian Nations, Indonesia is proud to see a representative of another member of the Association presiding over this concluding session, and we are fully appreciative of your lasting contribution to this Conference. We should also like to pay a tribute to our former President, Mr. Hamilton Shirley Amerasinghe, for his tireless efforts in bringing the Conference closer to its objectives.

15. Exactly nine years ago, in December 1973, the Third United Nations Conference on the Law of the Sea, after lengthy preparations, began its first session in New York, to deal with procedural matters. Having personally participated in the First and Second United Nations Conferences on the Law of the Sea, in 1958 and 1960, respectively, it had been evident to me that there was a need to take the historic decision to convene this Third Conference.

16. The world has for years endeavoured to solve problems of ocean affairs for the purpose of establishing law and order on the use of ocean space, its resources and the marine environment. Various international conferences have been held for this purpose, but they have not succeeded in dealing with all the issues. They have failed to solve such fundamental questions as the limit of the territorial sea, while achievements in other areas have been overtaken by progress in science and technology and the emergence of newly independent States.

17. Indonesia has a great stake in this Conference. As a nation comprised of islands forming an archipelago, it has viewed the developments in ocean affairs since the seventeenth century with mixed feelings. The rivalry among the European Powers for trade in spices during that period led to daring explorations by courageous individuals from Europe looking for access to the East Indies, especially after the siege of Constantinople towards the end of the fifteenth century. In fact, Columbus set sail in search of a sea route to the spice islands in what was then known as the East Indies and today is know as Indonesia. However, by a quirk of fate, he would up here in the West Indies. Subsequent efforts by others to reach the East Indies brought various explorers and others to our islands, resulting in the colonization of Indonesia for centuries by various European Powers. Indonesia endured great suffering throughout that long period of colonialism. The waters and passage routes between our islands which have been an essential factor in unifying our country were transformed by outside Powers into avenues for conquest. Thus, from our point of view, we have suffered from the consequences of the freedom of the seas expounded by Grotius. Therefore, since independence it has become an extremely important task of my country to restore its unity by returning the waters between the islands to their traditional unifying role. For an archipelagic country like Indonesia, it is contrary to its national interest to allow these waters to be used by outside Powers for conquest, thereby destroying its unity.

18. On this basis, the Indonesian Government promulgated the concept of the archipelagic State in 1957, and to this effect it enacted a law in 1960. We are gratified to see that this concept, with some modifications, has now been incorporated in the United Nations Law of the Sea Convention, thus obtaining universal recognition and acceptance in international law. We are confident that the countries with similar geographical characteristics and history will avail themselves of the provisions of the Convention relating to archipelagic States thus safeguarding their national unity, stability and development, without infringing upon the legitimate concerns and interests of others.

19. The progress of science and technology and the differences in the level of development of various States in the past have also led to the inequitable use of the ocean resources. Indonesia, like many other developing coastal countries, views with serious concern the increasing exploitation of the resources of the sea along its coast by distant advanced countries. We consider that this unfettered freedom of the sea, particularly relating to the exploitation of its resources, has given more advantages to those countries with advanced technological and scientific capability than it has to the developing countries, which have a greater and more urgent need for those resources. The emergence of newly independent States after the 1958 and 1960 Law of the Sea Conferences has accentuated these differences. It is therefore appropriate that the use of the resources of the sea should be made more equitable between the far-distant advanced States and the developing coastal countries. I believe that on the whole an equitable balance has been achieved in this Convention, as it has taken into account the legitimate interests of the coastal States without neglecting those of the far-distant and landlocked countries.

20. Perhaps it was the rapid developments in science and technology in deep sea-bed exploration and exploitation that prompted the need to devise new laws with regard to deep sea-bed mining as well as to clarify and redefine rules covering the outer limits of the continental shelf. I should like to express our satisfaction that the Conference has been able to solve these delicate problems, thus eliminating another possible source of confusion and conflict.

21. The problems relating to deep sea-bed mining have caused some anxiety. Indonesia, like many other developing countries, is dependent to a great extent on the export of its minerals for its economic development. The minerals to be produced from the Area would compete in the world market

with those produced in developing countries. Since the markets for these minerals are primarily in the highly industrialized countries, complete freedom to mine and market the sea-bed resources would create very serious dislocations in the already frail and fragile economies of the developing countries. It is therefore essential that the International Authority regulate the development and exploitation of sea-bed resources which, after all, have been declared the common heritage of mankind. The Conference has exerted tremendous efforts and long years of negotiations to achieve a balance that would protect the economies of the developing countries, bring benefits to the rest of the world and, at the same time, guarantee the industrialized countries access to the resources. In this endeavour, the developing countries have offered numerous concessions. We are hopeful that after all these concessions the industrialized countries will finally recognize that the present Convention would provide all States with the best legal framework for the exploitation of the resources of the deep sea-bed area. We are deeply disappointed, however, that after these efforts to reach a compromise, certain industrialized countries are still demanding more concessions which go beyond the limits of possible accommodation.

22. It is the sincere hope of the Indonesian Government that all States will become parties to this Convention. We believe that the present text is the maximum that could be achieved by the world community. Each and every one of us has made concessions to achieve a universally acceptable Convention. We further believe that, on the whole, this Convention is much better than no Convention at all. The failure to make the Convention effective would lead to incalculable chaos and confusion, to the detriment of the world community.

23. My delegation believes that the present text of the United Nations Convention on the Law of the Sea has significance for the orderly development of the international law of the sea in three aspects. First, it codifies the existing law of the sea which has developed either through customary or through conventional law. Many provisions dealing with the high seas fall under this category. For this reason, the provisions of the Convention in this category are applicable to non-party States by virtue of the fact that they are essentially a part of existing international law.

24. Secondly, there are provisions that clarify and redefine rules on issues that are the result of political, scientific and technological developments. These include provisions relating to archipelagic States, to exclusive economic zones, to the continental shelf and to protection and preservation of the marine environment. While the provisions of the Convention dealing with these issues are gaining universal acceptance as new law, it cannot be claimed that a country may benefit from them without being a party to the Convention. It should be recalled that the world community agreed in 1970 that the Convention should be comprehensive, covering all issues, to constitute a grand package. Acceptance of the compromise is, therefore, predicated upon the assumption that it will in the end be accepted and adhered to by all, in its entirety.

25. Thirdly, there are provisions which are completely and totally new in international law and without any precedent in State practice. The provisions dealing with deep sea-bed mining fall under this category and should be the only valid law applicable to these matters. The world community has agreed since 1970, that the exploration and exploitation of deep sea-bed resources beyond the limits of national jurisdiction can be undertaken only under an international régime yet to be established. Thus, there has never been any régime in international law dealing with deep sea-bed mining. Moreover, the world community has also declared on a number of occasions the illegality of unilateral national legislation on deep sea-bed mining and has declared reciprocal arrangements, such, for example, as the so-called mini-treaty among a few like-minded industrialized countries, to be illegal and unacceptable. It is therefore the conviction of my Government that the exploration and exploitation of deep sea-bed resources can be legally undertaken only under the régime established by this Convention.

26. My Government believes that after nine years of deliberations the Third United Nations Conference on the Law of the Sea has achieved a monumental success in formulating the present text of the new Convention. It is a tribute to the multilateral negotiating process through the United Nations. It is a tribute to men and women of good will who have been working hard to devise a system of law and order and to avoid chaos and confusion in ocean affairs. It is a tribute to States which participated in the negotiations in good faith and which see their national interests to be better protected through a multilateral co-operative effort than through unilateral nationalistic action. My Government believes that this Convention will contribute to the maintenance of world peace and security, the promotion of co-operation among States and the orderly and rational use of ocean space, resources and the environment.

27. My Government, therefore, will sign, and work for the speedy ratification of, the Convention.

28. Mr. SVOBODA (Czechoslovakia) (*interpretation from Spanish*): Czechoslovakia welcomes the successful conclusion of the 15 years of intensive work which were required to prepare the new Convention. The Government of Czechoslovakia always supported efforts aimed at the elaboration of an international convention which in a single document would regulate all aspects of the use of the sea. In this we felt that previous maritime law had been superseded not only because of the evolution of mankind's technological capabilities, but also, and especially, of the changes which had taken place on the political map of the world.

29. Had we accepted the existing legal arrangements, we would have virtually been allowing the riches of the sea and the oceans to be monopolized by a few States which were more developed industrially, consequently, the gap between the rich and the poor countries would have widened. Changes in the law of the sea were required also because of the need to ensure the prudent exploitation of the sea's resources, which are not inexhaustible, and because of the need to adopt measures to protect the sea against growing pollution which threatens to turn this common heritage of mankind into the refuse dump of mankind.

30. In our view, the new Convention responds to present needs. In general, it is a well-balanced document which takes into account the needs and legitimate interests of all groups of States. The coastal States are given the right to the resources of the exclusive economic zone and of the continental shelf. To less developed countries it offers the hope of obtaining a just share of the riches of the sea-bed through membership of a new international organization. It ensures preservation of the conditions for maritime navigation, which is of interest to States with their own fleets. To land-locked States it clearly grants the right of access to the sea through the territory of transit States. Despite the fact that the granting of this right is largely of a symbolic nature, it is the end result of 50 years of efforts to codify that law in a universal international convention, and as such is of great political and moral significance for the entire group of 30 land-locked States.

31. The delegation of Czechoslovakia therefore supports and warmly welcomes the present Convention in the spirit in which it was prepared in the course of previous sessions of this Conference. My delegation is authorized by the President and the Government of the Czechoslovak Socialist Republic to sign the present Convention. Through its participation in the Conference and its signing of the Convention Czechoslovakia is pursuing political objectives: it hopes that the elaboration and implementation of the Convention will elim-

inate causes of the conflict and tension which have existed in the past in various parts of the world. We are convinced that this Convention will become an instrument for peaceful co-operation among all countries, large and small, rich and poor, land-locked and coastal, in the exploitation of the resources of the sea, in which mankind is increasingly interested in order to meet its needs.

32. The present Convention will eliminate past chaos and the old system based on taking advantage of economic supremacy and, at times, military supremacy, replacing an unjust system with a new system, one offering possibilities to all States.

33. Previous experience has shown us that the law of the sea must be codified into a single legal document. The new Convention is one and indivisible; it should be considered as an integral whole. All the parts of the Convention are interrelated and have the same legal value. As such, the Convention represents a well-balanced compromise. For that reason it would be unacceptable for some countries to make use of some articles of the Convention and deny the validity of others, thereby trying to obtain certain unjust advantages. Such behavior would have negative consequences for the rights of other States and would undermine the importance of this Convention.

34. At the same time, our delegation wishes to appeal to other delegations not to misuse article 310 in order to make declarations in contradiction with the spirit and the objectives of this Convention.

35. On this occasion I wish to express the conviction that those States which for the moment do not consider it possible to sign the present Convention will reassess their position. The new Convention is by its very nature a universal document. Its entry into force and its implementation by all States of the world respond to the interests of the international community

36. In conclusion, I wish to echo previous speakers and express our gratitude to the Government and the people of Jamaica for the warm welcome given the Conference and delegations. I thank the officials working at the Conference; they deserve the greater credit for the success of our common work. I am referring to the President, the Chairmen of the Main Committees, the Chairman of the Drafting Committee, the General Rapporteur and the officials of the United Nations Secretariat who, in demanding conditions, have ensured progress in the work of the Conference.

37. Mr. EVENSEN (Norway): We are gathered here in Jamaica for a ceremony of truly historic proportions. Its importance for the United Nations, the Organization's Member States and all peoples of the world is apparent. The Government of Norway will sign the Convention on this unique occasion.

38. I have been allowed to participate in this endeavour from its very outset. I am fully aware of the privilege that I enjoy in being allowed to take part in this crowning event of the Third United Nations Conference on the Law of the Sea. We have had dreams fulfilled, but also frustrations. However, viewed in a historic perspective, the Third United Nations Conference on the Law of the Sea and the Convention which has emerged from our efforts will stand as a monument to mankind's struggle to create a unified and peaceful world through the United Nations and thus realize our aspirations to the true brotherhood of men.

39. We must not be unduly discouraged by the fact that consensus eluded us in the final stage of our Conference. Admittedly it was a severe disappointment, but our accomplishments have been enormous and we must not abandon our efforts to obtain a universal convention.

40. On 17 December 1970, at the end of the twenty-fifth session of the General Assembly, under the presidency of the late Mr. Hambro, the United Nations adopted the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction,[2] in itself a unique accomplishment. No votes were cast against that resolution; as a matter of fact, all the main Western industrialized countries voted in favour of it. The Declaration proclaimed among its main tenets that the international sea-bed area was thereby established; that that area and its resources were the common heritage of mankind; and that no State, juridical or natural persons could appropriate any part of that area or exercise sovereignty or sovereign rights therein. Thus the main principles in the Convention pertaining to the international area, in Part XI, have a significant historical background which we must not lose sight of.

41. During the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, it became apparent that, owing to the technological revolution and the fundamental international political evolution stemming from the dissolution of the colonial empires, a number of time-honoured principles governing the law of the sea had become obsolete and inadequate. The United Nations therefore decided to proceed with the elaboration of a comprehensive and universal convention on the law of the sea.

42. The Convention produced by the United Nations and adopted on 30 April 1982 by an overwhelming majority is nothing less than a modern and comprehensive constitution covering five sevenths of the surface of our globe. It is the greatest international legislative effort undertaken by the United Nations and probably the greatest ever undertaken in the annals of international law as a whole.

43. At the same time our Convention possesses crucial and universal peace-promoting aspects, both in providing detailed provisions with regard to all main peaceful activities in ocean space and in enhancing the prestige and effectiveness of the United Nations as the universal international peace-building Organization of our troubled globe. Also, the Convention is in reality the first concrete attempt to implement the new economic world order.

44. During our deliberations in 1973 and 1974 a special decision-making procedure was adopted by the Law of the Sea Conference, summed up as "the gentleman's agreement". It contained certain innovations, and expectations were high in regard to its beneficial effectiveness. As we are all aware, the three pillars of the gentleman's agreement were first, the consensus principle; secondly, no voting until all reasonable possibilities of consensus had been exhausted; and, thirdly, the package deal. These three elements were of equal validity and importance.

45. It was a disappointment that we were not able to arrive at a consensus last April. The risk of conflicts inherent in the present situation is obvious. Those of us who have participated in the work of the Conference in its various stages realize the extent to which our Convention is permeated by and based on compromises regarded as a comprehensive package deal. This is an indisputable reality and the potential conflicts arising therefrom may be legion. It must be assumed that a majority of States will accede to the Convention, while a certain minority has expressed its preference for remaining outside for the time being. How can a package deal function justly in such a situation?

46. Consequently, we must not cease our efforts to make our Convention a universal, international instrument. The work of the Preparatory Commission may be crucial in these efforts. We must strive to establish rules and regulations for the exploration and exploitation of the riches of the area that are sufficiently impartial and wise to inspire general confidence.

[2] General Assembly resolution 2749 (XXV).

In order to create such propitious conditions, participation in the work of the Preparatory Commission is essential not only by States that sign the Convention proper but also by States that may participate as observers in their capacity of signatories of the Final Act. Indeed, it is especially important that this latter category of States participate in good faith in the work of the Preparatory Commission. At this present stage the Preparatory Commission is the only viable instrument we now possess to achieve a convention which is as universal as possible.

47. The Norwegian Government reserves its right to revert in due time to the question of the optional exceptions under article 298 of the Convention.

48. In concluding, the Government of Norway takes this opportunity to express its sincere thanks to you, Sir, for the unique manner in which you have performed your tremendous task as President of our Conference and for the wisdom, tact and skill with which you filled the deplorable void created by the sudden demise of our friend and colleague, Mr. Hamilton Shirley Amerasinghe. We extend our thanks also to the Special Representative of the Secretary-General and to his excellent staff, which has worked so untiringly for these many years.

49. Miss TAN POH CHOO (Singapore): I should like first of all to thank our gracious host, the Government of Jamaica, for having spared no effort to ensure that our stay in Montego Bay will be a fruitful one.

50. My delegation is pleased to participate in this historic final session of the Third United Nations Conference on the Law of the Sea to sign the Final Act and to open the United Nations Convention on the Law of the Sea for signature. It is the culmination of the most ambitious and comprehensive international law-making effort in history, a convention seeking to regulate almost every aspect of human activity on and beneath the ocean.

51. This Conference was the brainchild of Mr. Arvid Pardo of Malta. Some of us still remember the historic speech he made at the 1516th meeting of the First Committee of the United Nations General Assembly on 1 November 1967.[3] He enunciated the principle that the sea-bed and subsoil beyond the limits of national jurisdiction and the resources therein should be declared the common heritage of mankind. He warned of the danger of unrestrained extension of national jurisdiction by coastal States. Mr. Pardo was a visionary; he was ahead of his time. Although he is critical of the Convention we have produced, we should nevertheless acknowledge our debt to him.

52. The concept of the common heritage of mankind has been the guiding light of this Conference. In my delegation's view, the concept of the common heritage of mankind is a seminal contribution of the twentieth century to political theory and international law.

53. The adoption of the United Nations Convention on the Law of the Sea is a historic landmark. Its significance to the international community in general and for developing countries in particular cannot be overemphasized. The Convention will promote peace and minimize conflict among nations; it will lead to the more rational and equitable use of the sea and its resources; and it has created novel concepts of international law. What are some of these concepts?

54. The first and perhaps the most significant contribution, to which I have already referred, is the concept of the common heritage of mankind. The second is the concept of a public international institution—the International Sea-Bed Authority—which is capable of generating revenue, imposing international taxation and ensuring the equitable distribution of technology among developed and developing States. The third is the concept of the exclusive economic zone. Coastal States would have sovereign rights in a 200-mile-wide zone with respect to natural resources and certain economic activities. The fourth is the concept of international environmental law. States would be bound to use the best practical means at their disposal to prevent and control marine pollution from all sources. Other new concepts include archipelagic States, transit passage through straits used for international navigation and archipelagic sea lanes passage.

55. The Convention that we are signing at this final session will not completely satisfy any States present here. This is because the Convention, after a nine-year gestation period, is the result of countless political compromises made in the spirit of give-and-take. These compromises are reflected, sometimes glaringly, sometimes subtly, in the ambiguities, the loopholes and even the contradictions in the text.

56. On 30 April this year at the eleventh session, the United Nations Conference on the Law of the Sea adopted the text of the United Nations Convention on the Law of the Sea by a recorded vote of 130 in favour, 4 against and 17 abstentions. The final result was not what we had worked so hard for. The Conference had striven for a convention by consensus. Notwithstanding the negative votes and the abstentions, the achievement cannot be described otherwise than as monumental. After 11 sessions since December 1973, in all 93 weeks of meetings and thousands of hours of private consultations, a broad agreement was reached on all matters relating to the law of the sea.

57. The longest part of the Convention, and the part to which the Conference devoted more of its energy and time than to any other, concerns the exploration and exploitation of the deep sea-bed, that area beyond the exclusive economic zone and the continental shelf. And it was precisely over this part that the Conference met with its greatest difficulties. The United States felt unable to accept that part of the Convention. Its refusal and that of a few other States to join in support of this Convention is a set-back to an otherwise very successful Conference.

58. There are few countries indeed that do not have serious objections of one kind or another to particular parts of the Convention. The Group of 77 tried, as far as it could, to meet the American concerns. It was only the good sense and responsible leadership of the Group of 77 which prevented the negotiating sessions held in 1981 and 1982 from being turned into forums of chaos. Very determined efforts were made to seek a compromise acceptable to all delegations, including the United States. It is therefore all the more regrettable that after so much effort the goal of a universally acceptable convention could not be achieved. This failure was certainly not due to the lack of trying. Singapore has objections to a number of articles in the Convention, particularly those relating to the exclusive economic zone and the continental shelf. They do not deal equitably with the resources of the sea. They give some States much too much and others little or nothing at all. Indeed the international community has lost a golden opportunity to give effect through this Convention to the new international economic order. The common heritage of mankind has been greatly diminished by the unilateral claims of coastal States. A more equitable sharing of the resources of the exclusive economic zones and the continental shelf would have been a more effective means of bringing about the new international economic order. Nevertheless, Singapore also strongly believes that it is in the interest of the international community that there should be law and order on the oceans.

59. This Convention, as stated before, contains many inadequacies. But it is the best that could be achieved. We must not allow the best to become the enemy of the good. Imperfect rules are certainly better than no rules at all where unilateral action is the order of the day. We would therefore urge

[3] See *Official Records of the General Assembly, Twenty-second Session, First Committee*, vol. 1.

all States which are committed to the observance of international law to rally round this Convention. It is for that reason that the Government of Singapore has empowered its delegation to sign the Convention.

60. During these four days we shall be hearing the statements of approximately 130 Governments outlining their positions with respect to the Convention and their intentions with regard to signing it. At the time of signing or ratification they may also make declarations or statements with a view to harmonizing their national laws and regulations with the provisions of this Convention. We would appeal to such Governments, however, not to use their declarations as a back-door method to express reservations concerning certain provisions or to interpret the provisions in a manner inconsistent with their letter and spirit. As article 310 of the Convention expressly stipulates, such declarations or statements must not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State party.

61. It is now logical to ask what the future holds for the new Convention. My delegation's view is that, while there may be a period of some initial hesitation, the Convention will, in a relatively short period, be widely accepted. Some of the provisions of the Convention have already become part of conventional international practice and have thus acquired the status of customary law. We are confident that a sufficient number of countries will shortly sign the Convention so as to activate the Preparatory Commission. The Convention, including Part XI, will in time become general international law. As for those countries that have either voted against or abstained, we would urge them to review their decision, for they include countries that are traditionally strong advocates of international law. We are confident that they will want to re-examine their positions on the Convention in the light of their specific interests in the law of the sea and their general position of support for the rule of law in relations between States. The Convention will be open for signature for two years. There is therefore time enough for those whose present position is negative or uncertain to come round and support this legal landmark.

62. We should be remiss if we did not express our appreciation to the late President, Mr. Hamilton Shirley Amerasinghe, for his immense contribution to the success of this Conference. He guided the Conference for the most part of its nine-year period and without his wisdom and wise counsel it could not be where it is today.

63. Finally, we should like to extend a well-deserved vote of thanks to the selfless dedication and hard work of the members of the United Nations Secretariat who have serviced the Conference. Without any doubt their co-operation and assistance have greatly facilitated the work of this Conference and helped bring it to a successful conclusion.

64. Mr. TSANOV (Bulgaria) (*interpretation from Russian*): The Government of the People's Republic of Bulgaria expresses its satisfaction with the successful conclusion of the work of the Third United Nations Conference on the Law of the Sea. As a result of long negotiations, this new comprehensive Convention on the Law of the Sea was elaborated and adopted. We regard this Convention as the first international code of its kind governing various areas of the sea and the régime for the utilization and preservation of its resources. The Convention represents the only possible compromise, taking into account existing conditions, for the solution of the whole complex of problems of the law of the sea. It takes into account the basic interests of all States and does not neglect the substantive interests of any group of States. As the text of the Convention provides in the seventh paragraph of the preamble, "... the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world...".

65. An undoubted contribution of the new Convention is the establishment of the maximum breadth of the territorial sea at 12 nautical miles as a general norm of international law, as also is the determination of maximum limits of those areas of the sea where respective coastal States exercise the jurisdiction envisaged in the Convention. The Bulgarian Government considers very positive also the provisions of the Convention which concern the delimitation of the areas of the sea between neighbouring States through an agreement between the countries concerned in accordance with international law and taking into account geographic features and special circumstances with a view to achieving a just solution.

66. The United Nations Convention on the Law of the Sea, as indicated in the fourth paragraph of the preamble, is aimed at establishing a legal order for the seas and oceans which would facilitate international communication and promote their peaceful uses, the equitable and efficient exploitation of their resources, the study, protection and preservation of the marine environment and the conservation of the living resources thereof. This complex approach is based on the desire to establish, and efforts to establish, the best possible harmony between the different uses of the areas of the sea, equitable consideration being given to the interests of all States. In this connection we should like to stress that, notwithstanding the establishment of the exclusive economic zone and certain expansion of the jurisdiction of coastal States, this new international legal régime strengthens freedom of navigation in the interest of the development of sea transport and communications, as a milestone in the overall global system of the law of the sea. We should view in the same light the basic provisions of the Convention concerning the régime of innocent passage of all kinds of ships through the territorial sea and the archipelagic waters, transit and unimpeded passage through straits used for international navigation and flights by aircraft over these areas. The freedom of the high seas has been confirmed, including the freedom of navigation on the high seas, overflights, the building of submarine cables and pipelines, the construction of artificial islands and installations, fishing, the conducting of scientific research and other uses recognized by international law.

67. The establishment of exclusive 200-mile economic zones by which coastal States are granted sovereign rights for the exploration and exploitation of living and non-living resources and the carrying out of economic activities, as well as certain rights relating to the establishment and use of artificial islands and installations, scientific research and the preservation of the marine environment, is one of the most essential innovations of the Convention. This régime should not, however, lead to any limitations of the freedoms on the high seas generally recognized by the Convention; more specifically, freedom of navigation, overflight and the building of submarine cables and pipelines—nor should it lead to unjustified limitation of the reasonable utilization of living resources and access by other interested countries; first of all countries which are geographically disadvantaged or have limited fishing resources and whose national economies depend largely on fishing and which have made considerable investments in the development of long-distance fishing. This is the position of the People's Republic of Bulgaria. We accept the establishment of the régime of the exclusive economic zone as an essential concession in favour of coastal countries, and we think that they, for their part, will stand by the application in good faith of the relevant provisions of the Convention and will thus avoid causing unjustified damage to

other interested States. We feel that they will thus promote international understanding and co-operation.

68. Another particularly significant innovation in the law of the sea is the establishment of an international régime for the exploration and exploitation of the sea-bed in the area beyond the limits of national jurisdiction of States. The Government of the People's Republic of Bulgaria considers that the declaration of the sea-bed and its subsoil and their mineral resources in the international area as the common heritage of mankind is a new principle of international law in general and of the law of the sea in particular which should be applied for the benefit of all the peoples of the world. In this connection we should like to emphasize the particular importance we attach to the provisions of article 150 (*g*) of the Convention, which explicitly states as one of the basic principles of the régime "the enhancement of opportunities for all States parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of the monopolization of activities in the Area". At the same time, the deriving of unilateral advantages from the international régime by States not parties to the Convention that do not wish to be bound by it should not be allowed. No State has the right to appropriated the mineral resources in the international area outside and against the provisions of the Convention. Such unilateral actions should be described as gross violations of the basic provisions of the United Nations Convention on the Law of the Sea and a challenge to the international community of States.

69. Unfortunately, there are sufficient grounds to express concern that such situations will arise, bearing in mind the claims of the United States for a privileged position and unilateral advantage in the exploitation of the sea-bed in the international area. With that in mind, efforts have been made to establish through separate deals a parallel and alternative régime in contradiction of the Convention. As is well known, in resolution 37/66 adopted at its thirty-seventh session, the United Nations General Assembly called upon the Governments of all States to refrain from undertaking actions which would be incompatible with the Convention or would frustrate its purposes.

70. The Government of Bulgaria has a positive attitude also towards the other basic provisions of the United Nations Convention on the Law of the Sea, pertaining to the protection and preservation of the marine environment, the carrying out of scientific oceanographic research and the promotion of scientific technological co-operation in the study and exploitation of the areas of the sea.

71. We also attach great importance to the provisions of the Convention concerning co-operation between States bordering enclosed or semi-enclosed seas for the solution of problems of general interest through mutually acceptable agreements. The Bulgarian Government will begin to apply the provisions of the Convention in co-operation with the neighbouring countries of the Black Sea.

72. The new Convention contains detailed provisions on the settlement of disputes, and our Government has always stood by the principle of the peaceful settlement of international disputes in accordance with the United Nations Charter. It is from this principled position that we regard the relevant regulations of the Convention and confirm the guiding principle contained in article 279 that "States parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the United Nations Charter", that is, through peaceful means chosen by the parties concerned. Hence, the Government of the People's Republic of Bulgaria will reserve its right to make the relevant declarations of non-recognition of the obligatory procedures envisaged in article 287 of the Convention and the optional exceptions concerning the compulsory procedures entailing binding decisions envisaged in article 298 of the Convention.

73. As far as participation in the Convention is concerned, we think that the sole representative of Kampuchea is the lawful Government of the People's Republic of Kampuchea. We should also like to confirm our principled position on the rightful participation of national liberation movements such as the Palestine Liberation Organization, the South West Africa People's Organization and others.

74. In implementation of my mission for the Government of Bulgaria, I express our country's readiness to join its efforts with those of all other countries motivated by the common aim of establishing an equitable, efficient and stable legal order for the utilization of the areas of the sea and their natural resources for the benefit of all mankind. The new Convention could serve as a good legal basis for the establishment of this régime and for the conclusion of multilateral and bilateral treaties that would turn the régime into a viable reality and a reliable factor for the consolidation of peace and co-operation among peoples.

75. In conclusion, I should like to express our gratitude to you, Mr. President, for presiding over our Conference, as well as to all others who have helped in achieving its success. We would also like to express our gratitude to the Government of Jamaica for its hospitality and for having ensured such good conditions for the work of the Conference. We hope that the sunny weather we are enjoying will continue throughout the session.

76. Mr. AMEGA (Togo) (*interpretation from French*): Twelve years ago, on 17 December 1970, the United Nations General Assembly adopted resolutions 2749 (XXV) and 2750 C (XXV), which set forth the precise parameters for the United Nations Conference on the Law of the Sea, and its effective work, which began in 1973, came to an end only this year.

77. During that same year of 1973, the General Assembly, in resolution 3067 (XXVIII) of 16 November, decided that the Conference should adopt a convention dealing with all matters relating to the law of the sea. In implementation of that resolution, the first session of the Conference was held in New York to deal with organizational matters. Afterwards, at the invitation of the Government of Venezuela, the Conference held its first substantive session in Caracas. Now, finally, the Convention and the Final Act will be signed here in Jamaica.

78. In recalling the important role played by Venezuela in the preparation of this Convention, it is a pleasure for me once again to greet and to thank the Government and the people of that country.

79. It was hoped that the new Convention would be ready for signature at the Caracas session. Unfortunately, however, that session became another link in a long chain stretching across nine years of discussions. Following Caracas, nine sessions were required, not to mention five resumptions of the seventh, eighth, ninth, tenth and eleventh sessions, to arrive at the adoption of the text of the Convention, the signing of which explains our presence here in Jamaica, this enchanted island, the pearl of the Caribbean.

80. I should like to take this opportunity to pay a warm tribute to the Government of Jamaica for the dynamic role it has played in the preparation of this Convention. In this connection, it is my pleasure to congratulate that Government and to thank it for its decision to act as host to this session, as well as for the warm, fraternal welcome my delegation has been accorded. Could we find a better place than this magnificent island, where land and sea blend into one harmonious whole, in which to sign our Convention on the Law of the Sea? It is to be hoped that work will not occupy all of the time of delegations so that their members will be able to

appreciate the beauties of this land that will be the headquarters of a very important body of our Convention.

81. On this formal occasion of the signing of the Final Act of our Conference, we cannot but feel some emotion as we look back over the past and over the path we have traversed, while looking ahead to the future as well.

82. The past recalls for us the presence of the agreeable and sympathetic Hamilton Shirley Amerasinghe of Sri Lanka, the well-liked and friendly man who presided with such dedication, conviction and selflessness over the work of the Conference. The present Convention evokes his name. It also brings to mind the long discussions and ups and downs of hopes, illusions and disillusions that marked nine years of patience. Thanks, however, to our collective efforts and thanks to the political will of all States, the important source of law embodied in this new Convention has been adopted. It is a time for us to congratulate ourselves and to state that for the first time a good number of developing countries, particularly African countries, have decided on rules that will govern their relations with other States in the realm of maritime communications and the exploitation of undersea and fishery resources. It is with great satisfaction and hope, therefore, that my delegation is taking part in this historic session establishing a new law. It is impossible to envisage the future implementation of the provisions of this important instrument without recalling those who have made its adoption possible.

83. It is therefore fitting at this time to salute Mr. Tommy Koh, of Singapore, for the outstanding work he has done as President of the Conference. He has shown perspicacity, farsightedness and a great deal of the spirit of compromise in leading us to the final form of the 320 articles and nine annexes of the Convention. In accomplishing that task, Mr. Koh has had the co-operation and has enjoyed the support of the Vice-Presidents, Committee Chairmen, members of the Drafting Committee, Rapporteurs—in short, all the members of a very well-structured Bureau. I wish to thank them all. We should also recall those anonymous but efficient participants, the interpreters, secretaries and other members of the Secretariat.

84. It is a particular pleasure for me to stress the personal action of the Secretary-General, Mr. Javier Pérez de Cuéllar, who has always paid due attention to questions pertaining to preparations for this Convention. The delegation of Togo is convinced that he will devote the same attention and efforts to the implementation of its relevant provisions.

85. After the historic vote which led to the adoption of the text of the Convention, the President stated:

> "Now that we have adopted the Convention, we must return to our respective countries and promote public understanding of its importance so that our Governments and our Parliaments will be persuaded to sign and ratify the Convention in a timely manner. I hope that those delegations that voted against the Convention or abstained in the voting will, after further reflection, find it possible to support the Convention."

86. The presence of many delegations at this signing session is highly significant. It is to be hoped that the procedures for ratification will also be welcomed with enthusiasm in order that the Convention may enter into force as soon as possible. It is also to be hoped that this Convention, whose importance needs no further demonstration, will be supported by all, because for once, going beyond the interests of developing and industrialized countries, it is the interest of future generations that is here being protected. Indeed, the concept of the common heritage of mankind applied to the sea-bed and ocean floor beyond the limits of national jurisdiction has become a legal reality, requiring that the exploitation of the resources of that area be carried out in the interests of mankind as a whole. Future generations will therefore inherit a marine environment that will be a source of life and not the seed of destruction or the source of conflicts among nations.

87. If only because of this concept of the common heritage of mankind, which has become an international legal entity, the Convention deserves to be supported by all States which cherish peace and justice.

88. In conclusion, the delegation of Togo would like to reaffirm that this Convention is the cornerstone on which States must endeavour to build a better world.

89. Consequently, the Republic of Togo will sign the Convention and all subsequent acts.

90. Mr. GHARBI (Morocco) (*interpretation from Arabic*): Mr. President, allow me at the outset on this lofty occasion to convey to you and to the Conference the greetings of the people and Government of the Kingdom of Morocco, as well as the deep regrets and apologies of the Foreign Minister of Morocco, for his inability to be present at this historic event in person. I am certain that you know that his absence is due to extremely important and urgent commitments on the Arab level in the Middle East.

91. I wish also to express my delegation's gratitude to the Government of Jamaica for its very warm welcome and the hospitality which we have enjoyed since our arrival in these splendid, warm surroundings overlooking one of the most beautiful beaches in the world, and our admiration and appreciation for the arrangements made so efficiently by the authorities of Jamaica in organizing this final session of the Conference at such relatively short notice.

92. At the outset of my statement, I must refer on behalf of my country to the invaluable services provided throughout the years by the Collegium and the skilled secretariat of the Conference, under the supervision of the Special Representatives of the Secretary-General, Mr. Constantin Stavropoulos and his successor, Mr. Bernardo Zuleta.

93. I would also pay a tribute to you, Mr. President, for the great services you have provided this Conference since that memorable day when it unanimously chose you to preside over it and when you thus undertook, with exemplary courage, to guide its work at that most critical stage when it was being sorely tested, in an atmosphere of terrible confusion, by the death of that great man who had contributed so much by leading it skilfully and with determination out of the initial labyrinth. His memory will always live in our hearts and in our minds. At that time, Mr. President, you found a Conference fraught with what seemed to be intractable problems and beset by the terrible risk of fragmentation and even collapse. You sought to rally the participants and, with an outstanding sense of responsibility, you persisted in moving the Conference forward along the right path. You have now discharged fully the responsibility entrusted to you, and you have done so thanks to your qualities: your brilliance; your sharp mind, which combines equally and uniquely a talent for analysis and a talent for synthesis; your gentleness and your sense of humour, derived from an abundant source of ancient Oriental wisdom.

94. Since gaining independence in the mid-1950s, Morocco has been extremely interested in the developments of the law of the sea. This interest stems naturally from its geographical location at the confluence of a sea and an ocean and also from its awareness, shared from an early time with many developing countries, that the resources and uses of the neighbouring seas or oceans have become a vital factor in the development strategy, whether from the point of view of economic security or from the more general point of view of national security. Thus, Morocco participated in the first United Nations Conference on the Law of the Sea, but it had to abstain from acceding to the Geneva Convention of 1958 because that Convention was limited, for the most part, to codifying the basic provisions of the conventional law of the sea and did not

set out the desired provisions in a comprehensive international law of the sea taking into account the subtleties and requirements of our time, and because of its conspicuous failure to establish a régime for the seas and the oceans on the basis of equity and interdependence that would ensure stability and wide acceptance.

95. Small wonder, then, that the first Conference was followed only two years later by the second Conference, in 1960. Moreover, it is no wonder the genie sprang out of the bottle a few years after the failure of that second Conference, which will no doubt remain a lesson in the history of multilateral international relations and the sociology of international law.

96. Despite the inevitable fragmentation that afflicted the legal régime for the seas in view of the wide gap separating it from the dictates of reality and the requirements of equity, Morocco displayed moderation when it undertook in 1973, after waiting patiently for a long time, to adopt national legislation claiming a 12-mile territorial sea and a 70-mile exclusive fishing limit. By confining itself to this limit, which was defined on the basis of objective oceanographic research with the assistance of the Food and Agriculture Organization of the United Nations, by confining itself to an exclusive fishing zone and by providing in its legislation that the extension of its jurisdiction over this contiguous maritime zone threatened with depletion did not preclude the application of the principles of international co-operation—subject to the maintenance of its national interests and respect for its sovereign rights—Morocco was in fact among the pioneers that adopted the compromise which was finally crystallized and given shape within the Conference.

97. In the same year, 1973, Morocco had the honour of being the Rapporteur of the Addis Ababa meeting of the African group which led to the Declaration of the Organization of African Unity on the law of the sea.[4] That, in its term, had an indisputable effect on the progress of the subsequent negotiations in the Conference, especially concerning the areas of national jurisdiction, in the interest of striking a real balance between the rights of the coastal States and those of the land-locked States on the basis of that fundamental principle which Morocco has been advocating since the beginning of the review of the law of the sea in the late 1960s—that is, the right of all States in the region to have access to the sea and to use it and, as far as possible, its living resources to meet the needs of all the neighbouring States in the area of that sea.

98. It has been said about cultures that they do not die but merge into each other and that they are constantly inherited even if they seem to die out. In our time, this applies in the first place to the general principles of the law of the sea—the indispensable basis in establishing a universal culture. Thus, the achievements of the codification of the law of the sea in the 1958 Convention were not disregarded but were placed in the proper perspective, as they should have been, when the foundations for the new legal régime were laid, brick by brick. We retained the concept of the contiguous zone when we became convinced that it still had functional usefulness in view of the differing natures of the jurisdictions which may be exercised in the territorial sea and in the exclusive economic zone.

99. Moreover, we introduced the concept of straits used for international navigation and the concept of archipelagic States. As a result of this, we arrived at and included separately—purely for reasons of methodology—the concept of the right of transit passage and the right of passage in the archipelagic sea lanes, without eliminating the concept of innocent passage in either of the two cases and without introducing an essential difference, which may be alien to sound legal logic, between the concept of transit passage and the concept of passage in the archipelagic lanes, on the one hand, and the concept of innocent passage on the other, except as relating to the absence of any political control of passage on the part of the coastal State. If I have dwelt at some length on the right of transit passage and the right of passage in the archipelagic lanes—points which are related to the area defined for national jurisdiction—it is because these points have commanded priority in the concerns of my country in view of the central position they have occupied for the last 10 years in its national plans and foreign relations.

100. The Conference succeeded, after strenuous efforts in finding compromise solutions—felicitous at times, not so felicitous at other times—in reconciling the interests of the coastal State and those of other States, or the interests of the coastal State and those of the entire international community, whether in regard to participation in living resources, passage through straits used for international navigation, passage of warships through the territorial waters, delimitation of adjacent or opposite areas of national jurisdiction, the conduct of marine or archeological research activities or the limit of the continental shelf. The process of finding these compromise solutions was indeed, in most cases, by way of "squaring the circle". So we can say that these complicated solutions all have one quality in common: they are dependent upon and subject to the complete good will of the parties concerned in their application. I would like to emphasize here that Morocco, which made a modest contribution to finding most of these solutions, is determined for its part to honour its commitment and to show complete good will.

101. "Do not feel embarrassed when you speak of the Sea", the ancient Arabs used to say. With this wise proverb they succinctly described the scope of a subject which had fascinated men of letters, including poets, before commanding the attention of diplomats and jurists—that is, the generous sea which nurtures dreams and raises hopes with its glittering promise of flowing riches and hidden treasures, and the cruel sea which is a source of fear with its dark depths and violent storms. For years on end we have all been talking about the sea as though we had forgotten time, and that time has no mercy for those who forget it. But disaster followed on the heels of disaster, reminding us that the sea may not be generous forever if we exploit it without constraint or restriction and that protection of the marine environment is now at the forefront of our major concerns since it is the core of the maintenance of life on this blue planet, called by some knowledgeable geologist "the planet oceanis".

102. Thus we may consider all the provisions adopted by the Conference on the protection and preservation of the marine environment and on marine scientific research the pride of the Conference, not only because of their outstanding technical content and the prospects they hold out for the evolution and advancement of the law of the sea, but also because they highlight the ability of the international community to rise above narrow, transient interests and to be convinced in the long range of the priority of the common good

103. If the noblest definition of law is that it is but reason in action, then the application of the concept of the common heritage of mankind to the sea-bed and the ocean floor beyond the limits of national jurisdiction was no doubt prompted by reason and not by emotion. Since the beginning of the review of the international law of the sea, this has been an indispensable basis for the new legal régime. It is no coincidence that the first Head of State who commended this concept publicly was the President of the United States, Lyndon B. Johnson, two or three years before the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction adopted by the General Assembly in resolution 2749 (XXV) of 17 December 1970. The strong belief in this principle since the days of the Committee on the Peaceful Uses of the Sea-

[4] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III, document A/CONF. 62/33.

Bed and the Ocean Floor beyond the Limits of National Jurisdiction was the greatest incentive for continuing constructive negotiations in the framework of a package deal, and at the same time was the greatest challenge to creative legal intelligence. Perhaps at times our imagination blurred the reality, when we were working to translate this lofty concept in detail into concrete terms, but finally we reached the greatest possible degree of consensus without sacrificing any factor guaranteeing, as is only fair and just, the greatest benefit for the largest number, and without compromising any acquired right.

104. It is no wonder that we call the comprehensive convention which was the fruit of the Third United Nations Conference on the Law of the Sea "The United Nations Convention on the Law of the Sea". This official designation summarizes in fact the significance of the comprehensive, universal approach which we have adopted since the inception of the Sea-Bed Committee, on the basis of our collective awareness that the problems of maritime space are closely related and must inevitably be considered as an integral whole, in contrast with the scattered, piecemeal approach adopted by the 1958 Convention. This designation also reveals the magnitude of the strenuous efforts exerted to obtain the widest consensus—and we deeply regret the fact that some States did not join in the consensus. We consider that the adoption of the draft Convention on 30 April last, by a majority vote unprecedented in any conference on the codification of international law, constitutes in itself a legal landmark at the international level and leaves no room for any legal challenge to the interrelated principles which are at the basis of the new and sole legal régime for the seas and oceans.

105. The United Nations Convention on the Law of the Sea, like every human endeavour, falls short of perfection. Indeed it only enjoys such wide and varied—and almost unanimous—support because it naturally does not satisfy anyone fully, even in its formulation. In its last three sessions the Conference accelerated its work, having proceeded slowly for years and then, thus suddenly, overburdening the Drafting Committee. In spite of that, the Committee has to its credit a great achievement. If there are still some minor errors in the concordance of the texts in all the official languages, we can depend on the correction of any such discrepancies in the future, following the example of the praiseworthy progress made by the International Law Commission during its recent thirty-fourth session, when it adopted the draft articles on the law of treaties between States and international organizations or between international organizations. Among these articles, article 33— on the interpretation of treaties originally drafted in two or more languages—states in paragraph 3 that it is assumed that the terms of a treaty have the same meaning in the various original texts.

106. In conclusion, I should like to say the following: The preparation of an international convention in which various interests of major significance are of necessity interwoven, as is the case in the United Nations Convention on the Law of the Sea, has tested at every moment the ability of the international community to curb the selfish tendencies inherent in national chauvinism, and the sincerity of this competing community in its adherence to the principles of interdependence and co-operation and in its commitment to the objectives of the Charter of the United Nations. But the hour of the real test will surely come, as we are all aware in view of the deterioration of the international economic and political situation, in the implementation of the Convention, in putting it into effect, and especially in the establishment of the international bodies provided for in the Convention. We are certain that the numerous signatures to be affixed to the Convention on Friday, 10 December—which through a happy coincidence is the anniversary of the adoption of the Universal Declaration of Human Rights—will be not only a traditional diplomatic commitment but also will be an expression of a firm belief that reason will prevail, that hopes will not be dashed and that this comprehensive, universal Convention will belong to the future of mankind, as a basic, necessary element of an organized, civilized international life in which the law reigns supreme.

107. Mr. FADIKA (Ivory Coast) (*interpretation from French*): I am both happy and moved to be representing the Government and people of the Ivory Coast at this solemn ceremony.

108. First of all, on behalf of the Ivory Coast I should like to turn to our Jamaican friends and brothers and express sincere thanks to the Government and people of Jamaica, which have offered us hospitality whose warmth and generosity we appreciate all the more since the holding of this session in this country was decided on at a very late date and very quickly prepared.

109. The Ivory Coast feels that there could be no place more appropriate than Jamaica to sign our new Convention and then to harbour the future International Sea-Bed Authority. It is surrounded on all sides by the ocean; it contributes in a very decisive way to the dynamism and coherence of our Group of 77; it has always been active and effective in the negotiations on the law of the sea; it is in a privileged geographic location where North and South meet; it harbours a marvelous blend of cultures and has a great respect for differences. Jamaica thus offers every possible chance for the success of our Convention by serving as the headquarters for its bodies and instruments. I am pleased to recall here that since 1974 the Ivory Coast, with the group of African States, has been rightly supporting the candidacy of this beautiful country as the seat of the International Sea-Bed Authority.

110. That is why, dear friends and brothers of Jamaica, we are happy to congratulate you on the wise choice of your country and at the same time fraternally to salute you.

111. In expressing my joy at being here among all these friends and brothers, I must say that I feel deep emotion about this event we are all experiencing today. I fear that words cannot express the solemn importance of the ceremony that will be held in a few days, when we shall be signing the Final Act of the Third United Nations Conference on the Law of the Sea, as well as the new Convention on the Law of the Sea, adopted in New York on 30 April 1982.

112. This is one of those exceptional events which offer a rare opportunity to live intensely a great historic moment. This is one of those great times when we stand face to face with history and see the rich prospect of a future of solidarity, a future that will be better for everyone and that the people of our own time will have the immense honour of leaving as a legacy to future generations.

113. May the hope for this reconciliation of man with other men and with himself and for this regained solidarity and fraternity soon replace the terrifying images that the world presents at the end of the twentieth century.

114. Even if we wish to be resolutely optimistic about the world of today, our attention must focus on the deteriorating condition of life on our planet. We see the spectre of generalized crisis that seems to be incapable of solution with its retinue of harm and mutilation to man. With each day that passes the tragedy continues and amplifies till the world is asphyxiating and the crisis, far from being resolved, feeds on itself. At the end of the chain there are to be found, of course, the poorest States, that is, the overwhelming majority of the States in the world. It is they that are the most affected. Thus, it is obvious that a deep and tragic effect of the crisis is that each day the independence of the developing countries, already fragile, becomes even more fragile, as does the quality of life everywhere in the world.

115. The French philosopher La Bruyère said, "There is a kind of shame in being happy in the presence of misery".

What would that great writer say if providence made it possible for him to cast his penetrating gaze on the misery of our time? Is it not perhaps time to prevent man's world from dying? The remedies that have been proposed, tried out and applied by the great of our planet, even if they have seemed reasonable, indeed indispensable in certain cases, have in no way been able to cure the evils they have been supposed to cure. Mankind, since the establishment in 1945 of the present world economic order, has shown itself truly incapable of meeting the challenges of this fabulous shrinking of the globe and the corresponding interrelationship of the world's political, economic, social and human problems.

116. But everything is not so gloomy; we need not despair. The sea is pointing the way for us; there is light at the end of the tunnel because of the new law of the sea and its new maritime order, of which our Convention on the Law of the Sea is the focal point. There are good reasons to hope that a new world order, more just, more humane and more fraternal, is coming.

117. The President of the Republic of the Ivory Coast, Mr. Félix Houphouët-Boigny, stated this clearly on 7 October last in the message he addressed to the nation on the occasion of the fifth International Day of the Sea. He said: "I am happy that this message, which sums up the actions taken towards a new international maritime order, allows us to entertain some hope for a brighter future, despite the grayness of the present world".

118. What regenerative and pure air we breathe from those words. We are here at last proposing a remedy that seems to respond to the ills from which mankind is suffering and that suggests a comprehensive world-wide solution—the only kind that can be envisaged in a world crisis of such magnitude. And this remedy is being proposed to mankind by the united third world and all the peoples of goodwill. It presages the advent of an era of peace, of new solidarity, of restored fraternity among men, in regard to the sea, and above all thanks to the sea.

119. What a tremendous transformation has taken place. Only a short while ago the sea that today offers such great hope for the future was above all a source of conflict among the Powers. In this respect we need only recall the Phoenicians, the Greeks, the Carthaginians and the Romans, for whom domination of the seas and of maritime trade was the source of power and prosperity. Following the Arab epoch, the Christian West in its turn based its power and economic development on the domination of the seas—in particular the Hanseatic League of the Baltic region and the maritime republics of Genoa and Venice. And then, beginning in the fifteenth century, the great discoveries gave even further importance to domination of the sea, because of the extraordinary developments in navigation.

120. This search for maritime supremacy led, in its turn, to a situation of constant conflict on the sea. Out of this was born a law of the sea based on the principle of the freedom of the seas, which was to govern international maritime relations from the seventeenth century to our day. Its first theoretician was the Dutchman Hugo Grotius, in the sixteenth century.

121. In fact, from the beginning this doctrine was an instrument for the maintenance of the predominance of the most powerful maritime nations. Great Britain in the seventeenth century understood this, and, in 1651, through Cromwell's Navigation Act, rejected this principle of the freedom of the seas.

122. Thus it comes as no surprise that the new nations, discovering the considerable role of the sea in their development process, rejected, like England in the seventeenth century, this pseudo-freedom of the seas which really served only to maintain their dependence. As the third world saw itself deprived of its freedom of action, first by the unjust application of the *mare liberum* doctrine to the sea as a vector of world trade, it was in the field of maritime transport that the first stage of the international community's historic action took place, at the prodding of the third world, with the establishment of the empire of justice and peace on the seas, for the benefit of all nations.

123. Hence, in April 1974 in Geneva, under the auspices of the United Nations Conference on Trade and Development [*UNCTAD*], a code of conduct for maritime conferences was adopted. Although this is still not applicable as an international instrument with the force of law, its essential principles have been introduced since 1974 into the maritime legislation of many third-world countries, particularly in West and Central Africa.

124. Need I recall here the very positive results achieved in the implementation of the norms of the UNCTAD code in our harmonized global maritime policies without failing to draw attention to the indispensable measures accompanying this process; namely, a more rational use of maritime resources, technical training, agreement on the distribution of sea traffic in accordance with the 40/40/20 formula? And what can we say about the difficult path we have all followed together, within UNCTAD, towards ensuring an equitable distribution between developing and industrialized countries of world bulk traffic, which constitutes almost 80 per cent of world cargo tonnage and in which the third world, the main generating force of the flow of trade, has an insufficient share?

125. The new law of the sea, whose universal and irreversible advent we are going to enshrine here in Jamaica, was born precisely to strengthen the already large legal arsenal of our maritime policies. This has been made possible with the movement towards a reconquest of the seas which has been gathering force from the 1960s to the 1980s thanks to the genius and the courage of men who from now on are going to use, explore and exploit the oceans in all their dimensions, and not just for international trade. This will be done on the surface of the oceans, in deep water, on the sea-bed and in the subsoil thereof. Thus the oceans will be made the necessary and decisive element in the approach to the major problems facing men, all men, in the North and in the South, in the coming centuries—food, energy, mineral resources, life-style—against a background of the insistent problem of inequality in the present distribution of the riches of the planet between North and South.

126. We should add to this the efforts carried on at the same time and under United Nations auspices by the third world and the international community to give concrete form to the concept of the sea for all people and for peace and to achieve the objective of better and greater maritime well-being for each nation. The sea had to become the privileged field for the reconciliation of man with himself, particularly by introducing the concept of the common heritage of mankind, under which the *res nullius* of conflicts and of squatters is resolutely rejected. We had to banish for ever the idea of the sea as an area of conflict and as private property for the exclusive profit of some maritime Powers, and finally open the way to the concept of the sea as something to be shared and developed for all, in peace and solidarity. We had to completely remodel the legal framework inherited from Grotius which had governed the ocean spaces for almost four centuries, as well as the treaties resulting from the first two United Nations conferences on the law of the sea.

127. Thus we have the four objectives that the third world and all peoples of good will have tried to pursue in the particular field of the renewal of the law of the sea through the Third United Nations Conference on the Law of the Sea. The first objective is to build a new law that really meets the general interest, that is, attentive to the concerns of the great Powers as well as to those of the developing nations, which

constitute the vast majority of the States in the world, particularly since the 1960s. The second objective is to build a new law of the sea rejecting power as a basis and laying the bases of the empire of justice and law, recognized by all or the majority of nations. The third objective is to build a definitive law, going beyond the abstract notion of the sovereign equality of States and taking into account that the affirmation and specific establishment of an objective, real equality among States must be based on precise rules and well-defined machinery and must constitute the essential prerequisite for the advent of the ideal represented by sovereign equality. The fourth objective is to instil deeply, everywhere, the spirit of genuine fraternity into the new law of the sea, so as to allow for the effective establishment among States of the new terms of trustful, dynamic, fruitful and mutually beneficial co-operation that would guarantee that the interests of each country would be taken into consideration. The new law of the sea that we are going to enshrine at the end of this session meets these concerns very well.

128. President Houphouët-Boigny was not mistaken when he stated on 7 October last:

> "By approving this Convention at the United Nations in New York on 30 April 1982, the international community wished, in the sphere of the sea, so vital for the future of all nations and especially the developing ones, to replace the law of the strongest by the practice of lawful solutions in the settlement of disputes. It wished to set up a new and more balanced global order instead of the outdated, unsuitable and unjust norms, thus conferring upon the oceans the role of a real future bastion of world peace, if I may express myself in this way."

This places us right at the heart of this rendezvous with history that we previously mentioned.

129. Because it has made it possible, in a single legal document, to deal with the oceans, which cover 71 per cent of the globe's surface, and to incorporate all their aspects and their dimensions; because it challenges four centuries of unfair maritime legal practices, well rooted in custom; because it involves the entire international community through all political systems, all regions of the world and all types of States, capitalist or socialist, industrialized or developing, coastal or land-locked, this colossal undertaking has no parallel in history. For that reason alone, it will remain for ever one of the glories of the men of our time.

130. This historic dimension of the new law of the sea is not merely formalistic; it derives not only from the context that we have just described; it is the product above all of the contents of the new treaty, which replaces pseudo-freedom by equitable sharing, ingrained selfishness by fraternity and solidarity, and gives all this concrete form through precise machinery.

131. The new Convention is also historic in its contents because, in opposition to the hegemony of the strongest, it calls for joint progress towards more and better well-being for all men and all peoples and because it makes it possible, through regained fraternity, to restore glory to the principles of freedom and equality.

132. And if our new Convention is historic because of its new style—I would even say because of the new morality that it establishes—it is historic also because of the almost complete unanimity that it met with in the human community. For the first time since the establishment of the United Nations, almost all the peoples of the world came together to draw up this immense, beneficial, concrete draft. Only the sea has been able to achieve this true miracle, this source of so much hope.

133. Finally, the historic nature of the new Convention is the result of the style of the initiatives that led to its adoption, initiatives in which consensus and a balance of interests were constantly sought. If, despite everything, some States—I would even say all States—have not been satisfied, it is nevertheless true that everything has been done to harmonize the various interests. That made it possible to conceive of innovative solutions, such as the concept of the exclusive economic zone and the pragmatic measures benefiting pioneer investments. On the whole, the treaty, although it has not achieved perfection, meets the aspirations of the entire international community. Nothing on the seas will ever be the same. A fantastic future awaits all the States of the planet.

134. To conclude on this subject, we can say that only the States of the North and the South can master that future—and only if they are motivated by the true political will to give their development processes a maritime dimension, to carry out development strategies with a clear view of the prospects offered by the oceans; if they show that they are capable of transcending the selfishness that comes from technological power and are prepared to work hand in hand with all other nations in order to avoid catastrophe for mankind; if they avoid widening the gap dangerously separating them, on the seas as elsewhere, from the third world—that is, from three fourths of the globe.

135. Before I conclude, I wish to pay a tribute to all those who have enabled the international community to achieve these results, and first and foremost to the third world, which has affirmed its consistency and solidarity here, not against any group of States but in order to attain a positive goal.

136. I wish to pay a tribute also to the first President of the Conference, Mr. Amerasinghe, for the work he did. Having devoted all his time and strength to this cause, he may today, in his eternal rest, contemplate this colossal task to which he contributed so powerfully.

137. I pay a tribute, too, to President Koh, who helped us to achieve success by his qualities as a diplomat, which we have all been able to appreciate, particularly during the discussions on the question of pioneer investments.

138. I remain convinced that the appeal made by the President of the Ivory Coast to the countries that still do not intend to ratify this Convention will be heeded. We ask those countries to reconsider their position, because our work will only have impact if it is global, and there will be a true spirit of fraternity only if all the peoples of the earth are united behind that work.

139. I call on all countries to adhere without reservations to the new Convention, for it is the only significant, successful, universal example of North-South dialogue and thereby should be the moving force of a more humane and just world order. All of us together must heed the call of the seas to replace force by true law; conflicts by peaceful agreement; selfishness by fraternity; and a policy made for all mankind, in the service of what Aristotle called the noblest goals, for a short-sighted policy defined by André Suares as the art of living with the help and at the expense of others.

140. The final solution—and this is my conclusion—to the North-South dispute will, as the President of the Ivory Coast said, come from settlements reached in friendship and equality and in the common interest. He added that the sea is the true hearth of this dialogue and this harmony.

141. May our new Convention be the repository of all the hopes of the African countries, the developing countries—indeed, the entire international community.

142. Mr. YONDON (Mongolia) (*interpretation from Russian*): First, I should like to join previous speakers in expressing the deep satisfaction of the Mongolian delegation at the successful conclusion of the Third United Nations Conference on the Law of the Sea. The documents we are to sign are the culmination of many years of determined work by the participants in the Conference.

143. The Government of the People's Republic of Mongolia attaches great importance to the signing of the United

Nations Convention on the Law of the Sea. This new charter of the seas is indeed a comprehensive document that will regulate all issues relating to the activities of States in the utilization of the seas and oceans and their tremendous resources and riches for the benefit of mankind. This Convention is distinguished by the fact that it has been worked out with the direct participation of more than 150 States as well as the representatives of peoples fighting for their independence and that account has been taken of the changes that have resulted from the scientific and technological revolution.

144. As we see it, the Convention draws its authority and force from the fact that all its provisions have been adopted as a package and by general agreement and constitute a carefully balanced compromise. We can say with complete justification that the Convention not only codifies contemporary international maritime law but was progressively developed in accordance with the realities of today's world. It takes into account the interests of all groups of States regardless of their social and economic systems, their size or geographical locations.

145. We feel it is of enormous political and legal importance to solve the difficult issues relating to the activities of States on the broad expanses of the seas and oceans. Thus, for instance, the breadth of the territorial waters to which the sovereignty of coastal States extends is established up to a limit of not more than 12 nautical miles. During lengthy negotiations clear criteria were worked out for a precise and definite definition of the outer boundary of the continental shelf.

146. The most important freedoms of the high seas have been consolidated in the Convention. For example, unobstructed overflight by aircraft and passage for all vessels through international straits, as well as the carrying out of scientific research and protection of the maritime environment from pollution, are provided for, as is the right of land-locked States to access to the sea. The Convention also creates and elaborates the legal status of the exclusive economic zone of coastal States as a progressive development of the law of the sea. Another new feature is the establishment of the international sea-bed area and the solemn declaration that its resources are the common heritage of mankind as stated by the General Assembly in 1970.[2] According to the Convention, no State can claim sovereignty or sovereign rights or implement such rights with regard to any part of the international area or its resources, and no State or physical or legal entity may arrogate to itself any part of that area. No such claims or exercise of sovereignty or sovereign rights, and no such arrogation or acquisition, are recognized. Activities in the area should be carried out for the benefit of all mankind and exclusively for peaceful purposes, without any discrimination whatsoever.

147. The international body that will be established in accordance with the provisions of Part XI of the Convention is assigned an important role in organizing and implementing the exercise of control over activities in the international sea-bed area. The parallel activities for the exploration and exploitation of the sea-bed resources is a flexible compromise that takes into account the interests of various groups of countries. Also of great importance is the inclusion in the Convention of provisions to prevent the monopolization of activities with regard to the exploration and exploitation of the sea-bed resources and on the inadmissibility of discrimination against any States or social-economic systems. The establishment of production limits of metals, taken from the sea-bed, is to protect the interests of land-based producers of nickel, manganese, cobalt and copper, as well as to respond to the ever-growing demand for metals.

148. The text of the Convention as prepared is the product of compromise and it naturally cannot therefore completely satisfy each and every participant in the Conference. Like some other States, the People's Republic of Mongolia is not satisfied with certain of the Convention's provisions, particularly those on the rights of land-locked States. We feel that some provisions do not fully protect the rights and interests of that group of States. For example, under the Convention a land-locked State has only very limited rights vis-à-vis the exclusive economic zone of a coastal State. The People's Republic of Mongolia feels that the provisions of resolution II, which regulates the preparatory investments in initial activities relating to polymetallic resources, discriminates, by its nature, against socialist States. The view of the Mongolian delegation on this issue was put forward in detail on 30 April of this year at the Conference's 182nd meeting.[5] It is that discriminatory provision of the resolution that has forced our delegation to abstain from voting on the entire package of documents.

149. In spite of the foregoing comments, which are by no means exhaustive, the Mongolian People's Republic feels that the Convention is on the whole an important instrument for regulating the multifarious activities of States on the seas and oceans and on the sea-bed and the depths of the world's oceans, as well as for the development of broad international co-operation in accordance with the principles of justice and of the sovereign equality of States. The United Nations Convention on the Law of the Sea can erect a safe barrier against the unilateral claims of the imperialist Powers and their monopolies to the expanses and resources of the world oceans and can promote the establishment of a new, just international economic order and the strengthening of international peace and security.

150. The Third United Nations Conference on the Law of the Sea is one of the major international forums of our times. During the sessions of the Conference a vast amount of experience was accumulated in carrying out complex negotiations. The Conference has clearly shown that, given the political will of States, the most complicated global problems can be solved around the negotiating table in a mutually acceptable way and that objective difficulties and artificially created obstacles can be overcome. The Conference has once again demonstrated that any attempts to impose narrow and selfish interests upon the international community or to conduct negotiations from a position of force are doomed to failure. In this connection, the Mongolian delegation would like to state that the provisions of the Convention should be regarded as a unified whole, and that any attempts to take unilateral, separate actions to circumvent or contradict the Convention on the Law of the Sea will constitute a gross violation of the principles and rules of contemporary international law. We also feel that States that have not signed the Convention and undertaken commitments may not enjoy the rights and privileges accorded States under the Convention.

151. The Mongolian delegation fully supports the appeals made by preceding speakers to all States to sign and ratify the Convention quickly. This would be in the interests of maintaining, supporting and strengthening international peace and security and of developing comprehensive, mutually beneficial co-operation among States.

152. In conclusion, I should like to express the sincere gratitude of the delegation of the People's Republic of Mongolia to the Government of Jamaica for its invitation to hold the final session of the Conference in this beautiful and hospitable Caribbean country, an event that makes the ceremony of signing the Convention and the Final Act a twofold pleasure.

153. Mr. SAHNOUN (Algeria) (*interpretation from French*): The Third United Nations Conference on the Law of the Sea has travelled a very long road, and today, at last, we find ourselves here on the soil of the generous and hospitable country of Jamaica.

[5] *Ibid.*, vol. XVI.

154. In choosing Jamaica to act as host to this final session, the international community has honoured a country and a delegation that have contributed to a high degree to the emergence of a new law of the sea. Through Jamaica, we pay a deserved tribute to the countries of the Caribbean region which, from the very outset, have been in the vanguard of the struggle of the third world to restore to the seas and oceans their vocation as a link between different civilizations and a leaven for an equitably shared well-being.

155. I wish to pay a tribute, Mr. President, to your personal activities in leading the work of the Conference towards this successful conclusion since the death of the lamented Hamilton Shirley Amerasinghe, and I wish also to express the Algerian delegation's great appreciation to the members of the Collegium, to the members of the Bureau, to the Secretary-General and his Special Representative, and to all the Secretariat staff, as well as to the successive chairmen of the Group of 77, all of whom have shown such outstanding devotion, the best reward for which is the event which brings us together here. I wish also to pay tribute to Mr. Arvid Pardo, whose contribution has already been highlighted along with his important concept of the sea as the common heritage of mankind.

156. It redounds to the honour of the Third United Nations Conference on the Law of the Sea that it willingly placed its work in the perspective of the link between international law and the social and economic development of the peoples of the third world. It also redounds to its honour that it used the liberation of creative imagination and a persevering quest for agreement as the essential tools in particularly difficult negotiations which will have earned their letters patent as a model of an exacting search for agreed solutions to other major problems of our times. This is all the more praiseworthy since our Conference has been innovative in undertaking a vast joint task of codification, with the participation of all States concerned. That is one significant outcome of the implementation of the principle of the democratization of international relations, a principle we should like to see implemented in other bodies, especially in that serving as the framework for the North-South dialogue.

157. The birth of a new legal régime for the maritime and ocean spaces and their resources, imbued but imperfectly it is true with the principle of equity, opens up the way for the establishment of a legal and economic order likely to promote relations of friendship and co-operation among States and to strengthen the fabric of effective solidarity among nations. Recognition of the specific interests of developing countries in general, and those of geographically disadvantaged countries; the embodiment of the inalienable rights of the peoples of Non-Self-Governing Territories extended by the signature of the Final Act by national liberation movements—which I warmly welcome to this room; the provisions of the Convention relative to the transfer of technology: these are a few of the positive features of this new régime. Like other geographically disadvantaged countries, Algeria is highly aware of certain inadequacies and inequities, which my delegation and others of the Group of 77 have on several occasions pointed out.

158. Without attempting to be exhaustive in this statement, which is subject to a time-limit, I wish to mention the serious distortion of the principle of equity regarding the régime of islands, especially those in enclosed or semi-enclosed seas, and the extension of the continental shelf of certain coastal States beyond the limits of the exclusive economic zone. In this connection, I might also mention the régime of the right of innocent passage of warships in territorial seas, which, in view of the work of our Conference, must bring relief concerning the sovereignty and security of the States concerned. My delegation wishes also to stress that developing countries have gone very far to meet the position of their negotiating partners in determining the régime of the sea-bed and of spaces, beyond national jurisdiction. Whether it is a matter of the parallel system, of the protection of preparatory investments, or, to a lesser extent, of the composition and functioning of the organs of the International Sea-Bed Authority, the provisions which have been agreed upon grant to developed countries advantages which are at times quite far removed from the principles and objectives of the new international economic order which the Group of 77 would like to see enshrined in the new law of the sea.

159. In these negotiations, among the longest and hardest of modern times, developing countries have shown a high sense of their national and international responsibilities. Desirous of an equitable organization of the maritime and ocean spaces and of breaking with a history built on take-overs and confrontation, our countries have lent themselves to the drafting of compromises which have not always been consonant with the interests of some among us; but concessions were necessary if the United Nations Convention on the Law of the Sea was to be an instrument for development and peace.

160. In these negotiations, developing countries have been able, to paraphrase a well-known quotation, to have the serenity to accept that which they could not change, the courage to change that which they could change, and the wisdom to know the difference. Their massive support for the Convention shown on 30 April 1982, when it had proved impossible to achieve consensus despite all the concessions they had made, will live on in our annals as concrete testimony to their attachment to the purposes and principles of the United Nations Charter.

161. The commitment of third-world countries today to preserve the Convention along with its goals and objectives, and their condemnation of all arrangements and actions which violate the Convention, are another illustration of their respect for international legality. Any attitude aimed at undermining the universality of this Convention can only reflect a narrow vision of the balance of interests within the international community. Any initiative contrary to the Convention and, specifically, to the régime of the common heritage of mankind, is, we are convinced, doomed to failure.

162. While reserving for the competent authorities of the People's Democratic Republic of Algeria the possibility of availing themselves of the opportunities recognized in the relevant provisions of the Convention regarding any declaration or interpretation they may deem it appropriate to make as they proceed to ratification, I have the honour to announce that the Algerian Government, through me, will sign the United Nations Convention on the Law of the Sea. By so doing, Algeria affirms its readiness to participate as a full member in the work of the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal of the Law of the Sea, and to continue to make its contribution towards the establishment of the rule of law over the maritime and ocean spaces, over their utilization and over the exploitation of their resources.

The meeting rose at 5.40 p.m.

187th meeting

Tuesday, 7 December 1982, at 10.05 a.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*continued*)

1. Mr. KAUSHAL (India): First of all I should like to perform my pleasant duty of complimenting the Government of Jamaica for inviting the Conference to hold its final session here and for making such excellent arrangements both for the Conference and for its participants.

2. This is a memorable session indeed, since it brings to a successful conclusion the sustained and arduous efforts made by the world community as a whole in evolving an equitable legal régime for regulating and controlling the diverse uses of the seas. This Conference has been unique in many respects. It has been attended by almost all the States of the world, including some which are not yet members of the United Nations. It has reviewed the entire law of the sea and established an international régime and machinery for exploring and exploiting the resources of the international sea-bed area which are the common heritage of mankind. It has also given the coastal States protection of their legitimate interests in the seas around them, including the exploitation of their living and non-living resources. Thus the evolution of the concept of an exclusive economic zone has been its major contribution. It has ensured freedom of navigation through the seas and the straits used for international navigation. It has also regulated other uses of the sea in a comprehensive manner. In considering these diverse matters, the Conference has followed the procedures of open discussion, reconciliation of different interests, and arriving at conclusions by means of consensus.

3. The global composition of the Conference, the comprehensive scope of its work, and its working methods of reaching decisions by consensus as far as possible have accordingly delayed the conclusion of its work. The Conference has been in session since December 1973. But at the same time its working methods have ensured that the conclusions reached will have the widest support of the world community of States as a whole and, accordingly, will be durable.

4. I should like to acknowledge the spirit of compromise and fair-mindedness shown by all segments of the world community represented in this Conference, as well as the extraordinary guidance which the leadership of the Conference has given in bringing this work to a successful conclusion. In this respect, I should like to pay a special tribute to Mr. Hamilton Shirley Amerasinghe, President of this Conference between 1973 and 1980; and to you, Mr. President. We are particularly thankful to you for the understanding, skill and courage shown by you throughout this Conference and particularly at its eleventh session, held in New York in March and April 1982, and since. Please accept our heartiest congratulations on your achievement. We should also like to thank the other officers of the Conference and the members of the Secretariat who have worked steadfastly to assist you in your onerous task.

5. The United Nations Convention on the Law of the Sea was adopted on 30 April 1982 by a recorded vote of 130 to 4, with 17 abstentions. Many of those States which abstained have since announced their decision to sign the Convention. The Convention has thus received wide support from the world community of States as a whole. This is a matter of satisfaction to all of us because it augurs well for the working of the new law of the sea in future. In this context I should like to make a special appeal to the Government of the United States to join the other members of the world community of States in signing the Convention as soon as it is possible for it to do so. It is of course entitled to make its own appraisal of the Convention in relation to its national interests. I should simply like to mention that the Conference has over a period of time not only benefited by the specialized knowledge and experience of the United States in several aspects of the subject-matter of its work, but also tried to accommodate the essential interests of that country in a fair and reasonable manner.

6. My Government was especially grateful for the gracious manner in which the Conference acknowledged India's humble contribution to the development of knowledge about the resources of the deep sea-bed and in according India the status of a "pioneer investor". We have all the limitations of a developing country; yet our achievements will not only boost the morale and self-esteem of our own nation but will also make a contribution to the promotion of the interests of the developing countries. I trust that our experience may also be useful to the Enterprise, the business arm of the International Sea-Bed Authority, in its exploitation of the reserved mine sites, in step with the other States and entities. I am glad to report that my Government not only has expended by now the requisite amount referred to in the resolution on preparatory investment in pioneer activities relating to polymetallic nodules adopted by the Conference on 30 April 1982, but has also obtained useful and interesting data and samples from its intensive surveys in the Central Indian Basin of the Indian Ocean. We therefore look forward to the application of the international régime as soon as possible so that the Preparatory Commission will be established and will meet in Jamaica in March 1983. We look forward to submitting to the Commission the results of our surveys and other aspects of pioneer activities whenever it is in a position to entertain applications from pioneer investors.

7. My delegation is also satisfied with the broad framework of the Convention, which we intend to sign here in Jamaica on 10 December 1982. As a developing country with a large population making strides in providing them with a decent living as human beings, India is particularly satisfied with the new resources régime established in the Convention, especially that relating to the 200-mile exclusive economic zone and the outer limits of the continental shelf. Thus, in the exclusive economic zone, India as a coastal State has sovereign rights for exploiting its fishery resources, apart from exercising jurisdiction over other matters. It will determine the allowable catch of fisheries and develop its own harvesting capacity. While computing the surplus, if any, of these living resources, it will have the right to protect the interests of its fishing communities or fishing industries as well as the nutritional needs of its population. Being at present low in per capita fish consumption, India is making intensive efforts to develop its fishing capability for meeting its protein needs. The ultimate level of such capability will furnish the base for all relevant computations in this regard.

8. It is, however, also true that there are some disappointments for India in the Convention since India's legitimate interests have not been adequately covered and reflected in it. I referred to them specifically in my statement of 31 March 1981 in an informal plenary meeting in New York—namely, first, that the group of islands which is an integral part of the territory of a sovereign State should be entitled to the status of an archipelago and no distinction should be made between an archipelagic State and such a group of islands. Such a distinction is neither logical nor justified; and, secondly, that a

coastal State should be entitled to enclose a cluster of installations on its continental shelf or in its exclusive economic zone into a special area under its national jurisdiction in order to protect its living and mineral resources and to prevent any incidents that might cause hazards to its marine environment.

9. In conclusion, my Government wishes to join all other Governments represented in this Conference in celebrating the successful conclusion of its work by signing not only the Final Act of the Conference but also the United Nations Convention on the Law of the Sea.

10. Mr. THOMPSON-FLORES (Brazil): The decision taken by the Third United Nations Conference on the Law of the Sea to accept the offer proferred by Jamaica to act as host this closing session is a source of great satisfaction to the delegation of Brazil. It is just and meaningful that a developing country of the American region be the site of the session at which we formally conclude the work of the Conference and open to the signatures of the nations of the world the new Convention which will guide human activities in all sea and ocean spaces.

11. As a Latin American country, Brazil attaches special significance to this solemn act. This week, years of arduous negotiations among practically all the Governments of the world are coming to a conclusion. To a great extent, this negotiating effort was inspired by initiatives that sprang from this region, initiatives designed to further that which the Convention defines in its preamble as a "just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries . . .".

12. Fifteen years have gone by since Mr. Arvid Pardo delivered to the General Assembly of the United Nations the historic speech that gave the initial impulse to the long process of debate and intergovernmental consultations that is now drawing to a close on the shores of the Caribbean.

13. However, since the 1940s the nations of Latin America—and, subsequently, the other nations of the world—have been aware of the importance of the seas and oceans that roll up upon their shores. In a spirit of independence and conscious of the legitimacy of their actions, these countries not only laid claim to but effectively exercised their national rights in the sea up to a distance of 200 nautical miles from their coastlines.

14. In 1970, when Brazil decided to extend its sovereignty to that distance, only a few more than a dozen nations, mostly from Latin America, had adopted legislation broadening the narrow limits which had theretofore prevailed and which were patently insufficient to safeguard the legitimate interests of the State in the maritime areas adjacent to its coastline.

15. The expansion of Brazilian maritime jurisdiction was justified, both as a measure taken in defence of national interests and as a reflection of a practice which, though still adopted by only a minority in world terms, was spreading throughout Latin America and inspiring analogous actions in other parts of the third world. In juridical terms, no international norm then existed which set a maximum limit on national sovereignty or jurisdiction over the sea.

16. In March 1970 Brazil opted for the simple broadening of its territorial waters to a distance of 200 miles. This was the solution that then seemed most logical and should be seen in the light of the fact that at that time the process of elaborating innovative formulas to define the rights of the coastal State in wider areas of the adjacent sea was just beginning.

17. Since 1970 this process has followed a parallel path. Gradually the number of States that individually took the decision to anticipate the world consensus regarding the concept of 200 miles increased. In the Latin American region the right of the coastal State to extend its maritime jurisdiction or sovereignty was the subject of the final documents of the Montevideo and Lima meetings in 1970 and of the Santo Domingo meeting in 1972. The theme was widely discussed at the meetings of the Afro-Asian Juridical Consultative Committee at Colombo in 1971 and at Lagos in 1972 and at the Regional Seminar of the African States on the Law of the Sea, held in Yaoundé in 1972. In the following year, the declaration adopted at the summit meeting of the Organization of African Unity in Addis Ababa consolidated the adhesion of the African countries to the concept of an exclusive economic zone.

18. At the world level, the preparatory work for the Third United Nations Conference on the Law of the Sea noted, starting in 1971, an increasing adherence to the concept of 200 miles, almost wholly—but not exclusively—on the part of countries pertaining to the developing world. During the course of this work a number of proposals were presented which, in one way or another and normally with varying terminology, recognized the rights of the State to the adjacent sea up to a distance of 200 miles. Some expressed their preference for an expanded territorial sea in which free transit would be guaranteed to the ships of third nations. Others refused even to consider any broadening of national maritime areas beyond the 12-mile limit.

19. However, the majority was clearly inclined towards the creation of a new juridical régime which would apply to the area between the narrow limits of the traditional territorial sea and the point at which the high sea begins. This would be designated as the patrimonial sea or, in the version of the African countries, as an exclusive economic zone.

20. On the basis of these ideas, namely, a 12-mile territorial sea in the strict sense associated with an exclusive economic zone up to the distance of 200 miles, a consensus was gradually formed in the negotiating process of this Conference. In 1975 this formula for reconciling divergent interests was incorporated into the first of a series of basic negotiating documents prepared under the responsibility of the Bureau of the Conference. It was already evident at that time that international recognition of the rights of the coastal State to the waters of the sea up to the limit of 200 miles would be an essential element in the future convention on the law of the sea.

21. Today the Latin American countries that pioneered the adoption of measures in defence of legitimate national interests in the wider areas of the sea that bathes their coasts feel a sense of satisfaction at the universal acceptance of the system which, as a matter of practice, has already been in effect for a number of years.

22. As in the case of Brazil, they understand that during the course of negotiations among more than 150 Governments of sovereign States it would be impossible for any single State to attain the totality of its national claims. They understand that this was a process in which each of the participants would be called upon to make at least some concessions so as to permit the consolidation of a new international juridical régime, more just and equitable, for all areas of the oceans and seas.

23. The United Nations Convention on the Law of the Sea does not correspond to the national position of any one of the Governments represented at the Conference. However, when seen in its entirety, the Convention effectively reflects, in an objective and equitable manner, the result of many years of serious and careful negotiations among the States members of the international community with respect to the numerous and complex questions which constitute the new law of the sea. It is within this spirit that the Brazilian Government assesses the provisions of the new Convention.

24. During the course of the negotiations Brazil and numerous other coastal nations sought to ensure that the text of the Convention would contain provisions that would expressly safeguard the economic and security interests of a State in areas in the proximity of its coastline.

25. In the case of economic and connected interests, the efforts of these States were crowned with success, for those interests are as well protected in the new Convention as they were in the national legislation of the countries that had already taken the initiative of proclaiming their rights over the area of 200 miles. The régime for fisheries, for example, is based upon the recognition of the coastal State's sovereign rights over the living resources within the area of 200 miles and is analogous, in terms of practice, to the system implemented by the many countries that have already expanded their maritime jurisdiction up to that distance. Likewise, the régime of prior consent for the conduct of scientific research in the exclusive economic zone and on the continental shelf is essentially equivalent to that already adopted by the majority of those same countries. Emphasis should be given to the importance of the régime for the continental shelf as established by the new Convention, for that régime not only provides a multilateral juridical basis for the sovereign rights of the coastal State over the energy and mineral resources of the sea-bed to a distance of 200 miles from the coastline but also expressly recognizes the extension of those rights beyond this limit, up to the outer edge of the continental margin.

26. On the other hand, the Convention on the Law of the Sea is much less explicit concerning the security interests of the coastal State in the area between 12 and 200 miles. It was impossible to overcome the intransigence of the major naval Powers. As a result of the basic rule of consensus adopted by this Conference, gaps and ambiguities remain in the text of the Convention. However, these problems can be solved by resorting to the option defined in article 310 of the Convention, which allows formal declarations at the time of signature, ratification or adherence, "with a view, *inter alia*, to the harmonization of [national] laws and regulations with the provisions of this Convention".

27. In the case of Brazil, we deem it necessary to make clear our understanding in relation to certain aspects of the Convention that refer to legitimate security interests perfectly compatible with the text and spirit of the Convention.

28. In the first place, it is our understanding that the provisions of article 301, which prohibit the threat or use of force on the sea against the territorial integrity or independence of any State, apply particularly to the maritime areas under the sovereignty or jurisdiction of the coastal State. In other words, we understand that the navigation facilities accorded third world countries within the exclusive economic zone cannot in any way be utilized for activities that imply the threat or use of force against the coastal State. More specifically, it is Brazil's understanding that the provisions of the Convention do not authorize other States to carry out military exercises or manoeuvres within the exclusive economic zone, particularly when these activities involve the use of weapons or explosives, without the prior knowledge and consent of the coastal State. Furthermore, it is our understanding that in accordance with the Convention the coastal State has the exclusive right to construct and to authorize the construction, operation and use of all types of installations and structures within the maritime areas under its sovereignty or jurisdiction and that there are no exceptions to this right. In other words, no State has the right to place or to operate any type of installation or structure in the exclusive economic zone or on the continental shelf without the consent of the coastal State.

29. We believed it necessary to raise some of those points during the course of the Conference sessions and to reiterate them now that the Convention is open for signature. We recognize that there are certain terminological and conceptual differences between the Brazilian legislation that remains in force and the precise terms of the Convention. However, we understand that the régime which, as a matter of practice, has been applied for more than 12 years by the Brazilian Government in the maritime areas under its sovereignty and jurisdiction is compatible with the provisions and objectives of the new Convention.

30. It is particularly fitting that the closing session of the Third United Nations Conference on the Law of the Sea is being held in the country that will have the responsibility of acting as host to the mechanism instituted to manage that which is most creative and innovative in the new Convention: the régime for the international area of the sea-bed and ocean floor.

31. In this case, innovation is the synonym for the creation of a new landmark in relations among nations, or, in other words, for the adoption of a new principle—a rare fact indeed in the slow evolution of international law.

32. Universal recognition of the principle of the common heritage of mankind is one of those events that few generations have the privilege of witnessing. The birth of a principle of international law assumes that for a specific objective nations agree to put aside their individual powers and channel their own interests through the path of the common interests of all. For a principle to come to life it is necessary that nations be convinced that their objectives can be better attained in a permanent manner within a global context supported by all.

33. The principle of the common heritage of mankind clearly fulfils these conditions. The application of this principle in the last 12 years has not demanded the signing of any international instrument. States declared that the sea-bed and ocean floor, the subsoil thereof and its resources constitute the common heritage of mankind. Today this principle is enshrined in the Convention we are to sign. The Convention does not establish the principle, for it already exists. The Convention simply utilizes the principle as a secure basis from which all the provisions that will regulate the sea-bed and ocean floor will flow. We are all aware that the scope and nature of this principle have been widely discussed.

34. The industrialized nations are well aware of the economic advantages involved in the exploitation of the sea-bed and the ocean floor. They also know that it is not in their best interest to enter into conflict as to title to the prime areas. The news that a small group of nations recently signed an agreement on deep sea-bed operations should be no cause for concern. On the one hand, the resolution on preparatory investments permits limited agreements with the objective of facilitating operations in the area. On the other, nothing can be done that threatens the Convention or infringes upon its clauses.

35. The PRESIDENT: I should be grateful if the representative of Brazil would try to sum up in one minute.

36. Mr. THOMPSON-FLORES (Brazil): It must always be recalled that the United Nations Convention on the Law of the Sea legislates on a space where no one can carry out activities outside its provisions.

37. No country could ever hope to convince world opinion that there has been any reluctance whatsoever to explore all possible channels of negotiation. At the end of August 1980 a consensus had already been achieved as to part XI of the Convention. The last two years were spent in the pursuit of means to accommodate a single country that had rejected the results of the negotiations in which it had actively and fully participated. Important new concessions that tended to upset the balance of the text were made in an attempt at accommodation. It would not be excessive to recall that the result attained two years ago consisted of a complex of concessions made by the great majority of nations to those few that, in the light of their economic and technological development, aspired to reap greater and more immediate benefits. This is the moment to state once more that the results of the negotiations do not reflect the position of any group. Two years ago the draft convention was the result of a conscious effort on

the part of all without exception to reach a point of convergence which, though not necessarily the most perfect or just, would represent the best attainable compromise between the application of a principle and the reality of the division of wealth and power existent on the planet.

38. The adoption of the Convention through recourse to voting—an unexpected and unfortunate event at the end of so many years of work—has, by the result of the voting, served to demonstrate that the state of international relations is not as sombre as may seem apparent from the tragic situations which still stand in opposition to mankind's desire to live in peace in economic and social conditions that are compatible with the dignity and equality of the human being.

39. Even more than the concessions permitted in the text, the resolution on the treatment of preparatory investments represents an effort to reach a compromise between the current reality and long-term juridical elaboration.

40. Many of the representatives in attendance here had taken part in the deliberations of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction since 1968. The continuity of our work was of fundamental importance to the results obtained, and it will be even more important in the near future, since, we are certain, the task of the organization of ocean space and its steadily increasing availability to human activity does not end here. On the contrary, this meeting marks the commencement of a long period of labour.

41. Although it is normal for international legislative activities in specific fields to come to a close upon the conclusion of a normative document, ours is a different case. We have constructed a framework, a mechanism that we will henceforward have to put into operation and improve.

42. By good fortune this extraordinary task was allotted to our generation. We have planned and regulated the utilization of the largest part of the earth's surface. From this point forward, ours is the task of ensuring that our intentions, as expressed in this United Nations Convention on the Law of the Sea, confer upon mankind the benefits that have motivated our efforts.

43. After a thorough process of examination and evaluation in which all interested authorities took part, the Brazilian Government has decided to sign the United Nations Convention on the Law of the Sea at the closing meeting of this Conference.

44. Mr. HENAR (Suriname): On behalf of the Government and delegation of the Republic of Suriname I have the honour to express sincere gratitude and deep appreciation to the Government of Jamaica for acting as host to the concluding session of the Conference for the signing of the Final Act and the opening for signature by Governments of the United Nations Convention on the Law of the Sea.

45. Mr. President, we thank you for your able and skilful guidance and we thank also the Vice-Presidents, the Chairmen of the Main Committees, the Chairman of the Drafting Committee, the Rapporteurs and the Rapporteur-General of the Conference for their tireless efforts over a great many years to find solutions to the problems confronting the Conference.

46. We also wish to pay a tribute to the memory of the first President of the Conference, Mr. Hamilton Shirley Amerasinghe, who devoted quite a number of years of his life to the success of the Conference.

47. The negotiations with regard to the law of the sea, which lasted almost 10 years, ended on 30 April of this year with the adoption of the most ambitious Convention in history, a charter for the world's oceans consisting of 320 articles and nine annexes.

48. The Third United Nations Conference on the Law of the Sea carried out an assignment given it by the General Assembly in 1973—namely, to adopt a convention dealing with all matters relating to the law of the sea. This Convention, which is an attempt to uphold the United Nations resolution calling for the deep sea-bed to be regarded as the common heritage of mankind, is finally ready for signing here, at Montego Bay in Jamaica.

49. Under the concept of the common heritage of mankind, the vast mineral resources existing on the sea-bed and within the international sea-bed area of the great oceans would be made subject to a system of international equity. From the Convention we may expect legal security, confidence and reliability, which foreclose anarchy, *inter alia* in the international sea-bed area.

50. It is regrettable that the Conference failed to meet its goal of adopting the Convention unanimously. It is ironic that those who promoted the multilateral negotiating process and insisted that the Conference act by consensus abandoned their own principle in the end, only to reject the agreement.

51. Several developing and Western countries had hoped that major concessions made by the Group of 77, to which my country belongs, with regard to the sea-bed provisions together with the pioneer investment scheme would enable some major industrialized States to adopt the Convention.

52. The Group of 77 could not make more concessions without unravelling the entire package, which was intricately woven through many trade-offs; nor could it erode further the benefits the Group stood to gain. We caution the key pioneer mining nations against utilizing the reciprocating States Agreement as an alternative mining régime outside the Convention, a régime that would divide up the richest areas of the oceans among a handful of States. Specifically, we reject any special arrangement in which the major industrialized States would simply proceed to share the sea-bed among themselves. In this context we fully endorse the statement made by the President of the United Nations Conference on the Law of the Sea at a press conference on 3 May of this year indicating that the General Assembly would be requested to ask for an advisory opinion from the International Court of Justice on the legality of mining outside the Treaty if the mining companies proceeded to mine under unilateral legislation or a limited multilateral agreement. If they are to be taken seriously in future global negotiations, the major industrialized States cannot simply pick up their marbles and walk away just because they have not got everything they might have wanted.

53. The Convention is a compromise document prepared in the course of lengthy and arduous negotiations. All States had to make concessions during those negotiations. The States that fail to adopt the treaty should not entertain the misguided hope that the Convention will just evaporate.

54. However, the situation is that if many industrialized States fail to support the United Nations Convention on the Law of the Sea its validity and consequently its standing in international law will be undermined. We therefore urgently appeal to the States that have rejected the Convention or failed to commit themselves to it on account of rigid ideological considerations, or for other reasons, to be more pragmatic and become signatories to the Convention which should be considered a significant milestone in international lawmaking. In doing so they would join in the creation of a historic global organization, one which for the first time regulates, manages and produces globally shared resources.

55. We welcome the statements made by the representatives of the Union of Soviet Socialist Republics and Poland during the session of the Third United Nations Conference on the Law of the Sea held last September in New York that their Governments had decided, after careful consideration, to sign the Convention.

56. Before concluding, I should like to state that the Government of the Republic of Suriname reaffirms the right

of coastal States to adopt measures to safeguard their security interests in accordance with articles 19 and 25 of the Convention, as indicated in the statement made by the President of the Conference on the Law of the Sea on 26 April 1982.

57. In spite of all the problems involved, the Convention should be considered as the greatest forward step in international relations since the founding of the United Nations. In a spirit of mutual understanding and co-operation, and aware of the significance of this Convention as a great contribution to peace, justice and progress for all the peoples of the world, the Government of the Republic of Suriname has decided to sign this United Nations Convention on the Law of the Sea. We representatives of the developing countries consider the Convention to be a step towards a just and equitable international economic order that should take into account the interests and needs of mankind as a whole and, in particular, the special interests of the developing countries.

58. The new Convention should be considered as an effort of a specific, functional nature, designed to bring about systematic reforms, as well as revisions, in a system that no longer suits our needs. We therefore once again call for the goodwill and co-operation of the industrialized States and ask that they join the basis laid for a legal order for the oceans. In so doing they will help to establish the common heritage of mankind.

59. I conclude by saying that we firmly believe that the codification and progressive development of the law of the sea will contribute to the strengthening of peace, security and co-operation among all nations.

60. Mr. LARES (Finland): Finland considers that the United Nations Convention on the Law of the Sea may well become one of the most significant legal instruments of this century. It is also a great achievement by the United Nations, which has brought this vast undertaking to a successful conclusion under its auspices.

61. It should be remembered that this Convention is not a mere codification of existing customary or conventional international law, but that it constitutes in many fields a progressive development of the law, the benefits of which can be enjoyed only by those States that adhere to the Convention. A satisfactory order governing the world's oceans will reduce the possibilities of inter-State conflicts and consolidate the role of the United Nations in the codification and development of international law in other fields of human endeavour as well.

62. It is understandable that the text of the United Nations Convention on the Law of the Sea, comprehensive and complex as it is and dealing as it does with subjects of exceptional economic and political importance, causes difficulties to various groups of States with differing interests. My Government, too, finds that some provisions or solutions do not wholly correspond to its wishes. However, the Convention is a package deal, the result of numerous compromises reached in striving for a delicate balance between divergent opinions and interests. The Convention does not represent the views of any one group of States, either industrialized or developing. It is a joint achievement by all States participating in the Conference. It is therefore of the utmost importance that the Convention on the Law of the Sea gain the widest possible adherence in order to serve its functions in a global context and put into effect the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction of 1970.[1]

63. Finland belongs to the overwhelming majority of States that voted in favour of the United Nations Convention on the Law of the Sea when it was adopted by the Conference last April. My delegation has noted with satisfaction that many of the delegations that abstained on the final vote have since indicated their intention of signing the Convention. We regret, however, that full consensus could not be reached. Now that we stand at the end of the long and arduous road upon which we embarked more than a decade ago in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, it is our sincere hope that those States that have so far not been able to approve of the contents of the Convention in their entirety will, at a later stage, find it is to their benefit also to have as wide adherence to this Convention as possible.

64. In its general statement at the session of the Conference held at Caracas in 1974, the delegation of Finland explained its position with regard to the work of the Conference by stating, *inter alia*, that Finland had always emphasized the importance of the progressive development of international law as one of the main objectives of the United Nations. Finland is one of the few States to have ratified all the four 1958 Geneva Conventions as well as the Optional Protocol. With reference to the geographical position of Finland as one of the coastal States of the Baltic Sea, my delegation pointed out that the situation prevailing within that sea area was satisfactorily regulated under existing treaty provisions and expressed the hope that the results of the Conference would not entail any radical changes in those arrangements. My delegation further stated that it was impossible to ignore the fact that the extension of the jurisdiction of coastal States beyond territorial waters would widen the already existing gap between the economic advances enjoyed by the coastal States, on the one hand, and the limited benefits of States without direct access to the ocean, on the other. It was therefore necessary to recognize the special needs and interests of the land-locked and other geographically disadvantaged States. The relationship between the extension of coastal State jurisdiction and the exploitation of the deep sea-bed resources as part of the common heritage of mankind must be taken into account, and the new international régime for the sea-bed beyond the limits of coastal State jurisdiction needed to be as effective as possible. My delegation was, to a great extent, guided by these principles throughout the Conference.

65. With regard to the deep sea-bed part of the Convention, a totally new concept of international law—the common heritage of mankind—has been defined. My Government is of the view that the deep sea-bed régime created represents the best possible balance that could be achieved. In the words of the President of the Conference, the outcome of the negotiations demonstrated that "it is possible for North and South, East and West, to co-operate with one another to acknowledge one another's interests and to seek mutually acceptable solutions".

66. Our immediate task is to breathe life into the Sea-Bed Authority in order to make it a viable international organization. In our view, it is extremely important that all the rules, regulations and procedures that will have to be worked out by the Preparatory Commission be drafted in an equitable and pragmatic manner. In this way we could overcome the hesitation shown by some industrialized countries to accept the Convention at this stage.

67. Because of its geographical location, Finland is heavily dependent on maritime transport. The preservation of freedom of navigation in the United Nations Convention on the Law of the Sea forms, for my country, an essential part of the overall package deal. Compared to existing customary international law and to the 1958 Geneva Conventions, the new Convention on the Law of the Sea introduces the new legal régimes of transit passage, to be applied in straits used for international navigation, and of archipelagic sea-lanes passage, to be applied to passage through or over archipelagic waters. My delegation believes that these régimes as set out in the provisions of the Convention will secure appropriate protection of the interests of international navigation while at the

[1] General Assembly resolution 2749 (XXV).

same time recognizing the safety and environmental concerns of the respective coastal States.

68. With regard to the legal régime of innocent passage through the territorial sea, the new Convention is more specific than the relevant 1958 Geneva Convention in its enumeration of the instances where the coastal State may make laws and regulations relating to innocent passage through the territorial sea. These are extremely important for a coastal State like Finland. The new provisions in the Convention are compatible with our present national legislation.

69. My delegation took a close interest in the drafting of the provisions concerning the protection and preservation of the marine environment. As initiator of and party to the first regional arrangement of similar scope, the 1974 Helsinki Convention on the Protection of the Marine Environment of the Baltic Sea Area, we take note with particular satisfaction of the provisions of the Law of the Sea Convention providing for the first conventional régime to cover on a global basis all types and sources of marine pollution. We find that the text strikes a well-founded balance between the various interests involved, especially those of the coastal and maritime States on the crucial issue of vessel source pollution. Taking into account the framework nature of the articles, it must, however, be emphasized that their true value may be realized only through further regulation to be effected at both the national and the international levels.

70. Mr. President, before concluding I should like to pay a tribute to you personally for your skill, patience and determination not only in conducting our sessions, but also in merging opposing positions during numerous unofficial consultations. I should like further to express my delegation's thanks to the able Chairmen of the three main committees, Mr. Engo, Mr. Aguilar and Mr. Yankov, as well as to Mr. Beesley, Chairman of the Drafting Committee. Nor would we want to forget all those who worked so hard in various official and unofficial positions to weave together the various provisions into what finally became the United Nations Convention on the Law of the Sea. My delegation would also like to take this opportunity to express its special gratitude to the Government and people of Jamaica for their organization of the Conference and for the warm hospitality extended to us.

71. My Government believes that the United Nations Convention on the Law of the Sea will contribute to peace and security in the world by reducing the potential for conflict in the competing issues of the oceans. It is, in our view, of utmost importance that all States refrain from undertaking measures which could undermine the prospects for implementing the Convention on the Law of the Sea. The final test of the Convention's acceptability will come only when States are faced with the decision of whether or not to ratify it. The Government of Finland sincerely hopes that the United Nations Convention on the Law of the Sea will be respected and upheld throughout the world.

72. Mr. NANDAN (Fiji): Last April, when the United Nations Convention on the Law of the Sea was adopted by this Conference, my Prime Minister described the event as an important milestone in the history of international law and in multilateral negotiations.

73. My Government recognized early that the Convention is not an abstract document. Its consequences are real, and it has far-reaching law-making effects. This can easily be appreciated by looking at a world map and visualizing how the Convention will transform the juridical nature of the ocean space.

74. It is difficult to conceive how countries which were once separated by large expanses of sea have suddenly become close neighbours, often with overlapping jurisdictions. The rights of passage through territorial seas, through straits used for international navigation and through archipelagic waters and sea lanes are now subject to elaborate rules and regulations which prescribe the rights and duties of the littoral States as well as those of user States and their vessels. Ocean resources which were previously unregulated are now subject to detailed régimes. There are now international guidelines for the conduct of marine scientific research and for the prevention of marine pollution in areas where no such framework existed.

75. Old concepts which served the interests of the few have been revised or replaced. New concepts have been devised and introduced so that international law may be better able to respond to the aspirations of all nations and to reflect the new realities of our ever-evolving world.

76. It is remarkable that, given the complexity and the diversity of the subject-matter, the Conference found so much common ground as to be able to forge the comprehensive package that is contained in the Convention. It goes without saying that each chapter of the Convention is an integral part of the whole. To attempt to rationalize that parts of the Convention are simply customary international law, and thereby to separate them from others, is to ignore the fact that what was customary international law has been clarified or modified and that if such provisions were preserved it was done as a *quid pro quo* for other provisions. Any selective use of the Convention, therefore, will be not only inappropriate but also unacceptable.

77. It is difficult to overstate the importance of the new Convention. In our own region of the South Pacific, we find that the once ample Pacific Ocean, the largest ocean in the world, has contracted, and many countries of the region have become zone-locked as national jurisdictions have been extended.

78. For the peoples and countries of the South Pacific the United Nations Convention on the Law of the Sea is of critical importance and real interest. We live by the sea. It has been the means of communication between our islands, it has been the source of our sustenance, and we look to it for the development of our future well-being. Already, in Fiji's case, marine resources have become an important component in our export earnings and there are plans for further expansion.

79. It is for those reasons that my Government has encouraged and actively participated in the elaboration of a comprehensive Convention that would meet our national aspirations and those of our neighbours and provide for an orderly and equitable use of the ocean and its resources for the benefit of the international community as a whole.

80. Like Fiji, many other countries of the South Pacific have already declared their 200-mile exclusive economic zone, consistent with the provisions of the Convention and in anticipation of it.

81. Further, the South Pacific countries have been the first to establish a new regional fisheries organization—known as the South Pacific Forum Fisheries Agency—based solely on the exclusive economic zone concept. This is an example of the regional co-operation called for in the Convention and an illustration of the real importance that we attach to the new law of the sea.

82. Island nations of our region have limited land territories with little or no land-based resources. It is therefore gratifying that the Convention has provided for those developing countries to exercise exclusive economic zone and continental-shelf jurisdictions also.

83. Similarly, it is gratifying to note that the Convention has given timely recognition to the concept of the archipelagic State. The concept of archipelagoes has existed in a geographical sense since time immemorial. It has now been given a precise juridical character. We in Fiji have always looked upon the seas between our islands as uniting our nation rather than dividing it. Accordingly, consistent with the provisions

of the Convention, my Government has already incorporated the archipelagic State concept into our national legislation. We are therefore especially pleased that the concept of the archipelagic State has now won universal recognition through the Convention.

84. I mentioned at the beginning that the adoption of the Convention was also an important milestone in multilateral negotiations. In the President's opening statement yesterday he also drew attention to the unique nature of the negotiating process which led to the adoption of the Convention. The vastness and the intricacies of the subject-matter were such as to require a very fluid process which enabled us to go beyond the formal and informal framework of the Conference.

85. The personal interrelationship which developed during the course of our work resulted in an atmosphere of mutual trust that allowed individuals and groups of individuals to make their contributions. We must pay a tribute to those who led us in the negotiations, but our gratitude can be no less to the many delegations which participated in the various negotiations and accepted solutions in a spirit of compromise and accommodation. For it is they who through their express, or more often implicit, acquiescence really allowed our work to go forward. And among them there were individuals who were of critical importance to the process.

86. I believe that we can properly characterize the achievement of the Convention as a world community effort. Delegations from all regional and interest groups have made their contributions to the achievement of the Convention. It is somewhat ironic, however, that one delegation which has decided not to support the Convention has itself made many constructive contributions to our work and many of the compromises in our Convention bear the imprint of that delegation. We therefore hope that the position of that delegation is only a temporary aberration from its traditional policy of support for international law and for the rule of law in relations among men and among nations.

87. I have much pleasure in informing the Conference that my Government has decided that Fiji will sign the Final Act and the Convention later this week. My Government has also decided upon an early ratification of the Convention.

88. I take this opportunity to express my Government's appreciation and gratitude to the Government and people of Jamaica for providing us with these fine facilities for the final session of the Conference. I hope that my Jamaican friends—especially Ken Rattray—will forgive me if I say that I know of only one other place which can better the warm hospitality of Jamaica and offer such fine weather, lovely beaches and beautiful seas.

89. Mr. BRENNAN (Australia): It is a great pleasure for me and the members of my delegation to find ourselves meeting under your presidency, Sir, on this historic occasion. May I speak again of the gratitude and the admiration we have for your work and for the enormous contribution you have made to the successful outcome of the Conference.

90. I also express the gratitude of the Australian Government to the Government of Jamaica for its hospitality to us all and for the excellent arrangements that have been made for our meetings here. We salute the Special Representative of the Secretary-General, Mr. Zuleta, and we thank him. We salute the Executive Secretary of the Conference and his staff. My delegation shares the universal regret that our friend and colleague Hamilton Shirley Amerasinghe is not here to see the conclusion of the work to which he contributed so much.

91. It is with great satisfaction that I am able to inform this meeting that Australia not only will be signing the Final Act of the Conference but will also be signing the Convention itself.

92. Our presence here today represents the culmination of years of work spread over 16 sessions of this Conference to which must be added the meetings of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction which preceded it.

93. In the late 1960s serious disorder threatened the oceans of the world because of the inequities and the inadequacies of the traditional law of the sea: fishing grounds were faced with depletion; the rules governing fishing unfairly favoured the rich and disadvantaged the poor; archipelagic States believed that the integrity of their nations was jeopardized by the doctrine that the waters surrounding their islands were high seas; pollution control laws were proving to be inadequate to meet the risks presented by super-tankers; the enforcement of pollution control standards by flag States was proving to be unsatisfactory; uncertainty surrounded the extent of coastal States' rights over the resources of the continental shelf; land-locked States had inadequate access to the sea; in increasing numbers States were unilaterally declaring wide territorial seas or other forms of jurisdiction over parts of the high seas; these declarations were perceived by others as threatening their high seas rights; there were fears of a resources grab in the sea-bed beyond the limits of national jurisdiction; and there was, finally, a growing perception of the need to establish a legal basis for the grant of exclusive title to mine sites in the sea-bed beyond national jurisdiction.

94. As an island continent heavily dependent on trade, Australia had a vital interest in the resolution of the doubts and uncertainties that existed and in the development of new concepts to restore order and to rectify the shortcomings of the past. We were an original member of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. Successive Governments in Australia and all political parties at State and Federal level have thrown their weight behind efforts to draw up the text of a comprehensive convention that could be widely accepted. The importance that the Australian Parliament has attached to this objective was reflected in the unanimous adoption on 17 September 1981 of a motion recording Australia's vital interest in the negotiations and its hope for the early adoption by consensus of a convention text.

95. The achievements of the Third United Nations Conference on the Law of the Sea are historic. They reflect a renegotiation of the rules governing title to all the resources of the sea and the sea-bed and the rules governing most of the important uses of the sea, such as navigation, research and pollution control. The Conference has broken new ground in all the following directions, any one of which might have been a challenge for a separate conference: first, the establishment of the 200-mile exclusive economic zone; second, the recognition that coastal States' rights over the continental shelf extend to the outer edge of the continental margin; third, the creation of new obligations to protect the marine environment and the establishment of wider coastal State power to control pollution; fourth, the recognition that archipelagic States have rights of sovereignty over the waters inside the archipelago; fifth, agreement on the maximum breadth of the territorial sea; sixth, clarification of the rules of innocent passage through the territorial sea; seventh, the establishment or redefinition of rights of navigation and overflight of archipelagos, straits used for international navigation and the exclusive economic zone; eighth, the establishment of new rules governing marine scientific research in the exclusive economic zone and on the continental shelf; ninth, tighter rules governing the conservation of fisheries; tenth, assured access to the sea for land-locked States; eleventh, acceptance of the principle that the resources of the sea-bed beyond national jurisdiction are the common heritage of mankind; and twelfth, an extensive system for the peaceful settlement of disputes.

96. All those objectives were secured by a process of consensus negotiation. It is a matter of regret that at the moment

of adoption of the Convention the consensus which had operated so constructively over the years broke down. It is our sincere hope that in due course consensus will be restored. We are aware of the problems which confronted delegations that were not able to participate in the adoption of the Convention and its attendant resolutions and we understand their difficulties.

97. Although we will be signing the Convention, my own delegation would have liked to see some of the provisions of Part XI written differently. Our acceptance of the provisions of Part XI and its related annexes is without prejudice to the attitude we might take in the drafting of other conventions. We had other difficulties too, but the same could be said of all States which intend to sign the Convention. It is our hope that ways can be found to make the Convention acceptable to those countries which have particular problems.

98. My delegation continues to believe that order will be achieved on the oceans only through the medium of a widely ratified comprehensive convention. Whatever may be the limitations of the present text, it provides the only secure and comprehensive basis on which the resources of the oceans can be exploited, ships and aircraft can enjoy rights of navigation and overflight, research can be pursued and the environment can be protected in a satisfactory way.

99. If there is any radical departure by States from the provisions of this Convention, the disorders of the 1960s will return in aggravated form to plague us again. Specifically, I might recall that it has long been acknowledged that the doctrine of the freedom of the high seas does not provide a basis for the grant of exclusive title over a specific site for the purpose of mining the deep sea-bed. No contrary view has ever been seriously argued or is now seriously argued. But the situation has changed in recent years. The great majority of States now recognize the resources of the sea-bed beyond national jurisdiction as the common heritage of mankind. Even if individual States question the majority view, it is beyond doubt that any attempt to exploit the resources of the sea-bed beyond national jurisdiction outside the Convention would give rise to the most serious political and legal consequences.

100. The signing of the Final Act and the opening of the Convention for signature mark the end of the work of the Conference, but they also mark the beginning of a new phase.

101. It is gratifying that enough States will sign the Convention on Friday to make it possible for the Preparatory Commission, established by resolution I of the Conference, to begin its work at the earliest date the resolution permits. The work that has been assigned to the Preparatory Commission is of great importance. We must now ensure that the Preparatory Commission works in an efficient and practical manner to complete this work so that the Authority may be able to function effectively as soon as the Convention enters into force.

102. The Australian Government attaches importance to and has a continuing interest in ensuring that the frequency and costs of meetings to be held under the auspices of the Convention and the costs and bureaucratic structures of the institutions to be established be kept to a minimum. For its part Australia considers it essential that participants in the Preparatory Commission bear these objectives very much in mind and demonstrate a clear recognition of the need for financial restraint.

103. Until the Preparatory Commission has completed its work the conditions of access to the sea-bed will remain incomplete. A particular responsibility will rest on those who at the appropriate time will, in accordance with the terms of resolution I, be eligible to participate in the taking of decisions by the Commission. It will be essential that those States act with statesmanship at that time. They will have to consult the interests not of themselves alone, but also of those who may sign or accede to the Convention at a later date. It proved possible to construct this Convention by consulting the interests of all and the Preparatory Commission should, in its formulation of the rules, regulations and procedures, take account of the interests of those who may sign or accede as well as of those who have already signed or acceded.

104. Finally, I should like to presume on traditional friendships and address an appeal to any Governments which may be contemplating any exploration or exploitation of the sea-bed outside the terms of the Convention. I hope that before any final decision in that sense is made an assessment will be undertaken at the highest national level of the political consequences of any such action. Mining the sea-bed outside the Convention would be highly divisive and the country concerned would incur the hostility of the bulk of the world. Whatever may be said about the other provisions of Part XI and its related annexes, it has to be recognized that from this point onwards the doctrine embodied in article 137 that no State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources has the same sanctity as the doctrine similarly embodied in the Convention on the freedom of navigation.

105. Mr. NEUGEBAUER (German Democratic Republic): The delegation of the German Democratic Republic welcomes the conclusion of the Third United Nations Conference on the Law of the Sea. I should first of all like to express to the Government of Jamaica the gratitude of my delegation for the invitation to meet in this peace-loving country washed by the sea. The relationship to the subject of this Conference catches the eye.

106. The conclusion of this universal Conference testifies to the fact that it is possible even in the present complicated international situation to resolve global issues which are of vital interest to all States and to open up new areas for peaceful international co-operation. This fact is no doubt of great value at this very juncture and, in our view, signifies a clear rebuff to the imperialist policies of confrontation and superarmament. The elaboration of the United Nations Convention on the Law of the Sea under the aegis of the United Nations illustrates at the same time what a weighty contribution the world Organization is capable of making to the solution of complex world-wide problems.

107. The United Nations Convention on the Law of the Sea greatly contributes to the development of peaceful international co-operation between States having different social systems and to the avoidance of international conflicts in that it regulates the freedom of navigation for all ships, the rational utilization of marine resources, the protection and the preservation of the marine environment, peaceful marine scientific research and other rights and obligations of all States with regard to the seas and oceans.

108. It is therefore fully justified for the preamble to the United Nations Convention on the Law of the Sea to reflect the conviction that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations, in conformity with the principles of justice and equal rights, and will promote the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the United Nations.

109. In negotiating the new Convention, the States involved could not help making what were often far-reaching concessions. This is true of all universal legal instruments. It is also in the nature of things that not all the demands could be met. I wish to note at this point that in the interest of world-wide co-operation, especially for the benefit of the newly emergent nations and the developing countries, my country accepted compromise arrangements entailing substantial economic

losses for our geographically disadvantaged State, which is capable of establishing only a small economic zone with comparatively scarce resources and therefore, now as before, is dependent for the nutritional needs of its population on distant-water fishing, especially in the North Atlantic. The German Democratic Republic is among those States whose deep-sea fisheries have had to shoulder considerable additional burdens since the introduction of economic zones. The effective exercise of its rights as a geographically disadvantaged State as laid down in the Convention is therefore a matter of immediate economic importance to the German Democratic Republic. The viability of the new Convention will depend not least on the manner in which the principles of justice and equal rights are implemented in the exploitation of marine resources.

110. It is in conformity with the nature and goals of socialist peace policy and of international co-operation for the German Democratic Republic to give its consent to the United Nations Convention on the Law of the Sea. This distinguishes my country from other States which, without regard for the interests of the developing countries and bent on profit-seeking and imperialist advantage, deny the Convention their signatures on the assumption that they will be able to feather their nests in a different manner.

111. In the view of the German Democratic Republic the new legal order for the world's oceans represents, on the whole, a balanced compromise accommodating the rights and interests of all States, both individually and as groups. In making this assessment the German Democratic Republic notes in particular that the Convention's provisions on the exploitation of the natural resources of the ocean floor, and also its other stipulations, contribute to the implementation of a just and equitable international economic order which meets, above all, the interests and needs of the developing countries. However, I must qualify this favourable view of the overall result of the Conference with regard to some provisions of resolution II governing preparatory investment in pioneer activities relating to polymetallic nodules. The delegation of the German Democratic Republic reaffirms its stand that it cannot accept those provisions of that resolution which discriminate against a number of States, among them socialist countries.

112. Our delegation is resolutely opposed to activities by which certain States seek to exploit the seas and their resources contrary to and in violation of the provisions of the United Nations Convention on the Law of the Sea. Jointly with the overwhelming majority of States, the German Democratic Republic strongly condemns the attempts being made by a few States to exploit the resources of the ocean floor, which are the common heritage of mankind, in contravention of the Convention, in the profit-seeking interests of imperialist corporations. Separate agreements concluded or unilateral measures taken in violation of the legal order established in the new Convention are unlawful and have no legal effect. In the view of the German Democratic Republic activities for the exploitation of the international sea-bed area are permissible only if undertaken in compliance with the United Nations Convention on the Law of the Sea. Since rights and obligations under international law are inseparable, no State refusing to become a party to the Convention can claim rights or privileges which the Convention grants to those who are also prepared to assume the obligations it imposes.

113. It is the position of the German Democratic Republic that in connection with the signing or ratification of the Convention or accession to it States should refrain from making such declarations as are designed subsequently to alter substantive provisions of the Convention in a one-sided manner.

114. The German Democratic Republic reserves the right if necessary to make declarations or statements pursuant to article 310 in connection with the ratification of or accession to the Convention and to present its views on declarations and statements made by other States when signing, ratifying or acceding to the Convention.

115. The German Democratic Republic will sign the Final Act of the Conference and the new Convention on 10 December this year. It voices the expectation that all other States will do so also. My country will work to ensure—as, certainly, will the great majority of States—that the necessary prerequisites for the earliest possible entry into force of the Convention will be created.

116. Before I conclude, I wish to state that in the view of the German Democratic Republic the Government of the People's Republic of Kampuchea is the sole and legitimate Government of Kampuchea. It alone is authorized to act on behalf of Kampuchea in all matters, including the representation of its interests within the United Nations system and consequently also at this Conference.

117. In conclusion, our delegation wishes to avail itself of this opportunity to offer sincere thanks to you personally, Mr. President, to the Chairmen and Vice-Chairmen of the Committees and to the officers and members of the secretariat of the Conference for their great personal commitment to the achievement of the new Convention. The German Democratic Republic will contribute its due share in the efforts to carry out the tasks involved in the entry into force of the new legal order on the world's oceans.

118. Mr. NAKAGAWA (Japan): All of us gathered here at Montego Bay are deeply conscious of the importance of the task entrusted to us, that of establishing a new legal order for the world's oceans. All the countries represented here have worked hard for many years to attain the resulting crystallization of their efforts represented by the United Nations Convention on the Law of the Sea, now before us.

119. Permit me to express my delegation's profound admiration and thanks to you, Mr. President, to the Chairmen of the Committees and to the secretariat of the Conference for the untiring efforts that have finally brought us to the last session of the Law of the Sea Conference here in Jamaica. I wish also to take this opportunity to pay a tribute on behalf of my delegation to the former President, Mr. Amerasinghe, for his outstanding contribution to the Conference. Let me also express my delegation's very profound thanks to the Government of Jamaica for its generous hospitality in acting as host to this important Conference.

120. The Third United Nations Conference on the Law of the Sea has just established a new international legal order for the use of the world's oceans. This is a historic achievement. The Government of Japan and the Japanese delegation worked actively and constructively for the attainment of this prime objective of the Conference. It had always been a major objective of the Government of Japan, as of many other participating Governments, that a generally acceptable Convention should be adopted by consensus, and the Japanese delegation has done its utmost to ensure the attainment of that very important goal. Unfortunately the Conference did not end with the adoption of a convention by consensus on 30 April this year. Nevertheless my delegation, like many other delegations, feels that, though it had hoped that some provisions might be improved, the Convention before us as a whole represents the best possible compromise the Conference could have achieved.

121. The Convention's provisions represent either codification of the existing rules of international law applied to the various aspects of the use of the sea or rules newly established in order to regulate new problems relating to the use of the sea.

122. The Government of Japan is of the view that the United Nations Convention on the Law of the Sea will serve the long-term and comprehensive interests of the world com-

munity and the interests of Japan, a maritime State very much dependent upon the use of the ocean. We earnestly hope that the world community as a whole may benefit from the new legal order of the world's oceans soon to be born here in Jamaica.

123. It was on the basis of this global and long-term point of view that Japan voted in favour of the adoption of the draft convention on the law of the sea on 30 April this year.

124. Owing to the fact that a new cabinet was only recently formed in Japan, my Government was unable to complete the necessary review for signing the Convention at the present Conference. However, I should like to take this opportunity to reaffirm the basic position of my Government that the Convention as a whole merits its support and signature.

125. The adoption of the Convention does, of course, mark the end of the long and difficult negotiations in the Conference, but it is also—and more importantly—the beginning of a new era of working to consolidate the new stable order for the world's oceans it contains, an order from which the world community as a whole will certainly benefit for many generations to come. Japan will continue to do its utmost to help to attain this objective.

126. Mr. WABUGE (Kenya): It gives my delegation great pleasure to be in Montego Bay, Jamaica, today on this historic occasion of the signing of the Final Act of the Third United Nations Conference on the Law of the Sea and the opening for signature of the United Nations Convention on the Law of the Sea.

127. Before I proceed, I should like to extend to the Government and brotherly people of Jamaica our cordial and fraternal congratulations upon the successful way in which they have been serving as hosts of this huge Conference. I should also like to place on record my delegation's heartfelt appreciation of the excellent arrangements made for our work here and the characteristically warm hospitality that has been showered on us all during our stay here.

128. The adoption of the United Nations Convention on the Law of the Sea in New York on 30 April this year saw the culmination of the biggest undertaking by the United Nations since its inception in San Francisco 37 years ago.

129. The Conference grappled with complex and diverse issues, the resolution of which entailed both codification and progressive development of international law. It is therefore fitting that the Convention, which is the outcome of more than a decade of laborious and painstaking negotiations, should have been adopted with the affirmative votes of the overwhelming majority of States that participated in the Conference. Consequently, the Convention which will be opened for signature in Montego Bay is a compromise package deal which creates a new and comprehensive law of the sea from which no State can legitimately and unilaterally make an exception, let alone create a parallel régime.

130. If 30 April 1982 saw the culmination of many years of negotiations on the nature and content of the new régime for the oceans, the sea-bed and the ocean floor and the subsoil thereof, on Friday this week, with the signing of the Final Act of the Conference and of the United Nations Convention on the Law of the Sea, a new era of international co-operation in a vast and vital field will be ushered in. It will suffice to recall here that while the Convention codifies and reaffirms many conventional and customary rules of international law pertaining to the sea, a number of new rules of international law have also been created. The régime of innocent passage in the now-expanded internal waters, the extensive rights created for the coastal States in the hitherto unknown exclusive economic zone and the modalities for conducting scientific research therein, and the concept and régime of archipelagic States are but a few of these. All these and many more have been provided for in a multilateral convention for the first time.

131. However, perhaps the most significant aspect of the Convention from the point of view of the progressive development of international law is its Part XI, which lays down new rules of international law for the uses of the sea beyond the limits of national jurisdictions and, in particular, with respect to the orderly and rational exploration and exploitation of the resources of the international sea-bed area for the benefit of the whole of mankind. We congratulate the Conference for remaining faithful to the wishes of the international community which, in 1970, declared those resources of the sea-bed, the ocean floor and the subsoil thereof to be the common heritage of mankind. In this connection, my delegation wishes to reiterate its conviction of the inadmissibility of any unilateral deviation from or selective application of the new régime of the law of the sea.

132. Furthermore, I wish to underscore the importance that my country, both as a coastal and as a developing State, attaches to this Convention. This is a point of view that is shared by practically all developing countries. We are thus glad to see included in the Convention provisions that are specifically designed to protect the interests of, or otherwise benefit, developing countries. We therefore look forward to a timely entry into force of the Convention.

133. My delegation is mindful of the fact that technological advances and other changes of an economic and social nature may occur in the future, all of which may require taking another look at what we have before us today as the comprehensive United Nations Convention on the Law of the Sea.

134. We are particularly aware of the possibility of such changes with respect to the régime of Part XI as a whole, the importance of which I have underlined already. Thus, my delegation wholeheartedly welcomes the fact that provisions have been made in the appropriate articles of the Convention permitting the orderly review and amendment of the Convention, especially the régime of Part XI, to ascertain whether it has worked satisfactorily and to initiate the necessary adjustments, supported by experience in actual sea-bed exploration and exploitation.

135. In the meantime, we urge all States to participate in and support the work of the Preparatory Commission which is to begin its work 90 days after 50 or more States have signed the Convention. Once again, my delegation is pleased to know that the Government of Jamaica has, at great sacrifice, made the necessary facilities available to enable meetings of the Preparatory Commission to take place in Kingston, the future seat of the International Sea-Bed Authority. We salute it for its courage and commitment. We are confident that the international community will not let it down in this historic mission. Kenya pledges that it will continue to play its modest part to ensure that full effect is given to the provisions of the Convention for the benefit of the present and future generations of mankind as a whole.

136. Last, but by no means least, my delegation would not wish to let this truly historic occasion pass without saluting the men and women—too numerous to mention individually—who have done so much over the past years to make this Conference the landmark success it has been. Among them we wish to thank the dedicated members of the secretariat as a whole; the Chairmen of the Main Committees and the informal negotiating groups; the members of the Collegium; the first President of this Conference, that great son of Sri Lanka, Hamilton Shirley Amerasinghe; and you, Mr. President, whose transcendent sincerity, simplicity, modesty and good humour conceal your equally great qualities of a towering intellect, industry and skilful diplomacy.

137. In the light of what I have just said, I am pleased to inform the Conference that Kenya has decided to sign on Friday this week both the Final Act of the Third United Nations

Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea.

138. Mr. POSPIESZYNSKI (Poland): Mr. President, I wish to congratulate you and the secretariat staff under the able leadership of Mr. Bernardo Zuleta upon having made such a valuable contribution to the successful result of the Conference.

139. It is an honour for me to address the Conference on this momentous occasion of the completion of work on the United Nations Convention on the Law of the Sea. Just as a ship reaches a port of safety after a voyage full of hardships and obstacles, so has our Conference found its safe berth.

140. From the beginning, my country has participated actively in negotiations connected with the drawing up of the Convention. As a result, we have achieved an instrument which, for years to come, will play a significant role in regulating international relations on the seas and oceans for the benefit of the whole of mankind. For that reason we believe that no State or group of States should act in a way contrary to the principles of the Convention, in particular the principle of the common heritage of mankind.

141. It is the position of my Government that the Convention, which we are going to sign, will contribute significantly to the maintenance and strengthening of international peace and security. Poland highly appreciates the Convention also as a valuable document which takes into account the legitimate interests of all States. The Convention is well balanced. It was agreed upon in difficult and lengthy negotiations in which every country had to make some concessions. As a result of our strenuous efforts we have formulated a document which constitutes an integral package.

142. All parts of the Convention are closely interrelated and should be fully applied. The successful implementation of the provisions of the Convention depends upon mutual co-operation. My country has made enormous efforts in the last 30 years to develop its maritime economy and its considerable technological and scientific capacity for the utilization of marine resources. We have accomplished this through co-operation with other States.

143. We may invoke as an example the mutually beneficial co-operation between Poland and its land-locked neighbours in the field of maritime economy and in safeguarding transit facilities based on long-term agreements. We are convinced that this co-operation will continue and develop in the future. It is our view that the Convention will be beneficial for the development of relations in the field of transit through the territories of transit States, as well as through those of land-locked States, based on the principle of reciprocity.

144. I wish at this juncture to add that my country has also developed fruitful co-operation in sea fishing with countries having an abundance of fish in their seas.

145. I am convinced that the new regulations provided for by the Convention will encourage international co-operation in all aspects of maritime economy and will at the same time remove causes of many international disputes and fill many legal loopholes in the law of the sea. The effectiveness of the legal provisions of the Convention which we shall sign in Montego Bay depends on our determination to abide by its principles in the interest of mankind.

146. My delegation fully shares the view, stated here also by other delegations, that the Government of the People's Republic of Kampuchea, as the sole representative of that country, has the right to be a party to the Convention.

147. We are fully convinced that the Convention will be the best contribution that we can make to all nations in accordance with the purposes and principles of the United Nations.

148. I express our gratitude to the Government and the people of Jamaica for their hospitality.

149. Mr. JAYEWARDENE (Sri Lanka): Today we celebrate with pleasure, but also with due solemnity, the stirring climax to an unheralded "Decade of the Oceans". It was on 18 December 1972, just 10 years ago, that the United Nations General Assembly at its twenty-seventh session adopted resolution 3029 (XXVII) requesting the Secretary-General of the United Nations to convene the first and second sessions of the Third United Nations Conference on the Law of the Sea. This decade of the oceans began without the fanfare that customarily attends such endeavors of intended historic significance; began, as many representatives will remember, with some hesitation and yet with a burgeoning sense of purpose and destiny. This endeavour must surely rank among the most important and most successful in all United Nations history; indeed, as one of the most significant ever undertaken by modern man.

150. On behalf of the people and Government of Sri Lanka, I salute the officers of the Conference: you, Mr. President, and your close associates, the Chairmen of the Main Committees, the Chairman of the Drafting Committee and the Rapporteur-General. I salute you on this splendid legislative achievement, an achievement without parallel in the history of international legislation. Through you we wish to salute Arvid Pardo, whose epoch-making proposal in 1967 triggered and inspired the work we have accomplished; the Secretary-General of the United Nations and his outstanding staff, headed by the Special Representative, Mr. Bernardo Zuleta, and Executive Secretary, Mr. David Hall; and, indeed, those many, many others, inspired by high ideals, dedicated and resourceful, who have laboured so hard in these years to bring order to the world of the oceans and thus to bring order to the greater part of our planet. They have given much of themselves to this gigantic task. Some, indeed, have given their lives in bringing this work to a splendid conclusion.

151. I remember in particular one of Sri Lanka's noblest sons, Hamilton Shirley Amerasinghe, Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and President of this Conference until his untimely death two years ago. He was a man of superlative ability, insouciant wit and unaffected charm. From 1968 to 1980, at the height of his formidable capacities, he dedicated himself to the success of this endeavour and the adoption of a convention on the law of the sea to which all States could become parties. We remember him with pride, and with profound satisfaction recall that our country was able, through him, to contribute substantially to the success we celebrate today.

152. The Government of Sri Lanka and its delegation to this Conference would like to record their deep appreciation of the generous act of the Government and people of Jamaica in agreeing to be host to this meeting and providing so magnificent a setting for this historic occasion.

153. I should like now to address the Conference on just four of the matters which, in our opinion, are worthy of celebration today.

154. First, there is the United Nations Convention on the Law of the Sea. First and foremost we celebrate the adoption, through the informed, co-operative efforts of the entire community of States and not merely by the fiat of a few, of a new comprehensive law for the oceans. Given the extraordinary complexity of the issues involved, the highly political, even emotional, implications of many of them and the staggering diversity of language, culture and political posture among negotiators, the new law of the sea is a monument to human understanding, ingenuity and restraint. If no State finds all of its provisions entirely pleasing, it cannot be denied that at least it brings substantial benefits of some kind of all. A comprehensive range of substantive provisions on every aspect of the peaceful uses of the seas, together with more highly developed provisions on the settlement of disputes than

was thought to be possible in this context, give the Convention the highest potential of any instrument in history to serve as the foundation for the maintenance of peace, social justice and good order in the oceans. For those reasons Sri Lanka will sign the new Convention on the Law of the Sea.

155. As human beings we tend to think in terms of arbitrary divisions of time like "decades" and "centuries". I say this as I recall that in a few months, early in April next year, lawyers around the world will celebrate the four hundredth anniversary of the birth of Hugo Grotius, that great son of Holland, often referred to as the father of international law and, in particular, of the law of the sea. Not since the work of Grotius, to whom all honour is due, will a text containing a comprehensive law of the sea wield such influence. *Mare liberum* was the result of one man's genius, sense of justice and imagination. The Convention, by contrast, is the work of hundreds of men and women, representing many millions of others. It is our earnest hope that the new Convention, being the result of our own collective and collaborative efforts and not merely the bequest of an era that has passed, will be applied so as to bring order and predictability to our use of the oceans and, above all, to achieve a new distribution of the oceans' wealth, not as economic aid or charity but as a matter of legal right.

156. Secondly, there is the new international economic order. This brings me to a matter which gives us cause for celebration today: the signing of the first legally binding multilateral instrument of universal scope to reflect and give effect to a wide range of principles of the new international economic order. The concept of the "common heritage of mankind" was placed before the General Assembly by Arvid Pardo of Malta in 1967 and was adopted without dissent by the world community in 1970 through the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the General Assembly in its resolution 2749 (XXV). The idea of the "common heritage" was thus already more than three years old and its elaboration far advanced when the General Assembly at its sixth special session adopted resolution 3201 (S-VI), the Declaration on the Establishment of the New International Economic Order. Although the Declaration makes no mention of the "common heritage", many of its provisions reflect ideas that had already been canvassed and become part of the emerging régime for the seabed beyond national jurisdiction. It is not surprising, therefore, that the Declaration became, and has remained, the inspiration and universal guide of all the developing countries at the Conference.

157. Even the most cursory review of the Convention will reveal, in particular in Part XI and its related annexes, the many provisions which give effect to the principles of the new international economic order, that is, full and effective participation on the basis of the equality of all countries in solving world economic problems. Regulation and supervision of the activities of transnational corporations; giving developing countries access to the achievements of science and technology; promoting the transfer of technology to the developing countries: these are but a few of the principles of the Declaration which find direct expression in provisions of the United Nations Convention on the Law of the Sea.

158. Thirdly, I come to the shift from adversative attitudes to co-operative problem-solving. This third matter for celebration that I should like to emphasize may appear subtle but to us seems of vital significance in the politics of interaction between North and South. It is this: the Third United Nations Conference on the Law of the Sea, despite the fact that its aim was the preparation of a technically complex and legally binding instrument, exemplified in the highest degree a remarkable shift in the spirit of international negotiation from "adversative" to "co-operative". This is not to say that on many issues the Group of 77 did not see the industrialized countries as their "adversaries" and vice versa, or that the climate of suspicion that has bedevilled every international forum had been banished from the negotiations. But in the growing confidence among the representatives at this longest running of the Conferences, in the comradeship of dedication to a common goal, in the willingness to share technical information of value in arriving at critical decisions, in the inventive spirit with which new negotiating techniques were developed and tried out, in the willingness to explain and explain again a point of view that had been difficult to accept, in the atmosphere of restraint which, with few exceptions, appeared to inspire Governments and individuals alike, there was clearly discernible a move to abandon adversative attitudes in favour of co-operation with one another in the solving of problems in a spirit of mutual accommodation. If there is a single feature that marks this Conference and its processes it is this, and it is a feature which augurs well for the future of international negotiations.

159. Fourthly, and lastly, there is the matter of the future. Today we celebrate the future—the future of the oceans and their resources under the new legal order. In the Convention to be opened for signature here in Montego Bay the word "co-operate" in its various forms and their equivalents in other languages occurs surely more often than in any previous international instrument, let alone in binding treaty provisions such as these. This signals another shift, a development in the maturity and efficacy of international law itself, expanding its domain from that of prohibitions of injurious acts to cover the positive injunction to co-operative and creative conduct in the cause of peace. It is now for those who have, to share, and those who have not, to prepare themselves to receive, a variety of benefits under the new order under mutually agreed terms.

160. Sri Lanka is conscious of the rights and obligations devolving upon it under the Convention and under customary international law, including its rights in respect of its continental shelf, specifically recognized by this Conference as evidenced in its Final Act. Sri Lanka is also conscious of the urgent need to augment its human and other resources in marine science and technology and in ocean services in order to exercise those rights and discharge those obligations. Accordingly, as a first step, Sri Lanka has set up a National Aquatic Resources Agency. This new autonomous statutory body will carry out, co-ordinate and promote research and development activities concerning resources in or beneath marine or fresh waters. It will act as a channel for the introduction of new technologies and scientific knowledge acquired or developed by it and will arrange for the training of personnel in relevant disciplines at all levels. This will be the body through which Sri Lanka intends to receive and indeed eventually to extend assistance and co-operation in the field of marine science and technology. Still in its formative stage, the National Aquatic Resources Agency is Sri Lanka's response to the Convention's call for the establishment and strengthening of national centres in order to stimulate and advance the conduct of marine scientific research and to enhance national capabilities to utilize and preserve a State's marine resources for its economic benefit. We would welcome the establishment of partnerships between Sri Lanka's Agency and any other national, regional or international organization with similar objectives and responsibilities. We also look forward to co-operating with other States of the Indian Ocean in promoting peaceful activities in the region aimed at the management and conservation of its resources, primarily for their benefit.

161. In conclusion I should like to make one final observation. Sri Lanka, whose people are imbued with the spirit of Buddhism, is well acquainted with the basic truth that nothing of this world is permanent, that change alone is certain. The great work that we complete in these historic days consoli-

dates and establishes the combined wisdom of our peoples as to how best to regulate activities with respect to the oceans at the present time and in the light of such current knowledge as we have been able to apply. Our rules are designed to promote stability with social justice. But it is in the nature of all things that they do not remain static, that there will be growth, that there will be decay. The march of technology and changing perceptions and aspirations will, in time, place pressures upon the régimes we establish today. The Convention has built into it the machinery for orderly change through procedures for interpretation, for amendment, for review and revision. It is for us who have fashioned this great new instrument to be vigilant, to detect obsolescence and to remedy it. If the ideals and the spirit which guided our representatives in the creation of this Convention continue to guide us in its operation, I have no doubt that it will become an instrument of vital significance in shaping the destiny of mankind as we enter the twenty-first century.

162. Mr. SALMAN (United Arab Emirates) (*interpretation from Arabic*): At the outset, I should like to express my sincere thanks to the Government and the people of Jamaica for the fine hospitality and facilities they have accorded this Conference.

163. I am particularly proud to have had an opportunity to come to this country on this occasion to represent my country. I consider it indeed a historic occasion, representing much more than the signature of the Final Act and the United Nations Convention on the Law of the Sea, the achievement of nine years of ceaseless effort. The credit for this goes to the combined endeavours of all the participants in the Conference, notably the President and the secretariat. There may also be some unknown soldiers to whom we should address our thanks, even if we do not mention them by name.

164. I take this opportunity also to pay a well-deserved tribute to the former President, Mr. Amerasinghe, who led the work of this Conference with such skill and such effectiveness.

165. The United Nations, in adopting this Convention, has taken a historic step. This is a significant and great achievement. It is based on General Assembly resolution 2749 (XXV), adopted in 1970, which provided that the codification of the law of the sea and its progressive development—which has been accomplished in this Convention—would contribute to the consolidation of peace and security and co-operation and the maintenance of friendly relations among States, in conformity with the principles of justice and equal rights. This same resolution also laid down the principle that the ocean and sea-bed and the subsoil thereof beyond the limits of national jurisdiction, with all the resources they contain, constitute the common heritage of mankind. Hence, the exploration and exploitation of those resources should occur in the interests of mankind as a whole.

166. According to the learned scholar Savigny, codification reflects a reality, be it good or bad, balanced or imbalanced, in terms of rights and obligations. On the basis of that concept the Convention clearly reflects the present international situation, as regards both the weak and the strong. But article 155 provides for the revision of the Convention with a view to introducing any necessary changes that would reflect changes in the world scene and in the balance of power in the future, in order to maintain the principles of equity and justice referred to in the aforementioned General Assembly resolution. The Convention contains certain satisfactory provisions, such as those relating to innocent passage. But in political practice they may not have any direct practical significance. Nevertheless, codification has become inevitable and it is now imperative to have a convention to serve as a framework within which mankind may proceed to widen the scope of its hopes and aspirations. To achieve this objective, we are gathered here to sign this Convention.

167. One of the important implications of this Convention is that it has intellectual and cultural aspects and aspects concerning peoples. Institutions concerned with education and information therefore have to stress its significance. Fortunately, I am the Minister of Education in my country and am among those who participate in decision-making in the field of education, and I am committed to do this. I shall also communicate this to my colleagues, the Ministers of Education of their countries, through the United Nations Educational, Scientific and Cultural Organization or the regional organizations. We must educate and guide future generations to assimilate the provisions of this Convention so that some scientific benefits can be derived from this Conference.

168. I wish to state before this Conference that the Convention will be covered in the educational programmes that we are developing. On the basis of the Convention we intend to introduce courses concerning the law of the sea. Lectures will be given by experts entrusted with the codification of laws or who have participated in the codification of the law of the sea. Furthering the role of education and information in this connection, the United Arab Emirates is willing to serve as host to various symposia and to hold meetings on the subject.

169. The Convention is viewed as a unique and remarkable example of the codification of the principles and provisions of contemporary international law. It also constitutes a direct act of sovereignty, and its implications go well beyond the provisions and the articles that have been formulated.

170. The interests and political aspirations of the United Arab Emirates make it necessary for us to disagree somewhat with some of the provisions of the Convention, especially those relating to the equal rights of innocent passage and transit passage through straits by warships and other vessels such as merchant, private or research vessels, as well as the delimitation of maritime boundaries between adjacent, opposite or neighbouring States in connection with the exclusive economic zone and the continental shelf, under articles 74 and 83 of the Convention. In this respect, the United Arab Emirates believes that we should apply the principle of the median line and that the delimitation of the continental shelf should be carried out in such a way as not to exceed 200 nautical miles.

171. It is noteworthy that the signing of this Convention will coincide with the anniversary of the adoption of the Universal Declaration on Human Rights, as a previous speaker also has emphasized.

172. Among the achievements of the Convention is that it accepts national liberation organizations as observers. In saying this, I refer specifically to the Palestine Liberation Organization. I hope that more organizations will enjoy this status in the future. We earnestly hope that these organizations will soon enjoy the rights of full-fledged members and exercise all the prerogatives of Member States.

173. Mr. President, before concluding, I should like to express my admiration for the efficient manner in which you have conducted our business and for your courtesy and your sense of humour, which comes so spontaneously. There can be serious and great achievements only through this kind of leadership and management.

174. I have made a brief speech today, Sir, in accordance with your instructions.

175. Mr. WARIOBA (United Republic of Tanzania): I wish first to join my colleagues in paying tribute to our host for making Montego Bay available for this event and in thanking the Government and people of Jamaica for the wonderful preparations, the warm reception and the hospitality. On behalf of my Government I take this opportunity also to commend the Government and people of Jamaica for the sacrifices they are making to provide the Sea-Bed Authority with a seat. In doing so Jamaica has put itself in the forefront

of the struggle for change in the world, for better international relations, for peace and for justice.

176. The greatness of an event, place or person is oftentimes the function of afterthought. Only on rare occasions is recognition of such greatness immediate. We have come to Montego Bay to witness one such rare event, and we shall leave Montego Bay one such rare place. When historians come to take stock of the world political developments of our time, no other event will be of such political and historical magnitude as this occasion, save, respectively, the signing of the United Nations Charter and San Francisco. From now on relations between States, big and small, will never be the same.

177. This is not the first time a law of the sea convention has been signed; we have three such Conventions signed under the auspices of the United Nations. No doubt those Conventions served some purpose at their particular time, in their own particular way. But 1958 is not anywhere near 1982—politically, technologically or otherwise. Then the United Nations had only about half the present membership. Half of our number had nothing to do with the negotiations on those Conventions. Even those few had only a partial knowledge of the sea compared to what has been revealed since then. And they did not even manage to agree on the issues they negotiated.

178. The mere fact that now almost the entire world has participated in the negotiating of a convention on the basis of fuller knowledge of the vast sea and its many uses, in the face of advanced technology, and has done so successfully, cannot but be unprecedentedly significant, cannot but be a commendable landmark towards world peace, cannot but be welcomed and embraced by all peace-loving nations.

179. That that agreement has been reached by the entire membership of the United Nations, and beyond it, with one or two exceptions for reasons best known elsewhere, bespeaks also the advantages each participating State may derive from the Convention, both in common with other States and individually, quite apart from an orderly and peaceful world environment.

180. Agreement on a uniform breadth of the territorial sea will reduce conflicts of jurisdiction and competence in the oceans. The régime of the exclusive economic zone does strike some balance between the resource interests of the coastal States and the international community, in that it distributes the resources fairly and, at the same time, institutes a system of management which is more rational. The principles of conservation and exploitation laid down in the Convention will well serve mankind as a whole, unlike the present system which favours only a few States.

181. Of special significance is the appropriation of the sea-bed and ocean floor beyond the limits of national jurisdiction to the ownership of mankind as a whole. This is the first time the international community has demonstrated the highest sense of unity and co-operation rather than individualism—an attitude which, if emulated in other spheres of life, will make the world a more just and peaceful place. The international sea-bed is decreed to be the common heritage of mankind, and a machinery is to be set up through which the whole of humanity will participate in and partake of the activities and benefits of the Area. For the first time, a common system of taxation has been instituted. Equally important is the example and encouragement the adoption of this Convention gives to similar collective endeavours in other international problems where there are corresponding issues and interests of a global nature, an example being the new international economic order.

182. The Convention is not a perfect instrument and we did not expect it to be perfect at this point in time. It has taken a great deal of give-and-take to reach agreement. It is natural therefore for all of us to find in the Convention something we like and something we do not like.

183. The United Republic of Tanzania does find shortcomings in the Convention. For example, we find it particularly unfortunate that the Convention does not include some important areas of the oceans, such as Antarctica. It is also unfortunate that the area known as the high seas is not included in the common heritage. The provisions on the territorial sea, particularly the definition of innocent passage, are not satisfactory in that they do not adequately protect the interests of the coastal State. The new concept of the régime of straits used for international navigation has very little to do with the peaceful uses of the seas since its main purpose, indeed, as we know, is military. The breadth of the territorial sea that has been agreed upon will cause serious problems of adjustment for a large number of States. The provisions on the exclusive economic zone leave much to be desired, especially those on marine scientific research and the preservation of the marine environment. We think the coastal States should have been given more responsibilities and the corresponding power to carry out those responsibilities.

184. Part XI is one of the most important areas of the Convention. In regard to an area and resources declared to be the common heritage of all mankind, it has been our belief that a system whereby all States would undertake all activities jointly would have been the best way of ensuring the equitable distributions of the benefits. At the insistence of the industrial Powers, however, we have compromised on a dual or parallel system. But, even then, the provisions in that part do not strike a particularly good balance to make the system work smoothly and effectively. On the one hand, private companies will have almost automatic access to the unreserved area. On the other hand, however, the provisions are full of loopholes which will impede the availability to the Enterprise of capital and technology to enable it to explore and exploit the resources of the reserved area. The international machinery created in the Convention does also contain aspects that may obstruct international co-operation. In particular, the composition and decision-making procedures of the important organs of the International Authority are plainly undemocratic, especially to the extent that notions of "permanent members" and "veto powers" masquerading under such euphemisms as "special interests" and "consensus" are accommodated.

185. The list is long, and we do not need to continue the enumeration. However, we accept the Convention as it is for two reasons. First, it is an instrument for peace in the oceans. There have been and there still are serious conflicts for ocean space, and an arrangement that promises to minimize those conflicts is worth while for mankind. Secondly, we do so in the hope that the process of negotiations will continue in the future in order to improve the distribution of the benefits of the seas, to achieve greater justice and to maintain peace and order. To achieve these goals many have accepted both the benefits and the sacrifices which this Convention entails. We cannot afford to choose what to take and what to reject, for that would simply mean undoing the treaty. We are going to sign this Convention on Friday with that understanding, and we appeal to those who are faced with a temptation to dissociate themselves from this momentous product of collective endeavour to resist that temptation. We call, in particular, upon the United States, to which all possible concessions have been made in the Convention, to reflect carefully once more on its action, for a wrong decision carries with it consequences of such proportions that it may be beyond our power, let alone the power of one nation, to control.

186. I should like to take this opportunity to pay a tribute to the many people who have greatly contributed to the successful completion of the work that was before us. Every representative has contributed a great deal, but we naturally wish to single out a few who have been very outstanding in the work of the Conference. First, we pay a tribute to Mr.

Pardo, thanks to whom the resource-rich territory now called the common heritage of mankind has been spared a colonial scramble and has been instead decreed to be the property of all mankind. In fact, this Conference has not quite lived up to the great mind of Mr. Pardo. History will not fail to place him in the line of those outstanding figures who have contributed the most to civilization.

187. We would also pay a tribute to Mr. Amerasinghe, who, until his death, guided the negotiations in this Conference, first as Chairman of the Sea-Bed Committee and then as Chairman of the Preparatory Committee, and finally as President of the Conference. The magnitude, complexity and duration of these negotiations are eloquent testimony to his capabilities and dedication.

188. We also wish to express our gratitude to you, Mr. President. You have worked diligently and with dedication as a member of your country's delegation as chairman of the negotiating group on financial arrangements, as chairman of various working groups and, above all, as President of the Conference. The circumstances under which you operated to prevent a threatened abortion of the Convention are there in the records. This Convention is testimony to your intellectual, diplomatic and political gifts.

189. We would also place on record our tribute and appreciation to the Chairmen of the Committees of the Conference. We salute Mr. Engo of the United Republic of Cameroon, Chairman of the Legal Sub-Committee of the Sea-Bed Committee and Chairman of the First Committee of the Conference. A sense of modesty inhibits me from praising a brother, but I cannot resist mentioning here his unwavering and courageous leadership in ensuring justice and impartiality. We would like to see more of us follow his example in this tough world.

190. I think it is fair to say that Mr. Aguilar of Venezuela, Chairman of the Economic and Technical Sub-Committee of the Sea-Bed Committee and of the Second Committee of the Conference, handled most of the issues in the Conference and faced most of the diversities of interests of States. That cannot but bespeak his rare diplomatic skill.

191. Mr. Yankov of Bulgaria, Chairman of the Third Committee, handled what I would call the problems of modern civilization: the marine environment, marine technology and marine scientific research. His contribution in these fields will be felt by all users of the sea, for a polluted sea is nothing but a health hazard. Without technology, little can be done to reap the benefits of marine resources and other uses; without scientific research, the sea would remain a mystery of legendary mermaids. But, on the other hand, unregulated scientific research and the application of technology would only perpetuate and widen the gap between the "haves" and the "have-nots".

192. Mr. Beesley of Canada, Chairman of the Drafting Committee, apart from his great contribution as a person and as a representative of his country, had the very difficult task of guiding the Drafting Committee in bringing order to the Convention in the face of formidable political problems. Thanks to him, we are going to sign a Convention which is consistent and logical.

193. The Conference has been meeting for eight years, and during each session there were, apart from the main committees, numerous negotiating groups and working groups. It is no easy task to co-ordinate all this work and to compile a report at each session. But that work was done, and done admirably. The person responsible is no other than our Rapporteur-General, Mr. Kenneth Rattray. Apart from his active involvement in the negotiations as a representative of his country, Jamaica, he worked very hard to produce order in our report and other documentation. He deserves our gratitude and the gratitude of the Conference . . .

194. The PRESIDENT: I am sorry to interrupt the representative of the United Republic of Tanzania, but he has exceeded his 15-minute time-limit. Could he please try to be more sparing in his praise of the other personalities?

195. Mr. WARIOBA (United Republic of Tanzania): I cannot leave this rostrum without mentioning two other people. I would single out the name of Mr. Christopher Pinto. Having ourselves been deeply involved in matters of the sea-bed from the beginning, we find it irresistible to mention his name as the brain that organized the thoughts of the First Committee, simplified the tangle of issues and revealed their basics, and led us to focus on the main problems.

196. At this Conference, the Group of 77 had an impact, and it is no secret that Mr. Alvaro de Soto was the custodian of the conscience of the Group of 77 in matters in the realm of the Conference's First Committee. In spite of the size of the Group, the novelty and complexity of the subject and the political and technical odds against success, he carried out his task with diligence, the utmost integrity and responsibility, and unequalled perseverance, and carried it out successfully. It is a pity that he is not here with us today, for he contributed much more than most of us to this Conference.

197. Finally, the role of the United Nations Secretariat and supporting staff, led by Mr. Zuleta, is too obvious to have to be explained. The burden they have borne in the technical preparation for and servicing of our numerous meetings has been so heavy that they cannot be thanked in mere words. The successful conclusion of the present Convention and the contribution it will make to mankind is a greater tribute and a more satisfying reward. I join other participants in the Conference in expressing our deep-felt gratitude to Mr. Zuleta and, through him, to his entire team.

198. Mr. SARRÉ (Senegal) (*interpretation from French*): In the course of these lengthy and difficult negotiations, my Government has stated its views, and I shall not repeat them now.

199. With the signing of the Convention on the Law of the Sea and the Final Act, we can say that at last the dream of several decades ago has come true. It was a dream in which we saw all the States of the international community, all their viewpoints merged and all their differences silenced, agreeing to sign a convention governing the use and exploitation of the sea—which, as we all know, covers a greater part of our planet. This positive and historic act will be a major contribution to mankind in its ceaseless quest for peace and stability.

200. Since this Convention covers all aspects of the use of the sea while safeguarding the responsibilities and the sovereignty of coastal States, my country, which is a coastal State and a member of the developing world, can only welcome this event. I am thinking in particular of the formulation of article 15, on the delimitation of maritime borders on the basis of equity, and of the reference to Article 38 of the Statute of the International Court of Justice in connection with implementation of article 74 of our Convention, with which my country agrees. My country welcomes this occasion and is ready to sign the Convention on the Law of the Sea and the Final Act of the Conference.

201. In recent years much has been said of the need to establish a new economic, cultural and political order; that need is indisputable. But, in my delegation's view there are some preconditions for the attainment of that noble objective. It has become imperative, first of all, to arrive at an international consensus on the law of the sea. The sea is the essential linkage between continents and a repository of vast resources of which mankind has such need, and its use deserves rules and procedures to foster understanding and co-operation among nations and peoples. On the basis of these considerations, my country—whose very name "Senegal" is taken from our word for the pirogue, a canoe which is a basic requisite of

sea travel—has done its best actively to participate in the drawing up of this Convention. Also in this connection the Head of State of Senegal, Mr. Abdou Diouf, set up a national committee on the law of the sea, whose foremost task it is to make a greater contribution to the codification of this Convention that we shall soon be signing.

202. Because of the Convention's impact on international peace and security, my country is convinced that certain States Members of the United Nations which have stated their reservations concerning several provisions of the Convention will not fail, considering their responsibilities for the safeguarding of peace, to reconsider their reservations and join in the international consensus.

203. At the time of this historic event, I wish to pay a tribute to all the States which made a contribution to the achievement of this great task. We should all be proud of the spirit of co-operation and understanding shown by all those States throughout the lengthy and difficult negotiations.

204. The skippers of these negotiations also deserve our appreciation and gratitude. I am thinking especially of that illustrious son of Sri Lanka, Hamilton Shirley Amerasinghe, of Mr. Pardo of Malta, of the various committee Chairmen, and of you yourself, Mr. President. With discretion, understanding and effectiveness, you have made a major contribution to the success of the event which we shall be celebrating in a few days here in Montego Bay, Jamaica. Jamaica is an enchanted isle, needless to say, but it is also a crucible of all the races and beliefs of our earth, and we are convinced that it is symbolic that we are signing the Convention in Montego Bay: it is a sign of understanding among men.

205. Therefore, we take this opportunity to thank the people and the Government of Jamaica for their warm and fraternal welcome. I wish also thank the Secretary-General, Mr. Javier Pérez de Cuéllar, and his competent staff, which has shown its devotion to its vocation of the law of the sea.

206. The Convention which we are to sign is an invaluable supplement to the Charter of the United Nations. For that reason, we hope that everything will be done to ensure that it will bring mankind closer together in its common struggle for the establishment of a new era of peace, stability and understanding. It is in that spirit that I reaffirm that my country will sign the Convention on the Law of the Sea and the Final Act of the Conference.

207. Mr. PINTO (Portugal) (*interpretation from French*): After 15 years of discussions and negotiations in which all the arguments have been adduced on the questions raised at the Conference, we think that we can and must be extremely brief in our statement today.

208. It is thus my honour to inform the Conference, on behalf of Portugal, that my country will sign not only the Final Act but also the Convention on the Law of the Sea. Our maritime tradition, our solidarity with the Portuguese-speaking countries which have contributed so much to the Convention, and a realistic analysis of present-day circumstances in the maritime world are at the root of this decision.

209. My Foreign Minister regrets not being with us today—he had to remain in Lisbon owing to other very important duties—but he sends his best wishes for the Convention's future.

210. I conclude by paying a tribute to Mr. Amerasinghe and all those who worked with him; the Secretariat, represented here by Mr. Zuleta; and you, Mr. President. You have all made a decisive contribution to the achievement of this Convention.

211. I take this opportunity to thank the indefatigable Mr. Kenneth Rattray and all the authorities and the people of this charming country, Jamaica, for the marvellous welcome that they have extended to us in Montego Bay.

212. Mr. DANELIUS (Sweden): I wish to start my statement by expressing the satisfaction of the Swedish Government at the fact that we have now reached the end of a long and complicated negotiating process. As a result of our efforts we have before us a treaty which, as regards its scope, its volume and its varied and complex subject-matter, cannot be compared with any previous treaty adopted under the auspices of the United Nations.

213. During the last few months many States have had to consider and decide whether or not they should sign the Convention on the Law of the Sea when it is opened for signature on 10 December. Those States have had to make a general assessment of the Convention and its advantages and drawbacks from a global perspective, as well as from the point of view of the individual States concerned. Sweden is one of the countries which has made such an assessment. In doing that, we have had to conclude, to our regret, that the general development of the law of the sea during the last decades, the culmination of which was the adoption of the Convention, has not been beneficial to Sweden.

214. As a result of its geographical location, Sweden has only to a very limited extent been able to avail itself of the right to an enlarged coastal-State jurisdiction which is one of the main characteristics of the new law of the sea. On the contrary, Sweden has suffered serious drawbacks, in particular as a result of the extension of the fishery zones of other States. I may recall here that during the Conference on the Law of the Sea Sweden joined the group of land-locked and geographically disadvantaged States, the members of which are the losers in the hard competition for the riches of the sea.

215. There are also a number of other aspects of the Convention which do not satisfy the national interests of Sweden. On many occasions during the negotiations we pointed out that the provisions of the Convention regarding the composition of the Council of the International Sea-Bed Authority are in fact discriminatory against small and medium-sized industrialized countries such as Sweden, since those countries will have a much smaller chance than others of ever being represented on the Council. We worked hard to remedy that state of affairs but, unfortunately, without success. The unsatisfactory provisions remain in the Convention.

216. In regard to the protection of the marine environment, we regret that the provisions of the Convention are not in all respects as far-reaching as we would have liked them to be. In our view, the rules contained in that part of the Convention should have given the coastal States the right to take more effective measures to protect their marine environment.

217. While we think that in that respect the interests of coastal States should have been safeguarded more adequately, we consider that in regard to another matter—that is, marine research—the coastal States have been given too extensive rights to exercise control. Indeed, we would have wished the Convention to put stronger emphasis on the principle of freedom of research, which, in our view, is a fundamental prerequisite for development and progress for the benefit of mankind as a whole.

218. I have mentioned a few areas in which the Swedish Government finds that the solutions arrived at in the Convention do not fully correspond to the national interests or the national policies of Sweden. But despite the misgivings which these elements have created in our mind, the Swedish Government has decided to sign the Convention at the end of this week. In taking that decision, the Swedish Government felt that the overriding consideration should be the desire and the duty to contribute to creating an international legal order for the sea. Such a legal order would serve to prevent conflicts and disputes and to improve international relations and co-operation.

219. However, the Convention can be expected to have this beneficial effect only if it is in its entirety widely accepted by States and if it is regarded, at least in its main contents, as expressing the stand of contemporary international law in this field. From this point of view it was a disappointment to us when last April the Convention could not be adopted by consensus. We have also been disappointed to learn that a number of States, in view of their reservations or doubts in regard to certain parts of the Convention, will not find it possible to sign the Convention at this stage.

220. We sincerely hope that these States will find it possible to review their position. To accept certain rules which in a short-term perspective may not appear to be fully consistent with the national interest may in the long run prove to be a wise policy if it contributes to strengthening the universal legal order and co-operation between States.

221. As regards the provisions of the Convention regarding different maritime zones and the rights of the coastal States over those zones, the Convention is not likely to give rise to any important changes in the régime that is now in force in the maritime areas outside the Swedish coasts. In fact, Sweden has already, in different ways, adapted itself to the development of the law of the sea which is now reflected in the Convention. For instance, Sweden already extended its territorial sea to 12 nautical miles a few years ago.

222. As regards the special régime for straits established by the Convention, we note that passage through the two most important international straits outside our coasts—the strait between Sweden and Denmark and the strait between Sweden and the Finnish Aland Islands—is governed in whole or in part by long-standing international conventions. Consequently, the exception provided for in article 35 (*c*) of the Convention is applicable to these straits. In other straits outside our coasts, there is a route through the high seas which, according to article 36 of the Convention, makes these straits exempt from the general free transit régime.

223. As regards the passage of warships and other government-owned ships used for non-commercial purposes through the Swedish territorial sea, we consider that the régime at present applied is consistent with the requirements of the Convention and that consequently this régime can continue to be applied.

224. The Convention contains in article 311 an important provision regarding the relation to other conventions and international agreements. We are not convinced that this article will in practice solve all problems that may arise in this connection. Since Sweden pursues a policy aiming at neutrality in times of war, we have given special attention to the relationship between the Convention and the rules of neutrality in case of war. It is our understanding that the Convention does not affect the rights and duties of a neutral State provided for in the Convention of 18 October 1907 concerning the Rights and Duties of Neutral Powers in Case of Naval Warfare.

225. Some provisions in the Convention are optional in nature. In particular, article 287 of the Convention gives the contracting States the right to choose between one or more of a total of four different means for the settlement of disputes concerning the interpretation or application of the Convention. The Swedish Government will give very careful consideration to this matter. The final decision will be taken in the light of Sweden's traditionally held opinion that strong, compulsory machinery for third-party settlement of disputes is an important and desirable element in international agreements.

226. Like other delegations we are pleased to see that the long and tedious work to revise and codify the law of the sea has now come to an end. The Convention now before us is an impressive document. This is not to say, however, that all problems relating to the law of the sea have been solved. In some respects, for instance as regards the environmental problems, we feel that the work should continue at the world-wide as well as at the regional level.

227. There are also other aspects of the law of the sea which are not dealt with in the Convention but which are worthy of our attention. For instance, the rules of armed conflict at sea are clearly in need of revision. Indeed, some work still remains to be done before we have a complete and coherent system of international law relating to all uses of the sea.

228. Finally, I wish to express, on behalf of the Swedish Government and the Swedish delegation at this Conference, our sincere appreciation and gratitude to the Government of Jamaica for the magnificent hospitality it has extended to us in this beautiful part of its country.

The meeting rose at 1.05 p.m.

188th meeting

Tuesday, 7 December 1982, at 3 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*continued*)

1. Mr. RIPHAGEN (Netherlands): On behalf of the Kingdom of the Netherlands I should like to stress the historic importance of this final session in Jamaica. The Kingdom has traditionally taken a great interest in the régime of the sea. Not only has the sea been the path along which traffic to and from other States has passed but also fisheries have always constituted an important part of our economy.

2. The results of scientific research, particularly in the last few decades, have brought about a radical change in a number of views concerning the various uses of the sea. At the same time, there has been a growing realization that not only the riches of the land but also those of the sea are finite. It is against that background that the Third United Nations Conference on the Law of the Sea started work. Its task, as we all know, was far from simple, since it had been decided that its terms of reference should include every single use of the sea. The fact that the Conference has lasted so long has at the same time resulted in a definite interplay between national legislation on rights concerning the use of the sea and the establishment of internationally acceptable rules of law. As has been pointed out many times during the course of the Conference, the outcome of these protracted negotiations is a compromise with which only a very few States will be entirely satisfied.

3. At the beginning of these negotiations the Kingdom adopted the stand that a system should be devised for the international area that would be for the benefit of the international community and of mankind as a whole and that special account should be taken of the needs of developing countries.

Undeniably, the definition of what constitutes the international area has been radically reduced in the mean time as a result of the wishes of the coastal States concerning jurisdiction over coastal waters. In a comparatively short space of time the concept of economic zones has been incorporated into the domestic legislation of many States.

4. The great importance of the Convention is, however, that it formulates rules of law applicable to all the users of the sea. Each State can require other States to observe the rules contained in it, and we feel it to be of very great importance that the Convention provides procedures for resolving conflicts in a peaceful way should they unfortunately occur. We consider this to be of particular importance in preventing conflicts relating to the many different uses to which the sea can be put.

5. The Government also regards the establishment of the Convention to be a major contribution to the further development of North-South relations.

6. It is a special privilege for me to be able to announce that the Government of the Kingdom of the Netherlands has resolved to sign the Convention during this final session. This is a clear indication of the importance with which the Government of the Kingdom views the establishment of the Convention.

7. The decision to sign the Convention was not reached without difficulty, however. In particular, the provisions in the Convention concerning deep-sea mining are still subject to various objections. This includes those provisions concerning the mandatory transfer of technology. These objections are shared by other industrialized States and give rise to uncertainty as to whether the régime will function sufficiently effectively as to make it possible for sea-bed operations to be carried out by the companies concerned.

8. The Government of the Kingdom will therefore continue its efforts to implement these provisions during the preparatory stage in such a way as to remove those objections as far as possible. In our view, it is in the interests of the international community as a whole that the international sea-bed régime be implemented in such a way that all enterprises interested in deep-sea mining can regard the régime as a spur to continue their work. It is, after all, an experiment which has no precedent, and we hope therefore that it will be implemented with wisdom and that business-like arguments will continue to be decisive in the choices that still have to be made. It will therefore also be necessary to restrict the financial costs to a reasonable minimum. States which are still hesitating about whether or not to participate in the Convention must be given no pretext for refusing on the grounds that the financial costs are too high.

9. My delegation recalls that my country is a member of the European Economic Community and that it has transferred competence to the Community in certain matters governed by the Convention. Detailed declarations on the nature and extent of such competence will be made in due course, in accordance with the provisions of annex IX of the Convention.

10. I should like to make clear that a decision to sign the Convention does not necessarily mean that the Government of the Kingdom has definitely decided to ratify it in due course. A separate decision will have to be taken concerning ratification. The outcome of the further negotiations, including the financial consequences and the overall acceptability of the régime in its final form, will play its part in taking the decision whether or not to ratify the Convention.

11. On behalf of the Netherlands delegation I should like to thank you, Mr. President, in particular for the indefatigable way in which you have presided over these negotiations, especially in the closing stages. You have acted as a sincere interpreter of the wishes of the international community, seeking to do justice to the interests of both the developing countries and the industrialized world. You have shown concern for both the States which stand to gain much from the Convention and those which will gain less.

12. It is also fitting here to recall the work of your predecessor in office, Mr. Hamilton Shirley Amerasinghe of Sri Lanka, since it is because of his leadership that the foundations for the Convention were so solidly laid. I mention in particular his efforts in preparing the articles concerning dispute settlement in the Convention.

13. I regret that it is not possible in the time available to thank every member of the Bureau and of the secretariat personally. Suffice it to say that the Conference would never have succeeded without the unrelenting efforts and co-operation of everyone who was called on to shoulder particular responsibilities during the negotiations.

14. I should like to conclude by thanking our hosts, the Government and people of Jamaica, for their warm hospitality.

15. Mr. de FIGUEIREDO (Angola): The presence of the overwhelming majority of States Members of the United Nations is proof that mankind has a choice of the direction the world will take and that, if we are to exercise this choice intelligently and responsibly, then our solidarity must transcend our differences.

16. "We have not inherited the earth from our fathers, we are borrowing it from our children." Each generation therefore has the moral obligation to treat this trust with respect and not to overuse, misuse or abuse the earth's bounty and the earth's resources, but to use them for the good of all and not just of a few.

17. No longer are the seas and oceans merely adjuncts to life on land, used only for navigation and fishing. They are becoming more and more important for their vast resources of energy, food, minerals and even space. As the demands of the peoples of the earth mushroom, we will turn more and more to the water mass to answer increasing demands.

18. Science and technology have enabled the world to harness the resources of the sea-bed and ocean floor. It should be obligatory on us all to ensure that the riches which technology and science have placed within man's reach do not become a source of further conflict.

19. The land mass has seen conflict and violence for thousands of years, violence whose origins lie in the concept of personal property attained by birth and by acquisition. While the seas have remained free of this concept, some imperialist Powers with their advanced technology have attempted to transplant economic imperialism to the seas by treating them as their national preserve. Their chauvinistic policies have resulted in the extension to the high seas of the colonialism, imperialism and expansionism which have already victimized the land mass of the third world.

20. This economic exploitation is backed by muscle and military might. My delegation hopes that the ocean-based activities generated by military pacts will be controlled by the coming into force of the Convention and that it will act as a deterrent to the formation of new military pacts such as the proposed South Atlantic treaty organization.

21. This Convention and its application will have far-reaching consequences in the way the international community works together. It is an attempt that is called a globalization of policies, an attempt to find a global answer to a global problem. The draft convention may not fully answer all our concerns and needs, but it is at least an attempt to work out a system, if not on the principle of identical interests, then on the principle of parallel interests.

22. Building on these parallel interests between developed and developing countries, between North and South, is the

essence of the new international economic order. The draft convention is the product of years of arduous negotiation, compromises and consensus. It is regrettable, indeed, that those for whom the most compromises were made to enable this Convention to be formulated have now reneged on their earlier commitment.

23. The Convention is not a perfect document. While I am directed to express the intention of my Government to sign both the Final Act and the Convention, I am also directed to place on record the right reserved by the People's Republic of Angola to interpret certain articles in the Convention in the context of Angola's sovereignty and territorial integrity. We intend to refer to our interpretation of certain articles of the Convention at a later date, at the time of ratification.

24. However, we will be signing the Convention with good will and sincerity, with due regard to the norms and the principles of international law. We expect no less from others, in particular on those issues which deal with State sovereignty.

25. We are signing the Convention but we are not signing away our sovereignty. Certain issues with which the Convention deals, such as the right of transit and access to the sea and its resources, are matters to be negotiated in good faith between the States involved and will be considered by my Government on the basis of solidarity, co-operation and friendship, and not as another State's inherent right, under either this or any other convention.

26. Someone once wrote that 30 years was the life of most great treaties, while Hall Fisher in his *Political Prophecies* said that if a treaty served its turn for 10 or 20 years the wisdom of its framers was sufficiently justified. The Angolan delegation hopes that this Convention which we are gathered here to sign will prove to be both just and durable.

27. In conclusion, on behalf of my delegation I wish to thank the Government and people of Jamaica for acting as hosts for such a historic Conference. Mr. President, I should like to pay a tribute to you, to the Secretary-General of the Conference and to the secretariat, whose hard work through all these years has contributed much to the drafting of this Convention.

28. Mr. MARTYNENKO (Ukrainian Soviet Socialist Republics) (*interpretation from Russian*): The delegation of the Ukrainian SSR notes with satisfaction that the United Nations Conference on the Law of the Sea has approached, thanks to the combined efforts of its participants, the final stage of its work after completing the tremendous task of drafting the Law of the Sea Convention.

29. This document embodies in a very special way international legal principles and rules governing the uses of the seas and the exploitation of the resources of the oceans of the world. The great majority of the participants in the Conference have shown their firm conviction to work out a Convention based on the principles of equality and mutual benefit, and a high sense of responsibility with regard to the situation on the world oceans, and they have demonstrated a great deal of moderation and patience. All this has made possible a gradual accommodation of the positions of individual States and has helped to overcome unilateral trends.

30. It is particularly important also to stress the fact that the majority of the participants in the Conference have persistently tried by the adoption of the Law of the Sea Convention to establish a legal régime on the seas and oceans that would contribute to the development of international co-operation which would promote the uses of the ocean space and its resources in the interests of all States, taking into special account the interests of the developing countries.

31. Our delegation believes that the Convention can and must be regarded not only as an outstanding legal act but also as an extremely important political document aimed at the strengthening of peace and security and co-operation among States with different social and economic systems in using the wealth of the world oceans for the benefit of their peoples and for the interests of mankind as a whole.

32. The fact that compromise agreements have been achieved at the Conference is a direct consequence of the deep changes in the whole system of international relations which came about in the 1970s under the impact of the relaxation of international tension. The United Nations Convention on the Law of the Sea has come into being as a result of the efforts made for so many years. It reflects objectively the needs of the world's political and economic development and is testimony to the victory of a reasonable and realistic approach to the solution of international problems. We believe that the main merit of the Convention consists in the fact that the principles of mutual respect and sovereign equality of States underlie its provisions.

33. However, we cannot say the same thing concerning resolution II, which contains unequal requirements with respect to different groups of States as far as the preparatory investments in the pioneer activities for the exploration of polymetallic nodules are concerned.

34. The delegation of the Ukrainian SSR would like to express, as it did at previous sessions, its regrets with regard to the open refusal of the United States to uphold the agreements reached on the question of exploiting the mineral resources of the sea-bed. It must be noted that these agreements were reached with the active participation of the United States delegation. The United States stand in relation to the new Convention on the Law of the Sea has been condemned by the absolute majority of States from the rostrum of the Conference and in the General Assembly. The statements of many participants in the Conference have quite rightly taken note of the refusal of the United States to uphold the agreements previously reached, which is in contradiction with the generally accepted principle of continuity in inter-State relations and pursues the goal of obtaining unilateral benefits for transnational corporations to the detriment of the interests of other countries and peoples.

35. Starting with the consideration of law-of-the-sea questions in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and throughout all eleven sessions of the Conference, the delegation of the Ukrainian SSR, as well as most other participants in the Conference, made every effort to seek mutually acceptable compromise decisions which would contribute to a speedy adoption of a convention and make it possible for most delegations to adhere to it. It is obvious that not all the problems have been solved in the Convention text in a way which would be suitable to each individual delegation, including that of the Ukrainian SSR. But we took account of the fact that the Convention represented a complex package of compromise decisions and abstained from attempts to introduce any amendments in the text of the Convention. We acted in this way in order to preserve the Convention as a whole, for the sake of maintaining a balanced agreement. Therefore, we shall object categorically to proposals aimed at amending, under any pretext, the provisions of the Convention and related resolutions of the Conference.

36. We shall also oppose in the most resolute manner attempts to obtain unilateral advantages from the Convention. The Convention is indivisible, and those who do not want to enter into commitments in this international document cannot count on enjoying the rights granted to the Convention's participants.

37. The delegation of the Ukrainian SSR would like to take this opportunity to state that the Government of the Ukrainian SSR has decided to sign the United Nations Convention on the Law of the Sea at this closing session of the Conference.

38. Our delegation would like at the same time to note that, in signing the Convention, the Ukrainian SSR will abstain from making the declarations provided for in article 310 of the Convention. We expect the same approach from other delegations. We proceed from the assumption here that this kind of interpretative declarations would inevitably provoke many responses from States having a different viewpoint on each question involved and that this might aggravate and complicate the situation at the session and affect the Convention itself. If such declarations are made, the Ukrainian SSR reserves the right to determine its attitude on them at a later stage.

39. As to the option of determining the means for the settlement of disputes provided for in articles 287, 292 and 298 of the Convention, the delegation of the Ukrainian SSR will, in signing the Convention, declare that it opts for arbitration, as set forth in annex VII, as the main means of settling disputes concerning the interpretation and the application of the Convention. To consider disputes concerning fisheries, navigation, marine scientific research and the protection and preservation of the marine environment, including pollution from vessels and by dumping, the Ukrainian SSR opts for special arbitration, as set forth in annex VIII.

40. The Ukrainian SSR intends also to declare that it accepts the competence of the International Tribunal for the Law of the Sea, under article 292, related to questions of prompt release of vessels or their crews.

41. In accordance with article 298, the Ukrainian SSR will state that it will not accept the binding procedures envisaged in paragraph 1 of this article, which entails a binding decision on disputes relating to the delimitation of marine boundaries, disputes concerning military activities and disputes in respect of which the Security Council is exercising the function assigned to it by the United Nations Charter.

42. Our delegation would like to confirm once again the position of the Ukrainian SSR on the question of participation in the Convention. As we have previously done, we firmly uphold the position that the United Nations Convention should be signed by the authorized representatives of the People's Republic of Kampuchea. The bloody Pol Pot régime, which has been discredited by the Kampuchean people, does not have and cannot have any such credentials because it does not really represent anyone.

43. As to the question of participation in the Convention by "self-governing associated States", the delegation of the Ukrainian SSR would like to state the following. If the strategic Trust Territory of the Pacific Islands—Micronesia—which is under the trusteeship of the United States, or any part thereof desires to participate in the Convention, we shall proceed from the fact that under the United Nations Charter any change in the status of a strategic Trust Territory or the conditions of the Trusteeship Agreement can be made only by a decision of the Security Council in accordance with Article 83 of the United Nations Charter.

44. The United Nations Convention on the Law of the Sea should be open for full participation by the Palestine Liberation Organization and other national liberation movements recognized by the United Nations. We consider that the declaration of the resources of the subsoil of the seas and oceans beyond the limits of national jurisdiction as the common heritage of mankind would be deprived of some of its sense and meaning if the peoples struggling for national liberation could not enjoy their rightful part of this heritage.

45. In conclusion, the delegation of the Ukrainian SSR expresses sincere gratitude and best wishes to the Government and the people of Jamaica for their cordiality and hospitality and thanks you, Mr. President, and the Bureau for your efforts.

46. Mr. GAYAN (Mauritius): The Mauritius delegation has gladly accepted the invitation of the Government of Jamaica to come to Montego Bay in order to conclude the work of the final session of the Third United Nations Conference on the Law of the Sea. We are grateful to the Jamaican Government for having offered at short notice to act as host to this large Conference and for the excellent arrangements that have been made to ensure the success of our work here. This augurs well for the Preparatory Commission, which is scheduled to meet in March 1983 in Jamaica, and later, when the Convention on the Law of the Sea has entered into force, for the International Sea-Bed Authority.

47. As we hold in our hands the United Nations Convention on the Law of the Sea, we cannot escape the sentiment that this Convention is much more than a legal instrument; it is a monument to peace and order in the oceans. We are all fortunate in having a part to play in the historic moment when the Convention becomes a living instrument. This is a moment which all of us here have been waiting for, and it is fitting that we should have come back to the Caribbean, where the new law of the sea was initiated, to see the work of the Third United Nations Conference on the Law of the Sea crowned with success.

48. More than 150 sovereign States, as well as Territories not yet independent, have actively participated in the shaping and drawing up of the provisions of this landmark Convention. This Convention is unique not only for what it has achieved in the progressive development of the international law of the sea but also and more so for the promises it holds for the poorer members of the international community. This Convention has also been able to ensure in one text that the interests of all States, big and small, have been taken care of to the maximum degree possible. It has a claim to universality as no other convention has ever had in the history of mankind.

49. Although a convention of this magnitude cannot satisfy every State fully, it is still important to note that this Convention represents the best possible compromise which human effort could have achieved.

50. The Third United Nations Conference on the Law of the Sea set out to establish a legal order for the seas and oceans which would facilitate international communication and promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources and the study, protection and preservation of the marine environment. This has been done in a Convention which contains 320 articles and nine annexes. This is no small achievement. Much time was spent on each one of the articles, and compromises were reached after long and painful negotiations. The legitimate interests of States were fully gone into before an article was included in the Convention. The Conference has had to innovate constantly with negotiating techniques and mechanisms. At no time during all these years of negotiations did we despair of one day succeeding in our efforts to draft a universally acceptable convention. The text of the Convention is by no means a perfect text—it cannot be by the nature of things—but it does represent a political compromise, indeed the best political compromise possible in the circumstances.

51. We look upon this Convention as a package, the contents of which have to be taken as a whole. It contains various mini-packages and it is not possible to open a package without unleashing the danger that all other packages could fall apart. It is on account of this fact that we as a delegation do not compute our gains and our losses in the Convention. We realize that somebody's gains must result in somebody else's losses.

52. When we assess the articles in the Convention individually we cannot but conclude that developing countries have had a raw deal on the whole. The benefits from the exploitation of the exclusive economic zone and the continental shelf

which the developed countries are likely to derive far exceed the benefits which the developing countries can ever hope to derive from their own exclusive economic zones and continental shelves. States like the United Kingdom, Canada, Australia, the Soviet Union have much more to gain from the Convention than other States, especially those in the developing world.

53. The same comment can be justifiably made with regard to sea-bed mining. The system of exploration and exploitation which is enshrined in the Convention is the embodiment of the preference of the industrialized countries for the parallel system, to the detriment of the unitary system. It is good to note that this compromise on the system was made possible by the undertaking given by industrialized countries to give the means, both financial and technological, to the Enterprise, the operational arm of the International Sea-Bed Authority, to make it viable. We may rightly ask ourselves the question whether this undertaking has been fulfilled. We all know the answer to that question.

54. We can also ask the question whether the interests of those developing States that are producers of minerals to be mined from the Area have been adequately protected. These are pertinent questions and the answers, unfortunately, will have to be postponed for a while. What is definite, however, is that Part XI of the Convention represents the ultimate compromise. Any further tampering with it will result in making a mockery of the common heritage of mankind.

55. We do not, however, believe in dissecting the articles in the Convention individually; we prefer to look at the Convention as a whole as a gigantic package.

56. A large part of the Convention is merely a codification of existing customary international law and as such does not pose any problem. Certain matters which were considered as notions during the 1974 session of the Conference held at Caracas have now been translated into international law as a result of widespread State practice. These matters relate to a territorial sea of 12 nautical miles, for example.

57. This Convention confirms the existence in international law of the common heritage of mankind and it has also progressively developed international ocean law. It has recognized the existence of archipelagic States and the rights of land-locked States. This is a matter of special concern to us in Africa because the African continent alone has the largest number of land-locked States.

58. We are particularly gratified to see reflected in the Convention a basically African idea which permits land-locked States to have access to the surplus of living resources.

59. By its insistence on sharing equitably the benefits of the oceans, with regard both to living and to non-living resources, in relation not only to resources lying within the limits of national jurisdiction but also to those lying outside those limits, the United Nations Convention on the Law of the Sea has started preparing the stage for a new international economic order.

60. This Convention has received extensive support from the world community; this indicates that the work of the Conference has been worth while. The Convention has paid particular attention to the needs and interests of the major maritime Powers, particularly to those of the United States and the Soviet Union. We can only express the hope that the reports one hears from the United States to the effect that it is out to kill the treaty because it smacks of world government are not accurate and that at a future date the United States will decide to become a party to the Convention.

61. There can be no possible or viable alternative to this United Nations Convention on the Law of the Sea. Any other arrangement, by whatever name it is called, will be outside the framework of legality. By even contemplating a mini-treaty, States sponsoring such a move are seriously undermining the fabric of international co-operation on which the peace and security of the world depend. A mini-treaty would effectively result in the carving up of the international sea-bed area in a manner reminiscent of the way in which the continent I come from was carved up in the last century. Such steps will be in flagrant violation of the agreed notions in the United Nations Convention on the Law of the Sea.

62. As the Conference winds up its business here this week we shall then set the stage for the Preparatory Commission to start fulfilling its mandate. The mandate of the Preparatory Commission is to deal with technical matters, to put flesh on some of the bones of the Convention, to prepare draft rules, regulations and procedures. It will have to clarify certain articles in order to ensure that there are no ambiguities. On the work and reports of that Commission will largely depend whether or not those States that experience difficulties with the Convention today will eventually become parties to it.

63. The Commission will have to ensure that the same spirit of understanding and mutual accommodation which inspired the work of this Conference to arrive at a universally acceptable Convention on the Law of the Sea is present throughout the deliberations of the Preparatory Commission. In its desire to be realistic and business-like the Preparatory Commission must shed all ideological inferences; it must be in position to call for and accept independent advice and suggestions. It must also avail itself of the powers it will have to make use of outside sources of expertise in accordance with United Nations practice to facilitate its work. It must also ensure that the Enterprise is brought into effective operation as soon as possible.

64. Every State which has been at the forefront of the negotiations and which has fully participated in the drafting of many of the controversial articles of the Convention, and which is thinking of staying out of the Convention, must in my submission think again. It must be in a position to demonstrate its ability to overcome short-term national preoccupations in order to prepare for long-term universal agreement. At a time in the history of the world when mankind needs above all to strengthen international structures and ideals, it is sad to witness the revival of nationalism in some parts of the world.

65. As the curtain is about to fall on the Third United Nations Conference on the Law of the Sea, after so many years of arduous and lengthy negotiations, it is my pleasant duty today to pay a tribute to the invaluable contributions to this Convention made by Mr. Shirley Amerasinghe, the late President of the Conference, and by Mr. Arvid Pardo. Without their contributions and their inspired guidance we should not be here today celebrating the success of the Convention.

66. It is also my pleasant duty to pay a tribute to you, Mr. President, to the other leaders of the Conference—particularly the Collegium—the Secretariat and the non-governmental organizations, especially the International Ocean Institute and the Neptune group, which helped many representatives from the third world to understand the intricacies of certain vital issues in the Convention.

67. In conclusion I should like to say that as we enter the virgin territory of the United Nations Convention on the Law of the Sea we can understand the apprehensions of some people when they are about to do it for the first time. We can only hope that these apprehensions will be short-lived and that those people can enjoy the benefits of the Convention while helping us to share some of the burdens.

68. As far as Mauritius is concerned, we believe that we can live with the United Nations Convention on the Law of the Sea. Faced with the choice between a legal régime for the oceans, which only a few years ago was acceptable even to the United States, and a situation which promotes chaos in the

oceans, we have decided to opt for the legal régime. On Friday, 10 December 1982, Mauritius will sign the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

69. Sir Thomas DAVIS (Cook Islands): I am delighted to be here today in Jamaica to participate in this special session of the Law of the Sea Conference. My representative to the various sessions of this Conference has reported to me in glowing terms your personal active and most positive role in these negotiations, Mr. President. In this respect we are most grateful for your efforts and the efforts of all those who have worked so hard to achieve this milestone in international co-operation.

70. I should also like to express my deepest thanks to our hosts for the excellent facilities provided and for the generous courtesies they have kindly extended.

71. When we first decided to accede to this Convention we did so because we felt very strongly that it would serve the long-term interests of our country in particular and the small island States of the South Pacific region in general.

72. It is my understanding that at one of the plenary meetings of the Conference the question of participation in the Convention by self-governing and Associated States was discussed. I am grateful that the Conference has recognized our right to sign this Convention and thereby receive the benefits and protection of its provisions. On the same note I should like to add that the international community must view the position of small island States realistically. It must accept that there now exists a new breed of State whose dreams and expectations are no different from those of States defined under international law.

73. To this end I should like briefly to review the situation of the Cook Islands, which I believe is representative of many other scattered small island States in the South Pacific, to indicate how important the effect of this Convention will be to a large number of us.

74. The exclusive economic zone of the Cook Islands covers an area of 1,360,000 square kilometres in the centre of the Pacific Ocean. It is one of the larger zones claimed by any country. The Cook Islands comprises 15 small islands spanning a distance of 800 miles from north to south and 400 miles from east to west. Half of these are atolls relying on traditional atoll economies. The islands in the southern group depend upon agriculture and tourism, while those in the northern group depend on copra production, pearling and fishing. The total land mass of the Cook Islands is only 94 square miles. Therefore the importance of the resources of the zone cannot be underestimated.

75. Although the Cook Islands has no commercial fleet of its own, we have entered into agreements with Taiwan and South Korea to fish in the zone. We are now negotiating with other countries to develop the resources of the zone through partnership agreements.

76. Because of its limited resources, the Cook Islands is unable to patrol the zone within its own capabilities. Accordingly, assistance has been given by New Zealand and offered by Australia for air surveillance, and by France for any surface-surveillance requirements.

77. Possessing, as we do, the rights and responsibilities of all nations, we have enacted laws having extraterritorial effect. In particular, in 1977 the Parliament of the Cook Islands enacted the Territorial Sea and Exclusive Economic Zone Act. In 1979 we declared our zone.

78. The Cook Islands Parliament makes its own laws. No other parliament can make laws for the Cook Islands. Only the Cook Islands Government and legislature can take the steps necessary to give effect to obligations under the Convention within the Cook Islands.

79. Following our accession to this Convention, we will be placing before our Parliament the appropriate statutory instruments of ratification.

80. This brief description is representative of many other Pacific nations. We, like others here, are of course disappointed that some large and important countries have chosen not to sign the Convention at this time. Naturally there were questions of principles involved.

81. For our part, we would like to assure these countries that they will be welcome to utilize their much greater technological capabilities in our zone and to exploit the resources in partnership with us and to the benefit of all. It is only a matter of simple negotiation to our mutual benefit.

82. There is in some quarters a distressing and perhaps capricious reluctance to accept some of us as members of the international community. As a result, our problems and those of our neighbouring countries in the Pacific are likely to be overlooked. That is why this Convention, preserving as it does the common heritage of mankind, is so important to us. What is now needed is for some countries that are unfamiliar with the problems of small developing island countries to accept this. In the final analysis, the status of a community depends upon and is a result of the readiness of other States to deal with that community as possessing international personality.

83. I, as Prime Minister of the Cook Islands, have journeyed to sign this Convention because of its economic importance to us. It is my sincere hope that the document before us will indeed assist us and other scattered island nations with a limited land mass but a generous exclusive economic zone. It is also my sincere hope that larger and more fortunate nations than our own will be sympathetic to our future hopes for both the utilization and the nurturing of this resource so that it will be of mutual benefit to us and to those who wish to share it with us.

84. Mr. HAMOUD (Iraq) (*interpretation from Arabic*): I wish at the outset to extend to the people and Government of Jamaica a cordial greeting on behalf of the Government and people of Iraq and on my own behalf. We express to them our thanks and appreciation for the generous hospitality extended to us and for the fine facilities and preparation of the Conference, notwithstanding the short amount of time that has passed since the Government of Jamaica assumed responsibility for acting as host to this Conference.

85. My delegation is also pleased to express its appreciation to you, Mr. President, for the important role you have assumed in the service of this Conference and for bringing it to a successful conclusion from the moment you assumed the duties that fell to you at the death of Hamilton Shirley Amerasinghe, who carried out his responsibilities with great ability and with distinction. Our thanks go also to the other officers of the Conference as well, all of whom have played a most worthy role in ensuring the success of its work.

86. At a time when the Conference is drawing to a close, my country's delegation must also express its thanks and appreciation to the Secretariat and the Secretary-General's Special Representative, Mr. Zuleta, the Executive Secretary, Mr. David Hall, and the other members of the Conference, for having played their important roles so skilfully and with such dedication. We must also pay a tribute to the translation and interpretation services, notably the Arabic interpretation and translation services for the excellent assistance they have provided in spite of the fact that the use of the Arabic language is a recent innovation in United Nations deliberations.

87. The United Nations Convention on the Law of the Sea, which we are about to sign, represents an important development in international law. It is an instrument comprising a delicate balance and compromise among all the peoples of the world; it does not confine itself to protecting the interests of a given group to the exclusion of other groups. All the States

here have sacrificed a part of their interests, and they have done so in order to preserve the vital and noble interests of the international community.

88. Iraq has decided to sign this Convention, in spite of the fact that it does not meet all of Iraq's needs as a geographically disadvantaged State. The Convention gives some rights to such States, but it imposes some restrictions upon them. We have, however, accepted the Convention, in spite of the exclusive economic zone, which we find unacceptable. We continue to believe that that shortcoming can be redressed with good faith on the part of the countries of the region concerned, notably the coastal States on semi-enclosed seas. The Convention has left to those States the possibility of concluding additional, regional conventions to ensure the optimum exploitation of the biological riches of the sea and to provide protection against the risks of pollution, as well as to promote joint scientific research efforts.

89. We would have wished to see the Convention confer upon national liberation movements the status of full-fledged parties, and not merely the status of observers. We base that view on the principle of the rights of peoples to self-determination and to ensure the protection of their national riches. Indeed, that is a principle that has already been approved and recognized by the United Nations. We have, nevertheless, accepted the Convention because we are convinced that victory for those movements is inevitable and that, after that victory, once they have shaken off the yoke of colonialism and foreign occupation, they will adhere to the Convention as full-fledged members.

90. We would also have liked to see a régime set up for the exploration and exploitation of the international zone beyond the limits of national jurisdiction, a régime that would have been immune from exploitation by monopolies belonging to a handful of States. Nevertheless, the nature of the negotiations and the results we have achieved have led us to accept the régime provided for in the Convention, in spite of its many shortcomings.

91. In spite of the criticisms that can be made of the Convention, we believe that it provides us with an excellent régime for the seas and oceans and that it contains a great many positive points. The Convention constitutes a true framework for peace on the seas and the appropriate implementation of its provisions would be a true guarantee for the protection of the interests of peoples and for overcoming all negative factors. For example, the application in good faith of the régime of navigation in international straits, and the extension of that régime to access to straits and their islands, could make of such straits a channel for co-operation and for peace among nations.

92. Iraq's pragmatic policy is based on the principles of non-alignment and peaceful coexistence and on the concern to establish international relations on the basis of mutual respect for the rights of all peoples. That policy has led Iraq to take the decision to sign this Convention. We view the Convention as constituting a codification of the existing rules of international law. It is the sole international instrument that will in the future govern the seas, be it a codification of the existing rules of actual international law currently obtaining between States or the reflection of the will of the overwhelming majority of the international community, as expressed in the vote that took place on 30 April this year. It is our view that any domestic legislation or international convention among a few States that runs counter to this Convention should be considered as lacking any legal validity. We repeat here what has been said by the Chairman of the Group of 77, namely, that any agreement concluded outside the framework of this Convention should be considered as having no legal value and would give States the right to take any measures they deemed necessary to ensure the protection of their rights. The abstention of certain States from signing the Convention is most regrettable, and we address an urgent appeal to those States to reconsider their position and to join us as soon as possible.

93. Finally, I extend my delegation's greetings and thanks to all those who have contributed so whole-heartedly and devotedly to the success of this Conference.

94. Mr. LUSAKA (President of the United Nations Council for Namibia): On behalf of the delegation of the United Nations Council for Namibia, I should first like to express our gratitude for the warm and generous hospitality extended to us by the Government and the people of Jamaica as the host of this historic final session of the Third United Nations Conference on the Law of the Sea, which will culminate in the signing of the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

95. I should also like to pay a tribute to you, Mr. President, for the skill and wisdom with which you have conducted the conclusion of the historic task of preparing this Convention, and to the memory of your predecessor, Mr. Hamilton Shirley Amerasinghe, who for years played a leading role in guiding the work of this Conference.

96. It is a long way from 1609. In that year the Dutch jurist Hugo Grotius published a treatise, *Mare Liberum*, which held that the oceans beyond a narrow belt of territorial waters were open to all nations. As is well known, this concept gradually won widespread acceptance, and the doctrine of the freedom of the seas served well for nearly three centuries. However, the accelerating pace of technology and economic and social progress in recent years have led to the global efforts of which this Conference is a part.

97. The United Nations Council for Namibia as the legal Administering Authority for that Territory until independence has participated in the United Nations Conference on the Law of the Sea since 1977 with a view to ensuring that Namibia's interests are protected. It was a source of great satisfaction to the Council when Namibia became a full member of the Conference in 1980 and later attained the right to sign and ratify the United Nations Convention on the Law of the Sea.

98. Namibia has a vast littoral and sea, rich in fisheries and mineral resources that are a potential source of great wealth for the Namibian people. However, at the present time these resources are being ruthlessly exploited by the illegal occupation régime of South Africa and by foreign economic interests which operate with no regard whatsoever for the welfare of the Namibian people or the integrity of a future independent Namibia. The Council denounces and condemns such activities and reiterates that the exploitation of the resources of Namibia by foreign economic interests under the protection of the illegal South African régime is illegal and contributes to the continuation of the illegal occupation of that Territory.

99. As the legal Administering Authority for Namibia until independence, the Council for Namibia is fully conscious of its responsibility to protect the natural resources of the Territory, which are the inviolable heritage of the Namibian people. To that end the Council has enacted Decree No. 1 for the Protection of the Natural Resources of Namibia and has actively promoted its implementation. The Council has also defended and promoted the interests of the Namibians by holding consultations with Governments, by representing the Territory in international conferences and by encouraging wider public support for Namibia's struggle for independence under the leadership of the South West Africa People's Organization, the sole and authentic representative of the Namibian people.

100. Since it began participating in the Third United Nations Conference on the Law of the Sea on behalf of Namibia, the Council has worked in close consultation with the Group of 77 in matters of particular importance to Namibia,

such as the basic conditions of prospecting, exploration and exploitation of marine resources, and the transfer of technology.

101. In this and other forums, the Council has solemnly declared that Namibia must accede to independence with its territorial integrity intact, including Walvis Bay and the offshore islands, and has unequivocally reaffirmed the relevant resolutions and decisions of the General Assembly to the effect that Walvis Bay and the offshore islands are an integral part of Namibia and that any action by South Africa to separate them from the Territory is illegal and null and void.

102. In signing the Final Act and the Convention on the Law of the Sea, the United Nations Council undertakes to ensure the rights of Namibia over its territorial sea and its exclusive economic zone in accordance with the Council's mandate and the decisions that it adopted in its Arusha Declaration and Programme of Action on Namibia of 13 May 1982. In this connection the Council strongly condemns South Africa's attempts to extend in its own name Namibia's territorial sea and to proclaim an exclusive zone for Namibia, and therefore declares such acts to be null and void.

103. The United Nations Council for Namibia, which on behalf of Namibia now joins in the celebration of this historic occasion, wishes to take this opportunity strongly to reaffirm that it will continue to intensify its efforts to end the illegal occupation of the Territory by South Africa so that the Namibian people may freely exercise its inalienable right to self-determination and independence.

104. Mr. TORRAS de la LUZ (Cuba) (*interpretation from Spanish*): My delegation would like first to express publicly its gratitude to the delegation of Jamaica for the exemplary way in which it has shouldered its responsibilities in preparing for this session, which will enable us successfully to conclude it by 10 December here.

105. I should like also to pay a tribute to the late President of the Conference, Hamilton Shirley Amerasinghe, who among his many contributions undoubtedly rescued it from failure at the second session, when, with his characteristic energy, he ensured that the rules of procedure would be adopted in the envisaged time-limit. We pay a tribute, too, to Mr. Tommy Koh, whose intelligence and negotiating and diplomatic skill made it possible for us to achieve what many delegations, including my own, had thought we could not achieve. Like previous speakers, I would stress the services rendered to the Conference by the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, a tireless and skilful negotiator. Finally, justice demands that we also thank Mr. David Hall, the irreplaceable Executive Secretary of our Conference, and all the personnel of the secretariat, as well as the three vice-chairmen of the main committees, who were the co-architects of our Convention. The efforts of everyone were necessary to achieve the goals that we had set for ourselves.

106. We have travelled a long road, as has been said by a large number of speakers, and we are now at the point of signing the United Nations Convention on the Law of the Sea. There have been few events of such great historical importance. Indeed, this event, by its significance, is secondary only to the signature of the United Nations Charter itself. The Convention that we are about to sign establishes a legal régime for the use of the seas and the oceans and the exploitation of their resources. It is an extremely important step in the development of international law and a valuable contribution to the maintenance of international peace and security, and the elimination of the cause of many conflicts—namely, the refusal of some great Powers to recognize the needs of what is euphemistically called the countries of the third world in regard to the use of their seas and the resources thereof.

107. Our signature of the Convention is justified by the Convention's importance. Moreover, we have now seen that it is possible, if there is a will to negotiate, to achieve a document that can be accepted by an overwhelming majority of States—and at a time when so many negotiations that are important to a large number of States are failing because of the absence of the indispensable political will on the part of certain Powers; that is the case of the North-South dialogue in regard to the new international economic order.

108. All that highlights the historic importance of the Convention that we shall be signing on behalf of our countries. This is the first triumph in our struggle to establish the new international economic order—even if it is a limited triumph. We now have an international system for the exploitation of the polymetallic nodules of the sea-bed situated beyond the limits of national jurisdiction established by the Convention. The fact that the International Sea-Bed Authority, made up of all the Member States, will regulate the exploitation of these immense riches, in order to ensure so far as possible that in the contemporary world these resources will be used for the benefit of countries that are relatively less developed, heralds without any doubt the beginning of a new international economic order in this sphere, which is so important precisely because of its enormous wealth.

109. For all those reasons, which highlight the importance of the Convention, all developing countries and all socialist States that are struggling for social peace and a new international economic order, and even all capitalist countries that share our ideals, must sign the Convention. We cannot overlook the political importance of the Convention to the Group of 77.

110. Namibia is represented by the United Nations Council for Namibia and by the only legitimate representative of its oppressed people, the South West Africa People's Organization. Thus, the representation of Africa is now complete.

111. The Palestine Liberation Organization, which so courageously defended the city of Beirut against the Israeli aggression, thereby winning the admiration of the entire world, is also represented here as an observer. We wish that we could have welcomed it here as a full member, which would have constituted recognition of the sovereign rights of the Palestinian people. Nevertheless, its presence also constitutes an important precedent for other national liberation movements.

112. Despite all these decisive reasons for the Convention to be signed by the countries which voted for it and those which abstained, the United States Government—as has been reported in the international press—has been exerting pressure on some States not to sign the Convention. By acting in that way in regard to a treaty that is supported by the overwhelming majority of the international community, the United States is isolating itself and committing a grave error that will do harm to its own interests, as was stated by even the principal negotiator of the United States during the final period of the Conference. In an article published in the periodical *Foreign Affairs*, he indicated his disappointment about the inflexible attitude of the United States Government, which was preventing that Government from gaining further advantages through negotiations, and he stated:

> "But this loss may seem less important if one compares it with the possibility of the United States deciding to remain on the sidelines of a new international instrument of negotiation and regulation which may count among its members all our allies, as well as the countries of the third world and the socialist countries. This new institution will safeguard the mining interests of our industrial competitors and will reject the claims of our companies with regard to their rights".

113. Thus, this process which has been predicted by such an astute negotiator as the representative of the United States,

Mr. Ratiner, will begin with the signing of the Convention in Montego Bay.

114. This is very important, since when 50 signatures will have been collected, we will decide on the establishment of the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea, which, among its duties, manages the exploration of the sea-bed by pioneer investors, who will only have the right to participate legally when they accede to the Convention. Some of those who advocate the non-signature of the Convention by the United States claim that that country will nevertheless gain certain advantages from the Convention. But, as Mr. Koh has said, the Convention is indivisible; one cannot accept one part of it and reject another part.

115. By signing the Convention, we shall be contributing to its entry into force, which cannot occur until it has been ratified by 60 States. Therefore, we call ardently upon all countries of the Group of 77 to do so as quickly as possible.

116. Mr. JESUS (Cape Verde): On behalf of my delegation, I should like at the outset to thank the Government and the people of Jamaica for acting as host to this final session of the Third United Nations Conference on the Law of the Sea and to say how honoured my delegation is to be in such a lovely country, where no effort has been spared to make our stay comfortable and pleasant.

117. After many years of patient and laborious negotiations, the Conference has succeeded in adopting the United Nations Convention on the Law of the Sea, which my delegation, along with the majority of countries represented at this session, will sign on 10 December.

118. With a view to accomplishing its complex task, the Conference has devoted many years to drafting hundreds of articles governing various uses of the oceans and seas and the exploitation of their resources.

119. Notwithstanding the many crises experienced by the Conference, especially over the past two years, in the final analysis the results are very positive. The Third United Nations Conference on the Law of the Sea has proved that understanding among nations can no longer be based on old-fashioned and outdated rules of conduct.

120. The active participation of developing countries in the Conference has clearly demonstrated that they are fully committed to the creation of a new concept of international law which protects not only the interests of the traditional Powers, on whose exclusive interests international law was founded in the past, but also the needs and legitimate aspirations of new partners in the international law-making process. In this context the United Nations Convention on the Law of the Sea is an instrument of utmost importance in contemporary international law in that it embodies customary international law and is a major achievement in the establishment of new rules and principles.

121. My delegation is confident that, as stated in the very preamble to our Convention,

> "... the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the United Nations as set forth in the Charter".

122. This Convention does not fully protect the interests of any nation, since that is an impossible achievement in any kind of negotiation. In the prevailing circumstances, it does, however, represent the balance of the interests of each nation and all groups of countries that it has been possible to achieve. It is a matter of common sense that the Convention is based on compromises and that its text was fixed by consensus. That is why my country sincerely hopes that the handful of countries which voted against the Convention will join the overwhelming majority of the international community in signing it, and ratifying it when the time comes.

123. My delegation shares the view of those delegations that maintain that no nation is entitled to any right under the Convention or any one of its parts without assuming the correlative obligations.

124. Over the years States came into conflict with each other on the breadth of the territorial sea. Fortunately, the United Nations Convention on the Law of the Sea which we are about to sign solved this problem by allowing the coastal State to extend its sovereignty up to 12 miles from the baseline. The rights that the coastal States are entitled to in that maritime zone coincide with those of its land territory—subject, however, to the right of innocent passage by foreign ships. While establishing this exception to coastal-State sovereignty by setting up rules for innocent passage of foreign ships through the territorial sea, the Convention recognizes to the coastal State the right to enact laws and regulations to safeguard its security interests in accordance with articles 19 and 25, as was clearly recorded in the 182nd meeting of 30 April 1982.[1]

125. My country is one of many that claim archipelagic status. That is why it considers that recognition by the Convention of the concept of archipelagic State is a major achievement for the protection of its legitimate interests in preserving the unity and integrity of its territory.

126. Since almost the beginning of its work the Third United Nations Conference on the Law of the Sea has achieved consensus on the establishment of a 200-mile exclusive economic zone as part of a widely accepted package deal. This consensus was achieved for the sake of compromise, in prejudice to the national interests of a group of countries—among which is my own—which had advocated or already had national legislation establishing a larger territorial sea. The legal nature of the exclusive economic zone as defined in the Convention and the scope of the rights recognized therein to the coastal State leave no doubt as to that zone's character of a *sui generis* zone of national jurisdiction different from the territorial sea and not a part of the high seas. The regulation of the uses or activities which are expressly provided for in this Convention but are related to the sovereign rights and the jurisdiction of the coastal State in its exclusive economic zone falls within the competence of that State, provided that such regulation does not hinder the enjoyment of freedom of international communication which is recognized to other States.

127. The legal régime of the exclusive economic zone under the United Nations Convention on the Law of the Sea also protects the conservation of straddling stocks. In accordance with all the relevant provisions of the Convention, where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the States fishing for such stocks in the adjacent area are duty-bound to enter into agreement with the coastal State upon the measures necessary for the conservation of such stock or stocks of associated species.

128. The Convention deals with other important matters I have not mentioned due to lack of time and sets forth rules and principles which constitute the foundation of the new law of the sea, namely, the principle of peaceful uses of the oceans and the principle of common heritage of mankind.

129. It has been pointed out in the course of this session that one significant achievement of our Conference is the consecration of the principle of common heritage of mankind applicable to the resources of the sea-bed beyond the limits of

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

national jurisdiction. The Convention establishes in its Part XI a balanced legal régime, thus enabling the orderly exploitation of the resources of the sea-bed for the benefit of mankind as a whole. We believe that the interests of all countries in the exploitation of these resources have been properly accommodated and, therefore, no one can justifiably deny it.

130. Before concluding, I should like to pay a tribute, on behalf of my delegation, to the late President of the Conference, Mr. Hamilton Shirley Amerasinghe, in memory of his great and valuable contribution to the development of the new rules of the law of the sea; and to you, Mr. President, for an equally valuable contribution in this regard.

131. Mr. WHITEMAN (Grenada): Every now and then, sometimes once in many decades, mankind takes a giant step forward to resolve a difficulty that faces humanity and to chart a course for the progressive opening up of socio-economic opportunities for the people of the world.

132. The delegation of Grenada believes that this is such a period. The imminent coming to fruition of the United Nations Law of the Sea Convention is such a genuinely historic event.

133. In the first place, the draft treaty before us gives recognition to the 12-mile territorial sea and to the 200-mile exclusive economic zone. These are important steps forward for the developmental prospects of many States world-wide.

134. Secondly, the creation of an international régime of the sea and ocean, as contemplated, is a shining example of mankind's ability creatively and jointly to use its talents, its energies and the resources of the world for development, with equitable benefits for all of humanity. It is significant to note, in this regard, that the peculiarities and interests of the land-locked States are also taken into account. In other words, this proposed Convention opens up new avenues and possibilities for nations throughout the world.

135. However, there is another aspect which is just as important if not more so. It is that the provisions of the Convention, by clarifying issues with respect to conflicting claims among neighbouring States, will actually help to enhance the cause of peace.

136. After nine years of effort, a comprehensive document covering all aspects of the use of the sea for peaceful purposes has now been realized. It is our duty to express our gratitude to all those who inspired, guided and laboured on several draft documents over the years, so much so that today we have before us a finished product with world-wide consensus.

137. The People's Revolutionary Government of Grenada has always taken the firm and clear position that our Caribbean Sea must be recognized and respected in practice as a zone of peace, independence and development. This proposed Convention is consistent with our Government's perspectives.

138. This Convention, the culmination of years of discussion, demonstrates once more that in reality our nations do have quite a great deal in common. It shows that it is possible to make progress in the North-South dialogue and in the quest for a new international economic order, along the lines indicated by the Brandt Commission. After all, in a certain sense one can see the creation of this very International Sea-Bed Authority as a step in the direction of a new international economic order, which is so vital to island States and other developing States.

139. The Government of Grenada fully supports this Convention. We see it as a positive step for the development of a brighter future for all mankind. We look forward enthusiastically to the signing of the document.

140. We are also pleased that the national liberation movements, including the South West Africa People's Organization and the Palestine Liberation Organization, have participated in the discussions.

141. No nation, no matter how large and technologically powerful, could realistically have expected the Convention to meet all its objectives. It is, after all, an international effort to take into account the concerns and interests of all States. Therefore, we express the hope that all States will see their way to ensuring the full acceptance of the Convention. We find it highly inadvisable that even at this late stage, despite a clear world consensus, attempts are being made to put together a so-called mini-treaty. This will merely place the interests of the transnational companies above the interests of the people of the world. Such an attempt is, at the very least, divisive. It will also widen the socio-economic and technological gap between States and is of questionable legality.

142. At this point in time it is the duty of the entire world community to take the necessary practical steps to make the substance of this treaty a living reality.

143. In conclusion, my delegation wishes to express our appreciation to the United Nations staff for its dedicated work on this Convention. We also express our gratitude to the Government and the people of Jamaica for acting as host to such a historic and successful Conference. Grenada believes that future generations will be pleased with the work which is taking place here this week since it is so clearly in the interest of humanity.

144. Mr. ZUMBADO JIMÉNEZ (Costa Rica) (*interpretation from Spanish*): Mr. President, we are fortunate that a person of your ability and talent has taken up the torch in conducting the negotiating process, following a tradition of exemplary leadership. It is also most fortunate that we have the assistance of Mr. Bernardo Zuleta and an efficient secretariat in this effort.

145. My delegation shares the view of the Prime Minister of Jamaica, Mr. Edward Seaga, and other speakers regarding the great importance of the Convention to be signed on Friday, 10 December. It is the most important document to be signed since the signing of the United Nations Charter.

146. Indeed the Convention constitutes an important step in the implementation of the fundamental principles that inspired the Charter, especially the quest for greater equity in economic relations among States and the promotion of machinery to foster a climate of peace and security.

147. This Convention moreover comes at a time when the United Nations has as Members more than three times the number of States it had when it was founded. It is the product of a high level of consensus and the active participation of young nations and nations that have enjoyed a longer period of independence. It is therefore an agreement that looks to the future but is based on present political reality.

148. For that reason the now commonplace statement that the sea-bed is the common heritage of mankind is most fortunate in view of the number of sovereign citizens making up the universal consensus who are represented here.

149. For Costa Rica this is a special occasion: the adoption of a Convention that states that a frontier yet to be explored and exploited should be given special consideration as regards the rationality and equity of its exploitation. We are thus presented with an opportunity to put technology which is now available to a few to good use in the service of all, thus laying the foundations for the expansion of the limits of scarcity and more fully satisfying the urgent needs of all countries, especially those that are less developed.

150. If we hope in some way to close the gap separating the rich countries from the poor countries, we must spare no effort to make the technology available for the exploitation of the oceans' riches serve to close that gap, not widen it.

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114. This is very important, since when 50 signatures will have been collected, we will decide on the establishment of the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea, which, among its duties, manages the exploration of the sea-bed by pioneer investors, who will only have the right to participate legally when they accede to the Convention. Some of those who advocate the non-signature of the Convention by the United States claim that that country will nevertheless gain certain advantages from the Convention. But, as Mr. Koh has said, the Convention is indivisible; one cannot accept one part of it and reject another part.

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126. Since almost the beginning of its work the Third United Nations Conference on the Law of the Sea has achieved consensus on the establishment of a 200-mile exclusive economic zone as part of a widely accepted package deal. This consensus was achieved for the sake of compromise, in prejudice to the national interests of a group of countries—among which is my own—which had advocated or already had national legislation establishing a larger territorial sea. The legal nature of the exclusive economic zone as defined in the Convention and the scope of the rights recognized therein to the coastal State leave no doubt as to that zone's character of a *sui generis* zone of national jurisdiction different from the territorial sea and not a part of the high seas. The regulation of the uses or activities which are expressly provided for in this Convention but are related to the sovereign rights and the jurisdiction of the coastal State in its exclusive economic zone falls within the competence of that State, provided that such regulation does not hinder the enjoyment of freedom of international communication which is recognized to other States.

127. The legal régime of the exclusive economic zone under the United Nations Convention on the Law of the Sea also protects the conservation of straddling stocks. In accordance with all the relevant provisions of the Convention, where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the States fishing for such stocks in the adjacent area are duty-bound to enter into agreement with the coastal State upon the measures necessary for the conservation of such stock or stocks of associated species.

128. The Convention deals with other important matters I have not mentioned due to lack of time and sets forth rules and principles which constitute the foundation of the new law of the sea, namely, the principle of peaceful uses of the oceans and the principle of common heritage of mankind.

129. It has been pointed out in the course of this session that one significant achievement of our Conference is the consecration of the principle of common heritage of mankind applicable to the resources of the sea-bed beyond the limits of

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

national jurisdiction. The Convention establishes in its Part XI a balanced legal régime, thus enabling the orderly exploitation of the resources of the sea-bed for the benefit of mankind as a whole. We believe that the interests of all countries in the exploitation of these resources have been properly accommodated and, therefore, no one can justifiably deny it.

130. Before concluding, I should like to pay a tribute, on behalf of my delegation, to the late President of the Conference, Mr. Hamilton Shirley Amerasinghe, in memory of his great and valuable contribution to the development of the new rules of the law of the sea; and to you, Mr. President, for an equally valuable contribution in this regard.

131. Mr. WHITEMAN (Grenada): Every now and then, sometimes once in many decades, mankind takes a giant step forward to resolve a difficulty that faces humanity and to chart a course for the progressive opening up of socio-economic opportunities for the people of the world.

132. The delegation of Grenada believes that this is such a period. The imminent coming to fruition of the United Nations Law of the Sea Convention is such a genuinely historic event.

133. In the first place, the draft treaty before us gives recognition to the 12-mile territorial sea and to the 200-mile exclusive economic zone. These are important steps forward for the developmental prospects of many States world-wide.

134. Secondly, the creation of an international régime of the sea and ocean, as contemplated, is a shining example of mankind's ability creatively and jointly to use its talents, its energies and the resources of the world for development, with equitable benefits for all of humanity. It is significant to note, in this regard, that the peculiarities and interests of the land-locked States are also taken into account. In other words, this proposed Convention opens up new avenues and possibilities for nations throughout the world.

135. However, there is another aspect which is just as important if not more so. It is that the provisions of the Convention, by clarifying issues with respect to conflicting claims among neighbouring States, will actually help to enhance the cause of peace.

136. After nine years of effort, a comprehensive document covering all aspects of the use of the sea for peaceful purposes has now been realized. It is our duty to express our gratitude to all those who inspired, guided and laboured on several draft documents over the years, so much so that today we have before us a finished product with world-wide consensus.

137. The People's Revolutionary Government of Grenada has always taken the firm and clear position that our Caribbean Sea must be recognized and respected in practice as a zone of peace, independence and development. This proposed Convention is consistent with our Government's perspectives.

138. This Convention, the culmination of years of discussion, demonstrates once more that in reality our nations do have quite a great deal in common. It shows that it is possible to make progress in the North-South dialogue and in the quest for a new international economic order, along the lines indicated by the Brandt Commission. After all, in a certain sense one can see the creation of this very International Sea-Bed Authority as a step in the direction of a new international economic order, which is so vital to island States and other developing States.

139. The Government of Grenada fully supports this Convention. We see it as a positive step for the development of a brighter future for all mankind. We look forward enthusiastically to the signing of the document.

140. We are also pleased that the national liberation movements, including the South West Africa People's Organization and the Palestine Liberation Organization, have participated in the discussions.

141. No nation, no matter how large and technologically powerful, could realistically have expected the Convention to meet all its objectives. It is, after all, an international effort to take into account the concerns and interests of all States. Therefore, we express the hope that all States will see their way to ensuring the full acceptance of the Convention. We find it highly inadvisable that even at this late stage, despite a clear world consensus, attempts are being made to put together a so-called mini-treaty. This will merely place the interests of the transnational companies above the interests of the people of the world. Such an attempt is, at the very least, divisive. It will also widen the socio-economic and technological gap between States and is of questionable legality.

142. At this point in time it is the duty of the entire world community to take the necessary practical steps to make the substance of this treaty a living reality.

143. In conclusion, my delegation wishes to express our appreciation to the United Nations staff for its dedicated work on this Convention. We also express our gratitude to the Government and the people of Jamaica for acting as host to such a historic and successful Conference. Grenada believes that future generations will be pleased with the work which is taking place here this week since it is so clearly in the interest of humanity.

144. Mr. ZUMBADO JIMÉNEZ (Costa Rica) (*interpretation from Spanish*): Mr. President, we are fortunate that a person of your ability and talent has taken up the torch in conducting the negotiating process, following a tradition of exemplary leadership. It is also most fortunate that we have the assistance of Mr. Bernardo Zuleta and an efficient secretariat in this effort.

145. My delegation shares the view of the Prime Minister of Jamaica, Mr. Edward Seaga, and other speakers regarding the great importance of the Convention to be signed on Friday, 10 December. It is the most important document to be signed since the signing of the United Nations Charter.

146. Indeed the Convention constitutes an important step in the implementation of the fundamental principles that inspired the Charter, especially the quest for greater equity in economic relations among States and the promotion of machinery to foster a climate of peace and security.

147. This Convention moreover comes at a time when the United Nations has as Members more than three times the number of States it had when it was founded. It is the product of a high level of consensus and the active participation of young nations and nations that have enjoyed a longer period of independence. It is therefore an agreement that looks to the future but is based on present political reality.

148. For that reason the now commonplace statement that the sea-bed is the common heritage of mankind is most fortunate in view of the number of sovereign citizens making up the universal consensus who are represented here.

149. For Costa Rica this is a special occasion: the adoption of a Convention that states that a frontier yet to be explored and exploited should be given special consideration as regards the rationality and equity of its exploitation. We are thus presented with an opportunity to put technology which is now available to a few to good use in the service of all, thus laying the foundations for the expansion of the limits of scarcity and more fully satisfying the urgent needs of all countries, especially those that are less developed.

150. If we hope in some way to close the gap separating the rich countries from the poor countries, we must spare no effort to make the technology available for the exploitation of the oceans' riches serve to close that gap, not widen it.

151. My country therefore considers it vital that we continue to give special attention to problems pertaining to the transfer of technology and issues of technical co-operation since we are attempting to ensure not only that those who have technology today will use it for the benefit of all but also that as many of us as possible are in a position to extract from the sea its many benefits.

152. My country also considers that one of the most positive achievements of this Convention is the strides it takes in universal understanding of the importance of the protection and preservation of the oceans and the conservation and sound management of ocean resources. The sea makes us realize how closely the fate of other peoples is related to our own, how fragile and how great is the potential of nature. This is an area in which international legislation is indispensable. In our judgement this Convention is an important step forward with respect to international legislation relating to the environment.

153. Our country takes special interest in the rational exploitation of highly migratory species, since tuna is one of the riches of our exclusive economic zone in the Pacific. For the Government of Costa Rica, the provisions of our national law requiring that foreign vessels pay for fishing permits to fish in our exclusive economic zone apply also to fishing for highly migratory species, which is in conformity with articles 62 and 64 of the Convention.

154. Costa Rica is a country whose security depends upon respect for international law. We could not be absent on this occasion. On 10 December we shall with our signature make our own small contribution to that new international economic order to which we aspire.

155. With all respect we wish to urge those States that have reservations about the Convention to take this step forward with us. Universal acceptance of this Convention is a necessary, though not in itself sufficient, condition for the reaching of that ultimate goal we have set for ourselves, that of ensuring that the sea will in fact be the heritage upon which we shall base a large part of our well-being. We are confident that ultimately goodwill, solidarity and indeed national interests themselves will ensure universal acceptance of the Convention.

156. Finally, we should not like this opportunity to pass without expressing our thanks to the Government of Jamaica, the worthy representative of its people, for the wonderful hospitality it has shown. It is a fortunate circumstance that our Atlantic coast is relatively close to this marvellous island, so that a great many of our own people see Jamaica as a second home. Knowing this country as we do, it comes as no surprise to us that, small though it is, Jamaica has shown itself to be more than equal to the task entrusted to it by the international community on this occasion.

157. Mr. BOUSSE (Belgium) (*interpretation from French*): Mr. President, on behalf of Belgium I have the pleasure and honour of congratulating you and the members of the United Nations Secretariat and all your associates and co-workers on the efforts that have so significantly contributed to the success of this Conference. I also wish fully to associate myself with the heartfelt expressions of gratitude that other delegations have addressed to those eminent persons that have been the principal promoters and actors in this long and sometimes difficult process of negotiation. I myself have for some three years been an inhabitant of this wonderful island of Jamaica, where we are meeting today. It is therefore with full knowledge of the facts and special affection that I wish most especially to thank our friends and hosts in Jamaica for their warm hospitality. I also hope that the establishment of the headquarters of the International Sea-Bed Authority, the crowning of the tireless efforts of the Jamaican delegation at this Conference, will be completely successful, benefiting the Authority as well as the host country.

158. Belgium fully understands the importance of the Convention before us for signature by the States participating in this Conference. We are aware of its economic and political implications. My country believes that, as other speakers have stated, the Convention is based on the quest for a global compromise and that it attains that objective in the majority of issues it addresses through the adoption of texts that are the result of real compromises among all the points of view upheld during the debate.

159. Questions such as the status of the territorial sea, the exclusive economic zone, passage through straits, the circulation of warships and so on have been solved to the satisfaction of practically everyone.

160. However, with respect to the régime of exploitation of ocean mineral resources, Belgium takes the view that the spirit of compromise was not maintained to the same degree. As a result, the provisions of Part XI of the Convention give rise to concerns on the part of my Government that, in our view, justify its making a more exhaustive study of the matter. On the basis of that study, which is currently being conducted, the Government of Belgium will reach a definitive decision as to whether or not it will sign the Convention.

161. The signing of the Final Act of this Conference by Belgium, which my delegation has been authorized to do, confirms my Government's sincere desire to see the work of this Conference achieve success in arriving at a consistent and equitable world maritime law.

162. The reservations I have expressed do not, therefore, constitute a definite decision but are inspired, rather, by an understanding of the great importance and profound consequences of the provisions of the Convention.

163. Mr. GONZÁLEZ ARIAS (Paraguay) (*interpretation from Spanish*): When the Third United Nations Conference on the Law of the Sea was convened in 1973, my country participated in it with enthusiasm and hope. The stated objective of the Conference was to establish a new order with regard to the oceans that would replace the system hitherto in force, one that had given rise to recognized injustices.

164. I need not enumerate here all the serious difficulties for our development that the land-locked situation of my country has created since the seventeenth century. As examples, I need only mention the difficulty of transit to and from the sea, the additional cost this imposes on our trade, and our scant or complete lack of participation in the exploitation of the vast resources of the oceans.

165. My country, from the earliest period of its independent life, attempted to end the oppression with which it was afflicted as a result of its being unable to enjoy a sea coast. To that end, it negotiated with its neighbours for free access to the seas, and in the middle of the last century ships flying our flag were navigating the seas, extending our trade, and linking us with friendly nations in the most distant parts of the world and thereby stimulating a tremendous development in our trade throughout that period.

166. Unfortunately, although the seas had been recognized as being free for the navigation of all States since the very dawn of the modern era, their navigation and exploitation were, in practice, for long the privilege of those nations most favoured geographically, or those whose resources, technology or naval power enabled them to take advantage of it. Most nations, upon emerging from the sorry status now known as colonialism, lacked such means for competing on an equal standing in the use of the seas.

167. Therefore, my country enthusiastically supported the idea that began to emerge in recent decades that a new beginning, based on new principles, should be made to supplement and extend the scope of the principle of the freedom of the seas: the principle that the oceans are the common heritage of mankind. The seas, like outer space and the heavenly bodies,

are potentially within the reach of all mankind, and their benefits should therefore be equally distributed among all human beings. By the same token, only an equitable distribution, free of selfishness and greed, can enable the international community to enjoy those resources effectively and in a peaceful manner, for where injustices exist, there violence exists also, and where there is violence, peace is not possible.

168. Inspired by those principles, my delegation actively participated, in so far as it was able, in the Third United Nations Conference on the Law of the Sea for the establishment of a new international order that would be more just and equitable than the one heretofore in force, one that would ensure to all mankind and, in particular, to those engaged in the harsh struggle against underdevelopment, the benefits of the exploitation of the seas. We therefore set out to achieve at this Conference a new order that would serve as an effective instrument for the progress of mankind.

169. After eight years of intensive negotiations, we today find ourselves with a final text of a Convention that satisfies our expectations only in part. We have a legal instrument that is still imperfect, but one that reflects a great advance over former documents. That is why my Government has decided to sign it on this solemn occasion.

170. We are very pleased at the fact that the Convention establishes for the first time a legal framework to ensure adequate participation for land-locked countries in the utilization of the oceans in all its aspects. We would like in particular to express our satisfaction at the fact that it ensures our full participation in the exploitation of the resources of the high seas and sea-bed. This, of course, is an area of the sea where the principle of the common heritage of mankind has been fully implemented.

171. We would also like to express our satisfaction at the fact that article 69 of the Convention sets forth the right of land-locked States to participate in the exploitation of the living resources of the so-called exclusive economic zone. We interpret that right in the most extensive possible way, and we firmly believe that in the future, when the potential of land-locked States is demonstrated in practice in this area, the severe limitations established in subparagraphs 2 to 4 of that article may be reviewed and revised.

172. We cannot, however, express the same degree of satisfaction with the present drafting of article 125, which refers to what we consider to be a basic and fundamental right of States in the same geographical situation as our own. In that article, the right of access to and from the sea and freedom of transit of such States is set forth, and we can only interpret this right in its broadest possible meaning under international law at present in force.

173. We also regret the serious erosion of the principle that has been mentioned so often, that of the common heritage, resulting from the granting to coastal States of a right over the continental shelf beyond the 200-mile limit, as in article 77, even when that loss is partially compensated by the establishment of payments and contributions with regard to the exploitation of non-living resources to be made by the Authority under article 82. As we understand it, the formula set up for the determination of those payments is the best that could be achieved in present circumstances. We believe, however, that it will also be possible to revise this in the future so that its essential objective, that of providing a new and important source of resources for mankind's development, may be safeguarded.

174. In pointing out those areas of dissatisfaction—and I could mention others—my delegation does not wish to appear unaware of reality. We know, as does everyone else, that we now have before us the best text which the nature of the conflicting interests during the Conference permitted us to expect. We are fully convinced that all representatives here have deployed their best efforts to obtain the best possible advantages to satisfy our national interests. But we also know that any agreement is born precisely of reciprocal concessions. In deciding to sign the Convention, my country is fully aware of the advantages and sacrifices that this may bring with it; but we prefer the order which this Convention will provide for our relations on the seas to the disorder which could result from maintaining the *status quo*.

175. For those reasons my delegation, I repeat, joins in supporting this historic Convention which is before us and requests that all participants in the Conference do the same, so that all States of the world together may now make this order of which we have spoken so often a genuine and effective one.

176. Finally, I should like to take this opportunity to express my delegation's gratitude to the Government of Jamaica for its generous and splendid hospitality, as well as to the Conference secretariat for the effective and efficient way in which it has been carrying out its tasks.

177. Mr. ALI (Oman) (*interpretation from Arabic*): In keeping with the President's recommendation, I shall be brief. I shall confine myself to stressing what previous speakers have said in expressing their thanks to the people and Government of Jamaica for serving as host to this Conference and for the hospitality that has been showered upon us.

178. I wish also to join previous speakers who have expressed their thanks to the Conference secretariat, as represented by Mr. Zuleta; the Executive Secretary, Mr. David Hall; and the other members of the Secretariat.

179. I must pay a tribute, too, to the memory of former President Hamilton Shirley Amerasinghe.

180. Allow me to thank you, Mr. President, for your wise guidance of the Third United Nations Conference on the Law of the Sea.

181. The Sultanate of Oman is convinced of the necessity to find a legal régime governing the use of the seas and the oceans and has contributed actively to all the sessions of the Third United Nations Conference on the Law of the Sea. My delegation has made specific suggestions on certain parts of the Convention and, within the framework of the Group of 77, has made concessions on other parts. As all the problems pertaining to the seas and the oceans are closely interdependent, it is necessary for Oman to study the provisions of the Convention scrupulously before reaching a final decision on it. We hope that that study will take place in the near future.

182. The delegation of Oman will sign the Final Act of the Third Conference on the Law of the Sea.

The meeting rose at 5.10 p.m.

189th meeting

Wednesday, 8 December 1982, at 10 a.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*continued*)

1. Mr. ZEGERS (Chile) (*interpretation from Spanish*): The Government of Chile wished to express its deep satisfaction at the fact that this solemn meeting is taking place in Jamaica, a sister country of the Latin American region, which has made an important contribution to the new law of the sea.

2. The presence of more than 120 States in this session to sign the Final Act and the Convention reflects 15 years of negotiations, culminating in the adoption of one of the most important instruments in the history of multilateral negotiations and of international law.

3. The Convention embodies the legal and political unity of the seas and oceans and their uses. It is designed to regulate man's activities in two thirds of the world's surface in one of the greatest diplomatic efforts ever known.

4. The process and the results are remarkable; there is not a single article in this universal treaty, its annexes and related resolutions that has not been negotiated by consensus. This has been possible owing to the general desire to create an instrument inspired by the greatness and the common good of mankind. Neither the power possessed by some States nor the force of the majority and the vote were misused, the prevailing rule was harmonization of interests and co-operative work in the creation of lasting work.

5. Along this long road which is today arriving at a decisive phase, we should recall that great man who was President of the Committee for the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, the Preparatory Commission for the Conference and, for many years, the Conference itself, Mr. Hamilton Shirley Amerasinghe, to whose memory we should all pay our respects; the representative of the Secretary-General, Mr. Bernardo Zuleta, whose activities, like those of the Secretariat, have been so decisive in the success of the Conference; as well as his predecessor, Mr. Stravropoulos; you, Mr. President, who have served the Conference so ably and have led it to a successful conclusion; the Chairmen of the Committees; the Rapporteur-General, who is present; the Chairman of the Drafting Committee; the other great figures of the Conference, among whom I would single out, because of his important co-operation in the preparation of the central chapters, Mr. Jens Evensen; and our marvellous Secretary—a symbol of the spirit of service that has motivated us all—the Executive Secretary, David Hall.

6. The negotiation by consensus of an instrument of this scope—one of the most important in the history of the United Nations, as has been said by the Secretary-General himself—has great implications for the law of the sea, international law in general, the future style and the fate of international co-operation and, finally, the United Nations and international organizations as a whole.

7. Indeed, from such negotiation has emerged a modern, strong and balanced law of the sea fashioned from tradition and renewal and from harmony and realism.

8. This negotiation has demonstrated a form of the progressive development of international law, which will serve as a precedent in other negotiations such as the North-South dialogue and similarly important talks. Finally, there can be no doubt that the machinery of international co-operation will be strengthened by it. The moment when this instrument is to be signed will represent a transition between that admirable process now reaching its culmination and the initiation and implementation of the new law of the sea and a horizon between the old and the new, a time of renewal and possibilities, a historic and providential crossroads.

9. I am confident that we shall largely exceed the 50 signatures necessary to set in motion the Preparatory Commission for the International Sea-Bed Authority. These signatures will come from all continents and from all levels of development and political systems. In this beautiful city we shall turn a new page of decisive importance.

10. The future of the Convention and the new law of the sea will in great measure depend on what we do and how we proceed in the Preparatory Commission, whose work is about to begin, with regard to its constitution, its style, its methods of work and its work itself. In the first place, it will be necessary to maintain and perfect the method and, in fact, the style of consensus and on that basis to prepare the regulations and the provisions relating to the régime for the sea-bed in such a way as to make them effective and facilitate universal participation, which is so desired.

11. We shall also have to proceed with judgement, vigour and realism, so as to promote support from international public opinion.

12. At the same time, we should encourage the greatest possible number of signatures and quickly obtain the 60 ratifications required to bring the Convention into force, thus creating the impetus necessary for the implementation of this constitution of the oceans.

13. In the implementation of this new law of the sea, we must take into consideration not only the sea-bed régime but also the many important chapters comprising the law of the sea in general.

14. The legal order of the oceans and, most especially, the interests of the developing countries require the special attention of all States in this implementation. The fisheries-management régime, the properly regulated prevention of pollution, the promotion of scientific research, the acquisition of marine technology and the registration of baselines and geographical co-ordinates, among many other matters, are fundamental and should be dealt with in the legislation and activities of States, give rise to bilateral and regional agreements and govern action by the United Nations, its specialized agencies and the regional commissions.

15. To assist the international community in the implementation of the new law of the sea in order to co-ordinate the various efforts of international organizations and, most especially, to promote the Convention as an instrument of development and equity on a world scale, we trust that we shall be able to continue to rely on the permanent division for law-of-the-sea matters. Its assistance—so essential in the work that has been accomplished—will remain equally important in the phase now beginning, for the signing of the Convention on the Law of the Sea is not only a culmination but also the beginning of a new process of incalculable implications.

16. For Chile, a maritime country engaged in fishing, with nearly 7,000 kilometers of coastline along its continental, island and Antarctic territory, the Convention has enormous importance. Chile's interests are involved in most of the Convention's institutions, which, in general, are acceptable to us. It is with a sense of deep satisfaction that my country will sign the Convention, basing itself fundamentally on the fact

that the Convention fosters the primacy of law, co-operation among States and international order and justice.

17. In addition to an efficient and a balanced set of rules, for the first time in history the Convention establishes a comprehensive system for the settlement of disputes characterized both by its flexibility and by its generally binding nature. In exercise of the right conferred by article 310 of the Convention, the delegation of Chile wishes in the first place to confirm in its entirety the statement we made at the 164 meeting on 1 April 1982,[1] when this instrument was adopted.

18. In particular, I wish to refer to the essential legal concept of the Convention—the 200-mile exclusive economic zone—to whose drafting my country was able to make an important contribution. For we were the first to declare such a zone, in 1947, 35 years ago, and subsequently we contributed to defining and ensuring success internationally for the concept that the exclusive economic zone should have a *sui generis* legal nature, as distinct from the territorial sea and the high seas. It is an area under national jurisdiction in which the coastal State exercises economic sovereignty and in which third States enjoy freedom of navigation and overflight and rights pertaining to international communications.

19. The Convention defines it as a space of coastal jurisdiction, linked to territorial sovereignty and to the territory itself, in terms similar to the other maritime spaces, namely, the territorial sea and the continental shelf. With respect to straits used for international navigation, the delegation of Chile wishes to reaffirm and confirm in its entirety the statement made in April of this year and contained in the record I have already mentioned, as well as the contents of the additional written statement dated 7 April 1982, contained in document A/CONF.62/WS.19.[1]

20. With respect to the international régime of the sea-bed, I wish to reiterate the statement made by the Group of 77 at the session last April, pertaining to the legal concept of the common heritage of mankind, the pre-existing reality of which was solemnly confirmed by the Declaration of Principles adopted by the General Assembly in 1970[2] and which is characterized as *jus cogens* by the present Convention. Any acts that may be carried out contrary to that principle and outside that régime would, as has been demonstrated in this debate, lack any legal validity or content.

21. I should not like to conclude my statement without referring to the role that has fallen to Latin America in the development of the new law of the sea. Our region made a decisive contribution to shaping the new trends that have prevailed in this Convention.

22. Special mention should be made of the member countries from the South Pacific—Ecuador, Chile, Peru, and later Colombia—which began the evolution of the new law of the sea with the Santiago Declaration pertaining to the 200-mile limit that was formulated in 1952.[3] For these countries and the organization uniting them, the Standing Commission of the South Pacific, the result of the Conference is a political success and the consecration and international recognition of the zone that they incorporated into their national heritage and jurisdiction 30 years ago. In this respect my delegation wishes to recall the statement made by our delegations on 28 April last, contained in document A/CONF.62/L.143.[1] For a united Latin America, this is an impressive legal and political achievement which demonstrates what the region can do when it acts by consensus and with clear objectives. This Convention, opened for signature in a Latin American country, is a good omen for other achievements.

23. At this especially moving moment for those of us who have had the privilege of participating in the decade and a half of intense work and negotiation behind the new order of the oceans, I should like to say that this has been a road paved with satisfaction and lessons embodied in the dedication and effort of great diplomats and jurists, most of them present among us. The United Nations Conference on the Law of the Sea was prepared by consensus, harmonizing interests, bearing in mind always the good of mankind and looking to the future, which is the essential nature of any lasting work. Its implementation should turn so many expectations and so noble an effort into reality and it should excourage as far as is possible the involvement of all the participants in the implementation of this universal law the birth of which we are witnessing.

24. Mr. VRATUŠA (Yugoslavia): I should like to begin my statement by saying that it gives me much personal pleasure to be here in Jamaica, a country to which I was accredited as the first Ambassador of the Socialist Federal Republic of Yugoslavia in 1968. I am happy to note that since then our two non-aligned countries have maintained friendly relations. This is reflected in our successful bilateral co-operation and is also evidenced in our co-operation at the Third United Nations Conference on the Law of the Sea.

25. The Yugoslav delegation therefore welcomed with pleasure the offer by the Government of Jamaica, the country which will be the seat of the Preparatory Commission and of the International Sea-Bed Authority, to act as host to the Conference for the signing of the Final Act and the opening of the Convention for signature. I wish to thank the Government and the people of Jamaica for the warm hospitality extended to us.

26. This Conference has traversed an arduous road since the first substantive negotiations held in Caracas in 1974. Thanks to patient and persistent negotiations we have, in our opinion, concluded our task successfully, being fully conscious of the significance of mutual concessions and compromises made for the sake of a viable global legal order applicable to the world's seas and oceans and, we trust, for the benefit of the world community as a whole.

27. The Yugoslav delegation has from the very outset supported the concept of the common heritage of mankind. It has taken an active part in the negotiations for legal regulation of that principle and for the establishment of an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction, including appropriate international machinery. Thus, for the first time in the history of international law, relations between States and the area beyond national jurisdiction are based on the principle of the common heritage of mankind. The developing countries, desirous of ensuring the broadest co-operation on the basis of a new convention, have agreed to the establishment of the so-called parallel system for the exploitation of resources in the international area. Another unilateral concession has been made by the developing countries in resolution II, governing preparatory investments in pioneer activities relating to polymetallic nodules.

28. The Yugoslav delegation shares the position of the Group of 77 that this is the upper limit of concessions; otherwise, the very essence of the principle of the common heritage of mankind would become meaningless. Consequently, although no one is fully satisfied, the solution achieved has opened the possibility for co-operation between developed and developing countries. For these reasons I wish to join those delegations that have appealed to States which have not yet found it possible to join the consensus to do so as soon as possible. I also share the view that all tendencies and actions aimed at bypassing, through unilateral actions, the provisions of the Convention concerning deep-sea mining in the Area are illegal.

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

[2] General Assembly resolution 2749 (XXV).

[3] See *Yearbook of the International Law Commission*, 1956, vol. I

29. The provisions on the transfer of technology to the Enterprise under fair and reasonable conditions and the provisions on the initial financing of the Enterprise are in fact the essence of the parallel system. Furthermore it is obvious that the International Sea-Bed Authority must efficiently manage the common heritage of mankind, if we do not wish to bring that very concept into question.

30. From the very beginning Yugoslavia has supported the principle of exercise of full and permanent sovereignty by all States over their national resources and has taken a firm stand that this principle should be applied in the progressive development of the international law of the sea. As a matter of fact, the exclusive economic zone, up to 200 nautical miles, has already become an institution of customary international law that is widely applied by coastal States in practice, and it constitutes a significant result of this Conference.

31. Yugoslavia is situated on the coast of a narrow and semi-enclosed sea, and due to its geographical position it has limited possibilities in establishing its exclusive economic zone. Open to international co-operation, Yugoslavia will continue to promote such co-operation with all the neighbouring countries bordering on the Adriatic Sea and with countries in the Mediterranean region as well.

32. The Yugoslav delegation supports the provisions of the Convention according to which within the exclusive economic zone there shall be freedom of navigation and overflight and freedom to lay submarine cables and pipelines, as well as other freedoms of the high seas which the coastal State shall respect in exercising the rights and jurisdiction in that zone with respect to other States. Yugoslavia attaches special significance to freedom of navigation in and flights over routes through the high seas or through the exclusive economic zone in straits used for international navigation which are wider than the territorial seas of the States bordering the strait to which the provisions of article 36 of the Convention refer.

33. We have accepted the present solution contained in the Convention recognizing the right of land-locked and geographically disadvantaged States to share the surplus of the allowable catch established by the coastal State in its exclusive economic zone. Yugoslavia recognizes the priority of the demands of the developing countries concerning surpluses over the allowable catches in the exclusive economic zones of the coastal States in the region and sub-region. This does not, however, exclude bilateral co-operation between developing coastal States of different regions and sub-regions in this field.

34. The Yugoslav delegation has reluctantly accepted the provisions on the breadth of the continental shelf beyond 200 nautical miles, considering, like many other countries, that such an extension is detrimental to the principle of the common heritage of mankind. We have accepted the compromise that coastal States with extensive continental shelves shall, in good faith, make payments or contributions in kind from the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles through the Authority to the States parties to this Convention, taking into account the interests and needs of the developing States.

35. The Yugoslav delegation considers that the inclusion in the Convention of the section on the settlement of disputes constitutes an important achievement in the development of international law reflecting the reality of prevailing international relations. In this connection it is important to emphasize the fact that throughout the entire period the Conference adopted decisions on essential questions by consensus. A vote was, as we know, requested only at the time of the adoption of the Convention and resolutions I to IV. In the preparation of the Convention, and in its adoption, mutual understanding developed among the developed and developing countries. This, *inter alia*, suggests a possibility for the establishment of fruitful co-operation in the implementation of the Convention as well. Certain specific interests did not hamper action-oriented unity aimed at realization of basic common economic-political objectives. This particularly applies to the Group of 77, which throughout the Conference maintained its unity and initiative on all essential questions on the agenda.

36. Analysis of the provisions of the Convention, its annexes and resolutions adopted on 30 April 1982 show that they comply with the national interests and constitutional principles of Yugoslavia and the basic lines of its international policy as a non-aligned and developing country. It is true that some solutions differ to a certain degree from its initial position. This is an unavoidable result of negotiations and compromises made in search of consensus. We share the expressed determination of the widest majority that the Convention should as soon as possible become an effective international code of the legal order governing the international seas. Consequently the Yugoslav delegation has been authorized to sign the Convention as soon as it is opened for signature. In the same spirit the Federal Executive Council will initiate the procedure for ratification in conformity with the Constitution and laws of Yugoslavia.

37. The Yugoslav delegation attaches particular importance to the preparations for the implementation of the Convention, particularly those parts related to the international régime and the system of exploitation of the Area which constitutes the common heritage of mankind. All organs of the United Nations system, as well as national and regional institutions, should make an effort to prepare for the implementation of the Convention and realization of its objectives when it enters into force. In this connection we also support the numerous activities aimed in that direction, and especially programmes concerning financing, the transfer of technology and the training of required experts, for the exploitation and management of marine resources.

38. In conclusion, I wish whole-heartedly to join preceding speakers who have recalled with gratitude the dedication and outstanding contribution on the first President of the Third United Nations Conference on the Law of the Sea, Hamilton Shirley Amerasinghe. At the same time, the Yugoslav delegation would like to express to you, Mr. President, its sincere appreciation of the efforts made and wisdom manifested in ensuring a successful outcome for this highly significant codification project of the United Nations. It also thanks the Collegium. This success is twofold. It constitutes an important achievement of international law in one of the most complex and broadest fields of relations among States and peoples, and it is a reaffirmation of the role of the United Nations, which is so needed in the present-day world.

39. Finally, the Yugoslav delegation wishes to thank all the officials of the Conference, particularly the Special Representative of the Secretary-General, Ambassador Zuleta, and the secretariat of the Conference for their efforts, co-operation and diligence throughout this long period of negotiations, which has culminated in the successful and solemn conclusion of a highly important undertaking.

40. Mr. TOLENTINO (Philippines): I shall begin by conveying to the Government and people of this beautiful island country of Jamaica the appreciation of my Government for the warm hospitality and cordial attention that we have received here since our arrival. I also congratulate you, Mr. President, for the success of this Conference and for a job well done. Because of your diplomatic skill, your absolute dedication and your untiring efforts in guiding the course of this Conference in its most difficult period, we will now be able to sign the Final Act and the United Nations Convention on the Law of the Sea.

41. We remember too with gratitude the able leadership of Mr. Amerasinghe during the first part of this Conference. We

are also indebted to the Chairmen of the Committees, the working groups and the negotiating groups for the progress in the work of this Conference over the nine-year period.

42. Lastly, but not least, we must acknowledge the efficient and admirable assistance given to us by Mr. Zuleta, by Mr. David Hall and by the staff of the Secretariat.

43. We are happy that we have reached the conclusion of our labours. In utmost candour, however, I must say that my Government and my delegation are not fully satisfied with the text of the Convention that we have approved. In the course of our negotiations during this long period we put forth some proposals dictated by peculiar circumstances relating to my country. We attached—and we still attach—great importance to those proposals in the light of my Government's concerns. Some of them, which we considered very vital to us, were not accepted by the Conference.

44. This notwithstanding, impelled by a spirit of compromise and accommodation and in the interest of ensuring the rule of law and international order in the seas and oceans of the world, my Government, after deliberation and consideration at the highest levels, has decided and has accordingly instructed my delegation to sign the United Nations Convention on the Law of the Sea.

45. We regard this Convention as a triumph of the conscience of mankind in the field of international law. It represents the collective decision of an overwhelming number of members of the family of nations, as shown by the vote on 30 April 1982, when we approved it with 130 votes in favour, 4 against and 17 abstentions.

46. In the past the rules of international law were framed and dictated by the big Powers, to be observed by the rest of the nations of the world. For the first time in the history of international law we shall have in the present Convention a set of rules formulated by the combined will of the great majority of States, regardless of size or power, in an assembly where equality and freedom in the making of decisions prevailed as a guiding principle.

47. This Convention therefore is a historic milestone in the progressive development of international law, a monumental achievement of co-operation and goodwill among nations. Its provisions, many of them introducing new concepts, will govern the seas and the resources of the world for generations to come, even long after the individuals who participated in this Conference are long gone and forgotten. Any State acting outside or in defiance of the terms of this Convention would be doing so without any legal basis for its actions.

48. Among the new concepts of the Convention is that of the archipelago. The Philippines advanced the archipelago principle as early as 1956, and we have established it in our national legislation. We are therefore happy that the principle has finally been recognized and accepted as part of public international law. Although we would have been much happier if our proposed amendments in this area had gained general acceptance, we are satisfied, principally because of the inclusion of two basic considerations on archipelagos in the text of the Convention.

49. The first of these is the recognition of the concept that an archipelago is an integrated unit in which the islands, waters and other natural features form an intrinsic geographical, economic and political entity. No longer will the various islands of an archipelago be regarded as separate units, each with its own individual maritime areas, and the waters between them as distinct from the land territory.

50. The second welcome basic consideration that gives us satisfaction is the recognition of the sovereignty of the archipelagic State over the archipelagic waters, the air space above them, the sea-bed and subsoil below them and the resources contained therein. The text states explicitly in clear terms the only qualification to this sovereignty by providing that this sovereignty is to be exercised "subject to this Part"—referring to Part IV of the Convention, on "archipelagic States". No qualification or limitation, therefore, outside of Part IV, on the exercise of sovereignty by the archipelagic States over the archipelagic waters would be valid. To make provisions outside of Part IV applicable to the archipelagic waters, the Convention expressly so provides in several of its parts.

51. One consequence of this is that the archipelagic waters are subject only to two kinds of passage by foreign ships, provided in Part IV of the Convention, namely, innocent passage and archipelagic sea-lanes passage. This refers to all archipelagic waters or waters inside the archipelagic baselines, wherever located, whether around or between islands, and whatever their breadth or dimensions. Transit passage therefore, available to foreign ships in straits used for international navigation under Part III of the Convention, would not be available to them in these national or domestic straits entirely within the archipelagic baselines.

52. Such national straits could be subject to sea-lanes passage if the archipelagic State so decided. Of course the elements of sea-lanes passage are practically the same as those of transit passage. But while transit passage is imposed by the Convention on the waters of the coastal States concerned, sea-lanes passage can be exercised by foreign ships in archipelagic waters only in such sea lanes as the archipelagic State may designate and establish.

53. Sea-lanes passage does not impair the sovereignty of the archipelagic State over the waters of the sea lanes. Incident to this sovereignty, the archipelagic State could validly enact legislation to ensure compliance of ships exercising sea-lanes passage with the obligations and duties imposed on them by the Convention. Among these duties is that of refraining from any threat or use of force against the sovereignty, territorial integrity or political independence of the archipelagic State.

54. I beg representatives' indulgence for dwelling at length on this matter of sovereignty of the archipelagic State over the archipelagic waters, their air space, sea-bed and sub-soil, and resources. In one way, my emphasis indicates that this matter of sovereignty was the weightiest consideration leading to the decision of my Government to sign the United Nations Convention on the Law of the Sea.

55. But I must state that we have some problem with the Convention's provisions on the limits of the territorial sea. During the sessions of the Conference my delegation, on various occasions, explained the unique nature and configuration of our territorial sea and tried to claim an exception for it. We claim these waters under historic and legal title. Their outer limits were set forth in the Treaty of Paris between Spain and the United States of 10 December 1898 and the Treaty of Washington between the United States and Great Britain of 2 January 1930. These limits were expressly acknowledged by the United States in our Mutual Defence Treaty with that country of 20 August 1951 and its related interpretative documents. We have existing legislation, both of a constitutional and of a statuatory character, confirming those limits. At one point—to show the peculiar character and configuration of our territorial sea—the outer limit of these historic waters is over 200 miles from the shore, but at several other points it is less than three miles.

56. One can readily see from that that we would really have some problem with the 12-mile limit on breadth of the territorial sea provided in the Convention. My Government has studied the problem; it is a very difficult one for us. But that notwithstanding, my Government decided that it will sign the Convention.

57. The determining factor in arriving at that decision, as we have repeatedly stated, has been the sovereignty of the archipelagic State over the archipelagic waters, their air space,

sea-bed and sub-soil, and their resources—because that sovereignty will bind together, in the eyes of international law, the islands, waters and other natural features of the Philippines as an intrinsic geographical, economic and political entity.

58. Our problem on the matter of our territorial sea is a difficult one indeed, but, in the opinion of our delegation and our Government, it is not insurmountable. Somewhat lightening this problem is the new concept of the exclusive economic zone provided as a new concept in the Convention. In the 200-mile belt of water around our archipelago the Philippines will have sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the sea-bed, the sub-soil and the superjacent waters. In addition, the Philippines would have sovereign rights in the exclusive economic zone in regard to other activities of economic exploitation and exploration—such as the production of energy from the waters, current and winds—as well as sovereign jurisdiction over such matters as scientific research and the protection of the marine environment.

59. Our satisfaction with the exclusive economic zone may be better appreciated when we consider that the Philippine exclusive economic zone is more than 132,000 square nautical miles bigger than our historic territorial sea and, therefore, almost compensates for that territorial sea. This net gain in resources by virtue of the exclusive economic zone has contributed to the affirmative decision of my Government to sign the United Nations Convention on the Law of the Sea, which we shall do on Friday, 10 December.

60. In closing, may I state that when we sign the Convention we shall submit also a declaration in exercise of the right granted under article 310.

61. Mr. JACOVIDES (Cyprus): This historic session marks the culmination of what has been rightly described as the most significant multilateral law-making undertaking since the drafting of the Charter of the United Nations.

62. Cyprus, an island State located in the Mediterranean Sea between three continents—Europe, Asia and Africa—is vitally concerned with the legal regulation of the uses of the sea in a just and orderly manner, ensuring fairness and predictability.

63. According to legend, it was off the coast of Cyprus that Aphrodite, the goddess of love and beauty, rose from the foam of the glittering sea. According to history, our sea-faring tradition and involvement with the sea go back more than 3,000 years. Our past, present and future are inexorably meshed with the sea and its uses.

64. It is right and fitting that this historic occasion take place in Jamaica, another island State, with which we are related by bonds of close friendship and co-operation. We take particular satisfaction in the fact that we are among the first to have supported our host country's claim to be the site of the International Sea-Bed Authority. May I take this opportunity, in the dual capacity as leader of the Cyprus delegation to the Conference and my country's representative to Jamaica since 1973, to say how very pleased I am at this felicitous turn of events and sincerely to thank the Government and the people of Jamaica for the warm hospitality and excellent facilities they have provided for our work.

65. Those of us who have actively participated in the Third United Nations Conference on the Law of the Sea from its beginning might be permitted by way of stocktaking to look back, because of sentiment as well as of reason, and to view in broad perspective what our aims and objectives were then and to what extent they have been met by the finished product now about to be finally signed. In terms of the substantive part of the Convention, these aims and objectives—following in the wake of the extensive preparatory work carried out in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction—were outlined in our statement in the general debate at the Caracas session in 1974;[4] and in terms of the peaceful settlement of disputes arising out of the substantive provisions of the Convention, our position was set out in our statement at a plenary meeting in New York in 1976.[5]

66. Looking back to these positions we can say with conviction, and perhaps with a certain degree of justified satisfaction, that these aims and objectives have been to a large extent met, both from the point of view of our national interests and from the point of view of the broader interests of the international community as a whole. For that reason I am pleased to be able to state that Cyprus will sign both the Final Act and the Convention itself.

67. That this universal legal régime, this veritable constitution for the seas and oceans, has been successfully concluded is as much a tribute to the many dedicated individuals—too many to mention by name and several of whom are present at this historic session, as is only right and fitting—as to the collective wisdom and moderation of the international community. It is a tangible example that the newly independent States and the developing countries are fully capable of making a constructive contribution and exhibiting the proper sense of responsibility for the common good. It has been a victory not of individual States or of any particular group of States, but for reason, the rule of law and mankind as a whole. It has been demonstrated that through a process of compromise and consensus the Conference in most instances did strike a judicious balance between, on the one hand, the new and even revolutionary approach required by the technological, political and economic changes and trends of our times and, on the other, the retention of those positive rules of traditional international law which have stood the test of time and have served well the needs of the international community. The concept that the resources of the sea-bed beyond the limits of national jurisdiction are the common heritage of mankind and the creation of the appropriate machinery for administering them for the benefit of mankind as a whole are an example of the former. The principle that islands are entitled to the same rights as continental territories in terms of their entitlement to the zones of maritime jurisdiction is an example of the latter. The elements of progressive development and codification of the international law of the sea are evident throughout the Convention.

68. Obviously it is impossible during the limited time allocated here to address the enormous range of subjects and issues which are regulated in the Convention's 320 articles and nine annexes, and I shall restrict myself to touching upon only a very few.

69. Cyprus, which extended its territorial waters to 12 miles in 1964, is particularly pleased that such an extension has been entrenched in article 3 as the generally applicable rule.

70. As an island State, in common with other island States and States which consist of continental and insular territory, we have argued strenuously against the attempt to discriminate against and diminish the position of islands by creating artificially novel distinctions based on legally untenable considerations such as size, population, geographical location, and so forth. Therefore we are fully satisfied with the Convention's provision under Part VIII, régime of islands, that

> "the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory." [A/CONF.62/122, art. 121, para. 2]

[4] See *Official Records of the Third United Nations on the Law of the Sea*, vol. I, 40th plenary meeting.
[5] *Ibid.*, vol. V, 60th plenary meeting.

71. Similarly we note with satisfaction that the delimitation of the territorial sea between States with opposite or adjacent coasts is, in the ordinary case, based as in the past on the principle of equidistance and that in the absence of a specific provision in the present Convention it can be presumed that this principle is also the rule for the delimitation of the contiguous zone as prescribed in the 1958 Convention. While we would have preferred a more clear-cut formulation of the delimitation of the exclusive economic zone and of the continental shelf between States with opposite or adjacent coasts, we understand the reasons for the present formulation, especially since it has been our position all along that the overall objective should be to reach an equitable result in accordance with international law by applying the median line, where appropriate.

72. Similarly, my delegation is satisfied with the present text in Part IX, enclosed or semi-enclosed seas, since our consistent position has been that the States bordering such seas should co-operate with each other in the exercise of their rights and in the performance of their duties under the Convention in such matters as combating pollution, fisheries protection and scientific research; but we are opposed to the attempt to create particular rules for such seas in derogation of the universal rules of the Convention.

73. My delegation particularly welcomes the provisions in Part XII for the protection and preservation of the marine environment, as well as the general provision in Part XVI for the protection of and jurisdiction over archaeological and historical objects found at sea and, more specifically, within the contiguous zone.

74. There can be no doubt that the system for the peaceful settlement of disputes that may arise regarding the interpretation and application of the United Nations Convention on the Law of the Sea is one of the important accomplishments of this Conference. In the large majority of cases, the possibility exists, as between the parties to the Convention, for an effective dispute-settlement system, thus providing for stability, certainty and predictability, which would have been lacking if the parties to the Convention had retained the right of unilateral interpretation. We now have a significant advance from the 1958 situation with an ineffectual optional protocol, which very few States ratified.

75. Our own position on this subject during the formative stages of the Conference was that the general principle of equal justice under the law required an effective, comprehensive, expeditious and viable dispute settlement system entailing a binding decision regarding all disputes arising out of the substantive provisions of the Convention. We considered such a system to be the necessary corollary to the substantive rules of the Convention and that it should form an integral part of the Convention.

76. This position, which was shared by many other delegations, has been met only to a certain extent. Much ingenuity and hard bargaining have gone into devising the present system and in the end, while the principle for which we stood was upheld, it was made subject to a series of exceptions so complex in certain respects as to require Ariadne to find one's way out of the resulting labyrinth. These exceptions, and more particularly as far as my delegation is concerned that in article 298, paragraph 1 (*a*), were the outcome of protracted debate and negotiation. It became increasingly clear that a substantial number of States were unwilling to submit issues affecting their national sovereignty to third-party settlement entailing a binding decision, and this view prevailed in so far as it concerned sea-boundary-delimitation disputes. The compromise has been to apply the non-binding procedure of compulsory resort to conciliation. This has been the concession to political reality and the price paid for consensus. The hope has been expressed that in sensitive issues of sea-boundary-delimitation disputes the compulsory recourse to the conciliation procedure may, in practical terms, serve the same purpose. It remains to be seen whether this will in fact prove to be so.

77. To conclude, I would say that in evaluating the result of so many years of work we must view it in the proper perspective. Like most other delegations, we cannot say that we are fully satisfied with each and every provision of the Convention. Undoubtedly there exist imperfections and shortcomings. We can detect ambiguities where there should have been clarity, complexities where there could have been streamlining, and exceptions where there should have been a general rule. But we fully realize that this is the price that had to be paid in working out a complicated and ambitious undertaking, through compromises necessitated by the objective of reaching an overall agreement by consensus. "Politics is the art of the possible", it has been rightly said and this applies equally to multilateral law-making within the United Nations. By definition, order is preferable to chaos and anarchy and, as current events in many parts of the globe harshly remind us, there is dire need for international legal order. The United Nations Law of the Sea Convention is a veritable constitution for the seas and oceans and in an imperfect world goes a long way towards meeting that need. On balance, the net result is a monumental achievement and deserves general support.

78. Mr. MARINESCU (Romania) (*interpretation from French*): The United Nations Convention on the Law of the Sea we shall be signing at this session is of particular importance for the development of international maritime relations. The Convention's provisions are designed to facilitate international communications and promote the peaceful uses of maritime space, the equitable and efficient use of its resources and the protection of marine flora and fauna.

79. We should like to express the hope that the implementation of these objectives will contribute to the establishment of a just and equitable new economic order reflecting the interests of all States, developing States in particular.

80. By contributing to the codification and progressive development of the law of the sea, the new Convention should ensure the strengthening and further development of co-operation among nations, in keeping with the principles of equal rights for all States, respect for national sovereignty and independence, non-interference in internal affairs and mutual advantage.

81. None of the provisions of the Convention could or should be contrary to the purposes and principles of the United Nations as embodied in its Charter or to the generally accepted norms of contemporary international law. The implementation of the Convention must lead to the strengthening of peace and security throughout the world, the prevention of international disputes and differences and the settlement of those already existing, exclusively by peaceful means, and the elimination of acts of force and the threat they pose to international life.

82. Any interpretation contrary to these purposes and principles would be likely to endanger the application of the Convention and the attainment of its basic objective relating to the restructuring and establishment of maritime relations on a new, just and equitable basis.

83. We cannot accept the idea that some States which will not be signatories to the Convention could benefit from all the rights granted in its provisions while having no obligations. The new legal regulations embody all the rights and obligations of States in the complex process of the peaceful uses of the seas and oceans of the world; they stipulate that all questions relating to the oceans are closely interrelated and must be approached as a whole. This concept, which pervades all the regulations enshrined in the Convention, is contrary to the trend in some States to structure their maritime relations according to the advantages they may derive and without taking into account the obligations stated in the Convention con-

cerning national zones of jurisdiction and the international area of the sea-bed, as well as scientific research, transfer of technology and prevention and control of pollution of maritime flora and fauna.

84. Including as it does several provisions relating to access by other States to the living resources of the economic zones, the new Convention gives expression to the concept of promoting international co-operation in this area.

85. Furthermore, the right recognized to geographically disadvantaged countries to have access to the living resources of the economic zones of other States is at the same time limited to the regions or sub-regions in which these States are located. That does not take appropriate account of the circumstances of some countries in this category which, like Romania, are located in a region or sub-region that is poor in living resources and, consequently, should have access to the living resources of the economic zones of other regions or sub-regions.

86. As a geographically disadvantaged country bordering on a sea poor in living resources, Romania reaffirms the need for development of international co-operation in the sphere of exploitation of the living resources of economic zones on the basis of just and equitable agreements ensuring access by countries of this category to the living resources of the economic zones of other regions or sub-regions.

87. With regard to the delimitation of maritime space, the Convention provides that in the case of the continental shelf that will be done by means of agreements among interested parties, on the basis of international law, with a view of reaching an equitable solution.

88. The principles and the criteria embodied in the text of the Convention form a general framework that must be applied in keeping with international law, the jurisprudence in the matter and the practice of States. In this sense, reaching an equitable solution presupposes taking into account all the factors relevant to the zone being delimited, including the fact that small and uninhabited islands lacking their own economic life cannot in any way influence the delimitation of the maritime space belonging to the main coastlines of the coastal States.

89. Concerning passage of foreign warships through territorial seas, Romania reaffirms the right of coastal States to adopt measures to protect their security interests, including the right to adopt national regulations concerning passage of such ships through the territorial sea.

90. The right to adopt such measures is fully in keeping with the provisions of articles 19 and 25, and this is clear also from the statement made by the President of the United Nations Conference on the Law of the Sea at the 176th meeting of the Conference on 26 April 1982,[1] as well as from other provisions on the status of the territorial sea. Under these regulations, the territorial sea is an integral part of the national territory and is under the full sovereignty of the coastal State. That is why nothing could prevent the coastal State from adopting national regulations to protect its security interests.

91. On the question of the international sea-bed zone, my delegation reaffirms that the implementation of the resolution relating to preliminary investments must be fully in keeping with Part XI of the Convention and the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, adopted by the United Nations General Assembly on 17 December 1970.[2] The application of the provisions of that resolution should in no way violate the principle that the resources of that area should be exploited for the benefit of all mankind, account being taken of the needs of all States and, first and foremost, of developing countries. The Convention embodies and develops the principles stipulated in the Declaration adopted by the United Nations General Assembly in December 1970, in which the sea-bed beyond the limits of national jurisdiction and its resources are proclaimed to be the common heritage of mankind. The drafting of this concept is one of the major results of the Conference. In keeping with these principles, the exploration and exploitation of the resources of that zone must be undertaken for the benefit of all peoples.

92. Unilateral measures of exploration and exploitation of the resources of the sea-bed are contrary to the provisions of the Convention and to the concept of the common heritage of mankind. That is precisely why all States must ensure that all provisions of the Convention are respected and applied in the national areas of jurisdiction and in the international areas of the sea-bed.

93. At the same time, we believe that the need to use the seas and oceans in the interests and with the participation of all peoples entails the development of international co-operation in this field through the implementation of scientific research programmes and the achievement of the requirements of the Convention with regard to the development and transfer of marine technology. On that basis it will be possible to increase participation by all States, and primarily by the developing States, in the exploitation and the just and equitable utilization of the resources of the world's oceans.

94. The implementation of the Convention presupposes the creation of the Preparatory Commission, and then of the International Sea-Bed Authority. In keeping with the provisions of the Convention some organs are to be set up to facilitate the development of international co-operation in the field of marine scientific research and the struggle against pollution, and to resolve differences. The Romanian delegation would like once again to stress, as it has done before along with other delegations during Conference debates, that all useless expenditure should be avoided both in setting up those organs and in their operation. Those organs and the services they entail should accomplish their tasks efficiently, with minimum expenditure, which presupposes a responsible attitude with respect to any decision taken regarding the size of the organs and the use of funds allocated for their operation. The Romanian delegation is opposed to any irrational use of funds allocated by States and believes that the utmost care and responsibility should be demonstrated in regard to the use of those funds.

95. The Romanian delegation expresses the hope that all the Convention's provisions, as well as the arrangements and agreements reached throughout the Third United Nations Conference on the Law of the Sea, will be implemented in good faith, since that is a test of the Conference as a whole and the credibility of the Convention.

96. Such complete implementation in good faith and the development of broad international maritime co-operation would be a major contribution to the promotion of just and equitable relations in the complex process of the use of the seas and oceans of the world, in accordance with the demands for the setting up of a new international economic order, and to the strengthening of international peace and security.

97. In conclusion, the Romanian delegation expresses its heartfelt gratitude to the President of the Conference, Mr. Tommy Koh of Singapore, for his personal contribution to the successful completion of the work of the Conference, and to all those who have contributed to the drawing up of this Convention.

98. My delegation joins other delegations which have expressed thanks to the Government of Jamaica for having provided such an appropriate setting for the work of this session of the Conference, for the special hospitality we have received and for the efforts undertaken to ensure that the work of the Preparatory Commission will begin under the best auspices.

99. Mr. GURINOVICH (Byelorussian Soviet Socialist Republic) (*interpretation from Russian*): The delegation of the Byelorussian Soviet Socialist Republic wishes to express its appreciation to the Government and the people of Jamaica for making it possible for the closing session of the Third United Nations Conference on the Law of the Sea to take place here, in order to sign the Convention drawn up by the United Nations, and we thank them as well for their warm hospitality.

100. We are all participating in a remarkable event—the successful conclusion of 15 years of activity within the framework of the United Nations with a view to strengthening and developing co-operation in the field of the law of the sea, and we shall shortly be witnessing the signature of the Final Act of the United Nations Conference and the Convention on the Law of the Sea. In the broadest forum of the international community and with the participation of all sovereign States of the world, representatives of national liberation movements and international organizations concerned, a universal agreement has been developed which governs practically all the essential aspects of the utilization of the ocean spaces and their riches for peaceful purposes and for the benefit of all peoples and all mankind. This document inaugurates a new and just legal order for the use of ocean spaces, the sea-bed and their resources. This Convention contains new rules of international law reflecting the realities of our day. At the same time, it codifies and extends rules that were developed earlier and that demonstrated the success of human endeavour in the field of the law of the sea. These were contained in documents already in force in international law.

101. A remarkable fact is that in the drafting of the Convention an important role was played by the principle of consensus. It was on that basis that it was possible to reconcile frequently contradictory interests of various groups of States and to find language which in general establishes a balance between concessions and advantages, so that on the whole no one is the loser and everyone is the winner. It is quite clear that the method of compromise, by its very nature, means that no one's requirements are fully satisfied; no group of States and, in particular, no single State can be entirely satisfied.

102. The delegation of the Byelorussian Soviet Socialist Republic does not intend to engage in a detailed analysis of the pros and cons of this Convention. We wish only to stress that in this document of universal, international law we have clearly and unequivocally formulated rules which defend perhaps not all the interests but certainly the most vital ones of a large group of States, that is, land-locked geographically disadvantaged States. In the course of many years we and other members of that group of countries have, modestly and without seeking to damage the interests of other States, endeavoured to insist on the need to have the interests and needs of that large group of States taken into consideration. We feel it necessary, indeed indispensable, to maintain the unity of that group of States in future activities for the implementation of the Convention as a whole and we are prepared to co-operate to that end.

103. As is quite well stated in the preamble to the Convention,

> "the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the purposes and principles of the United Nations as set forth in the Charter."

It is also pointed out that:

> ". . . the achievement of [the] goals [of the Conference] will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked."

104. My delegation notes with satisfaction that the great majority of previous speakers have expressed support for the Convention and have declared that their Governments were prepared to sign it. It is our view that the Convention is a document of international policy and law of great importance, one which will not only contribute to the well-being of peoples but eliminate sources of international conflict and dispute pertaining to the maritime activities of States.

105. That is why we oppose any attempt at a selective approach to the international obligations deriving from the Convention and any unilateral activity aimed at countervening or getting around the provisions of the new Convention. No one has the right to take advantage of the benefits of the Convention without recognizing the provisions which place certain restrictions upon them. In this respect let me recall operative paragraph 3 of resolution 37/66, adopted by the General Assembly on 3 December 1982, in which it appeals "to the Governments of all States to refrain from taking any action directed at undermining the Convention or defeating its object and purpose". That is why my delegation categorically rejects the unilateral interpretations of certain provisions of the Convention we have heard in certain statements. We also associate ourselves with the firm condemnation of the position taken by the present Administration of the United States on this Convention and the separate agreement concluded on 2 September of this year between the United States and three countries of Western Europe concerning the exploration and exploitation of mining resources in the Area. That agreement contravenes the provisions of the United Nations Convention on the Law of the Sea and the resolutions of the Conference. Its goal is clear: to seize to the detriment of other States, the most promising sectors for the mining of minerals in the international mining area proclaimed by the United Nations as the common heritage of mankind. This policy amounts to illegal propagation of the American doctrine of so-called vital interests. The extension of that concept to maritime space and the subsoil thereof pursues selfish unilateral interests and is aimed at being first to lay hands on the mining riches of the sea-bed belonging to all mankind.

106. That is why, like many other delegations, my delegation declares that the aforementioned agreement among the four Western Powers and all similar separate accords and actions that infringe upon the United Nations Convention on the Law of the Sea with regard to the resources of the international area are without legal value. All other countries have the right to oppose and not to recognize this type of illegal action, which will have the due consequences for those who engage in such violations.

107. Taking a positive view on the Convention on the Law of the Sea as a whole, and maintaining the comments we made in April with regard to resolution II, the Government of the Byelorussian Soviet Socialist Republic has authorized me to sign the Convention and the Final Act when those documents are opened for signature. We call upon other States also to sign the Convention as promptly as possible so that we can begin to undertake the preparatory work for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea to give full effect in due time to the international rules contained in the United Nations Convention on the Law of the Sea.

108. The delegation of the Byelorussian SSR is also of the view that only the representative of the People's Republic of Kampuchea, and no one else, has the right to sign the Convention on behalf of the people of Kampuchea.

109. We recognize the right of national liberation movements such as the Palestine Liberation Organization to participate fully in the Convention. Moreover we consider it intolerable that unwarranted modifications should be made, contrary to the role of the United Nations Security Council as provided in the United Nations Charter, in the status of the strategic islands of the South Pacific under the trusteeship of the United States. We base ourselves on article 309 of the Convention, which permits no reservations to it.

110. The Byelorussian SSR intends at the present stage to refrain from making declarations and statements of the kind provided for in article 310 of the Convention if other States show similar goodwill and refrain from attempting arbitrarily to interpret in one way or another certain of the provisions of the new Convention.

111. We wish to choose our procedures for the settlement of disputes, in conformity with article 298 of the Convention. The Byelorussian SSR chooses arbitration as the means for settlement of disputes, in accordance with annex VII of the Convention. With respect to navigation, fisheries, scientific research, defence and protection of the marine environment, it chooses special arbitration, in accordance with annex VIII.

112. With respect to questions regarding the immediate release of detained vessels and crews, in conformity with article 292 we recognize the competence of the International Tribunal for the Law of the Sea.

113. In conformity with article 298, the Byelorussian SSR declares that it does not recognize binding procedures leading to binding rulings concerning disputes on the delimitation of maritime boundaries, disputes on military activities and disputes regarding which, according to the United Nations Charter, the Security Council is competent.

114. Written declarations on these points will be submitted by the delegation of the Byelorussian SSR when the Convention is signed.

115. The practical application of the United Nations Convention on the Law of the Sea, which is of universal scope, obviously requires corresponding efforts and resources from the United Nations Secretariat and the future secretariats of the Enterprise and the Authority. We wish to emphasize that, with respect to the functions of the United Nations Secretary-General vis-á-vis implementation of the Convention, it would be desirable to base ourselves only on the relevant provisions of the United Nations Charter, which clearly define the Secretary-General's prerogatives as the chief administrative officer of the Organization.

116. We wish also to emphasize the necessity of creating rational structures so that the secretariat of the Enterprise can choose personnel at all levels in conformity with the principle of equitable geographical distribution of posts. It is also important that activities pertaining to the signature of the Convention should be efficient and economical to ensure that the expenditures will not be too great a burden on States.

117. In conclusion, on behalf of the Byelorussian delegation we once again express our confidence that the Convention will make an important contribution to strengthening peace and security, to relaxing international tensions and to fostering fruitful co-operation and friendly relations among all countries and peoples.

118. We should like before leaving the rostrum to congratulate you, Mr. President, and all the participants in the Third United Nations Conference on the Law of the Sea, for all the work you have accomplished. As our work draws to a close, we would like to thank and congratulate the tireless personnel of the United Nations Secretariat, and we must not forget those who have assisted in our multilingual world to understand each other and who have found the right words in the various languages in which the Convention is drafted.

119. Mr. NAMALIU (Papua New Guinea): My country is an island archipelagic State. Although small, Papua New Guinea has significant interests in the successful conclusion of this Convention. For that reason we became involved with the Conference, by virtue of General Assembly resolution 3334 (XXIX), at a time when we were not yet a sovereign nation. We accept that the Convention is not perfect. My Government believes, however, that this Convention is the best that can be negotiated given the diverse interests involved. And since the advantages of the Convention far outweigh its disadvantages, my Government has decided to authorize me to sign it. I am also pleased to announce that I will be signing the Final Act on behalf of my Government.

120. My signing of the Convention signifies my Government's general support of the Convention adopted. It is also an indication to other States of my country's commitment to a balanced and harmonious universal régime that will govern the uses of the sea and its resources for the benefit of mankind as a whole. Activities to be undertaken by any country outside the sphere of this Convention in relation to deep-sea mining cannot, in my Government's view, be justified and would be illegal in international law.

121. Throughout the span of the Conference, my Government has at all times kept abreast of its work and has offered constructive contributions to the deliberations of its Committees and of its working groups. It has always been our firm belief that it is better for us to have a single, universally accepted body of laws dealing with the ocean space than to have a situation in which no single body of laws apply. Our meeting now is really the peak of all the years of negotiations—some of the most difficult and arduous in the history of mankind.

122. Indeed, my delegation shares with previous speakers the opinion that it is a momentous occasion of historic proportions for members of the international community to gather here during this week to sign the United Nations Convention on the Law of the Sea, an event many sceptics thought impossible. The Convention represents the most monumental achievement in the development of international law and order since the adoption of the United Nations Charter in 1945. The Convention is also a significant step towards the realization of the new international economic order.

123. We consider the Convention timely at a period when greater co-operation by the world community is called for in all aspects of international relations. In particular, a greater need now exists for the sharing of benefits derived from the exploitation of resources found in areas beyond the national jurisdiction of States. The Convention indeed offers the practical means for achieving that end.

124. Like other countries, Papua New Guinea finds in the Convention many provisions of significant interest to it and to the island States in the South Pacific. In particular, we have benefited from relevant provisions in the Convention dealing with the matters of fisheries by concluding fishery agreements with our neighbouring countries. Other interests include a general exercise of extended jurisdiction by the coastal States over certain maritime zones, the provisions dealing with the protection and preservation of the marine environment, the creation of the new régime for archipelagos, the recognition of the exclusive jurisdiction of coastal States over economic resources in certain parts of the maritime zones, the recognition given to mankind as a whole to benefit from the exploitation of resources found in areas beyond national jurisdiction and the possibility given to non-independent entities to participate in the operation of the Convention when it enters into force. Those are only some of the many benefits small coastal States like Papua New Guinea stand to gain from this Convention.

125. During the negotiations our delegation, while supporting parts of the Convention, including those mentioned earlier, also expressed misgivings on some parts of the Convention which are equally important to sovereign countries, including mine. Among those matters, we expressed concern with regard to the following: first, the free movement of inherently dangerous warships through the territorial waters under the guise of freedom of navigation; secondly, the provision in article 53 of the Convention dealing with the newly created right of navigation by submarines below the surface through territorial waters in areas designated as archipelagic sea lanes; thirdly, the inadequacy of provisions made for the representation of the Council of the Sea-Bed Authority by developing countries which are land-based producers of minerals to be mined from the area. Finally, we expressed our belief that some general production policies, particularly the estimated 3 per cent growth rate in the nickel consumption, is unrealistically high. Our objections to the production policies were made with the best of intentions for the sake of land-based production of the related mineral commodities. My country, like others, is heavily dependent on the export earnings of those minerals. Consequently, we will be interested in the workings of the Preparatory Commission and the Sea-Bed Council. Papua New Guinea, as an archipelagic State, has followed closely the developments throughout the Conference on the archipelagic concept. As early as 1974 my country's delegation, in its first statement, expressed the general desire to see the world community accept the archipelagic régime. In fact, in 1977 my Government and the national Parliament enacted legislation outlining our archipelagic status. While we are conscious of the right of freedom of navigation through certain parts of archipelagic waters, it has always been our view that this freedom must be consistent with considerations of security risks, national unity and a coastal State's resource jurisdiction. The problems of national unity and security are particularly significant since, by their very nature, archipelagic States are normally associated with small, populated islands situated far out from the main centres. Any freedom of navigation envisaged within the enclosed archipelagic waters must, in our view, always be weighed against the security risks to the archipelagic State concerned. We are, however, pleased to see the archipelagic régime now being specifically provided for under Part IV of the Convention.

126. We note that the objections expressed by Papua New Guinea and other countries are not satisfactorily taken care of in the Convention. However, in a spirit of compromise and goodwill, my delegation, like others, has refrained from pursuing those misgivings further in the Third United Nations Conference on the Law of the Sea. The position taken, although not in any way diminishing our concerns, served nevertheless to enhance the chances of having the United Nations Convention on the Law of the Sea adopted. The importance of this Convention to the world community is fully recognized and understood, at the regional as well as the international level. This was evidenced in the recent meeting of the South Pacific Forum, of which Papua New Guinea is a member. That meeting, in a resolution, urged member States to sign the Convention at this session of the Conference. More recently, in Fiji, at the regional meeting of Commonwealth Heads of Government of Asia and the Pacific, all States were strongly urged to sign the Convention and to proceed with the ratification process without unnecessary delay.

127. It is gratifying to see many nations assembled today for the signing of this Convention. However, the signing alone is not sufficient, since it is the ratification process that will bring this international treaty into force. In view of this, we urge all nations to sign the Convention and ratify it as soon as practicable.

128. My Government will do its utmost to study the Convention and take appropriate measures, as required by our national Constitution and laws, before we can decide on ratifying the Convention.

129. Finally, on behalf of my Government and the people of Papua New Guinea I congratulate the Government and the people of Jamaica for the confidence the international community has shown in them by selecting Jamaica as host of not only the International Sea-Bed Authority but also the final session of the Third United Nations Conference on the Law of the Sea. The fine hospitality and organization already shown demonstrate Jamaica's capability as a worthy host.

130. I wish to pay a tribute to you, Mr. President, and to the late Mr. Amerasinghe for guiding the Third United Nations Conference on the Law of the Sea to its successful conclusion. It is unfortunate that Mr. Amerasinghe, who contributed so greatly to the negotiations at the Conference, is not here with us to witness the fruits of his labour. My Government compliments you, Mr. President, the chairmen of the committees, the rapporteurs and all delegations on the tremendous efforts and goodwill put into negotiating on the United Nations Convention on the Law of the Sea. Without goodwill, fortitude and compromise this all-encompassing single Convention on the Law of the Sea would not have been adopted earlier this year.

131. I wish to take this opportunity to thank also the Secretariat staff for the tireless efforts during all the years of negotiation. Without their co-operation and dedication the Third United Nations Conference on the Law of the Sea would not have progressed so expeditiously.

132. Msgr. CHELI (Holy See): The Holy See has actively participated in all sessions of the Third United Nations Conference on the Law of the Sea. Our interest in the development and codification of the law of the sea is neither purely legalistic nor tied to some particular political or economic benefit in the application of the new regulations in one or the other zone of the seas. We began and continued our participation in this Conference primarily to pursue and help in the achievement of the main idea at the foundation of this collective endeavour, namely, the principle that the riches of the sea-bed are and should remain the common heritage of mankind, to be used and exploited only in such a way that all mankind, especially the poorest developing countries, benefit.

133. The complexity of a thorough and all-inclusive regulation of all aspects of the emerging legal order of the seas dictated from the outset that only a comprehensive convention would be acceptable. For that reason the principle of consensus was adopted by the Assembly and by the Conference itself as the guiding procedural principle for the whole system of deliberations. This procedural principle helped the delegations participating in the work of the Conference to accomplish in eight long years a most complete new order of the law of the sea, incorporating the substantial provisions of traditional law and also progressively developing many aspects of law required by the new factual relationships. Unfortunately, the principle of consensus broke down in the very last hours of the negotiating meetings of the Conference over a few remaining issues that, we believe, with patience and goodwill can still be settled.

134. While the draft convention was accepted by an overwhelming vote, the negative votes of some delegations and the abstentions of others has put a severe strain on the possible effectiveness of the future international order of the seas.

135. Because of the breakdown of the consensus, the delegation of the Holy See did not participate in the final vote on the draft convention. We have now come to this beautiful and unique country, Jamaica, whose Government has offered us the finest and warmest hospitality, for the conclusion of the Conference. Our delegation will sign here the Final Act of the Conference, thus confirming our steady endeavour to further the development of the law and order of the seas and also

reaffirming again the basic principle of the common heritage of mankind, a principle that all participating countries continue to acknowledge.

136. The Holy See reserves the right eventually to sign and ratify the present Convention. It will be guided in this particularly by the future developments which may show that through some modicum of complex international negotiating processes an essential consensus may still be reached.

137. In conclusion, the delegation of the Holy See wants to congratulate and to thank you, Mr. President, the Collegium, Mr. Bernardo Zuleta and all members of the staff for the wonderful job they have done. May God reward all of you for your generous and tireless efforts to make of this Conference a historic and lasting achievement for all mankind.

138. Mr. KIRCA (Turkey): Turkey has actively participated in the Third United Nations Conference on the Law of the Sea since its preparatory stages and acted as the Vice-Chairman of the Second Committee of the Conference. Turkish delegations in the Conference have been guided by the sincere desire to establish a viable and equitable régime in the world's oceans and seas which would command the acceptance of all countries and thus serve the interest of all mankind.

139. During the deliberations of the Conference, Turkey always stressed that the diversity of geographical circumstances was one of the most important factors to be taken into consideration in the attainment of this objective. On every occasion Turkey expressed the need to establish a proper balance between different groups of interests stemming from different geographical situations. In our view the final outcome of the Conference, as reflected in the text of the United Nations Convention on the Law of the Sea, failed to achieve such a balance. To remedy this situation and to secure universal adherence to the Convention, Turkey at the final session of the Conference proposed an amendment to the Convention which, if adopted, would have permitted reservations to the Convention. The fact that 45 States either voted in favour of that proposal or abstained indicates that a considerable number of States had difficulties with the Convention. However, in view of the rejection of this amendment and in the absence of necessary safeguards for Turkey's vital and legitimate rights and interests, Turkey was compelled to vote against the Convention, although it agreed with provisions contained in Part XI, on the international area. Consequently Turkey finds itself unable to sign the Convention.

140. We had intended to sign the Final Act if it had not been drafted in its present language, which prejudices the position of Turkey on the Convention. The sentence added to paragraph 41, which reads, "Throughout the preceding eight years of its work the Conference had taken all decisions by consensus..." [*A/CONF.62/121*], not only creates a misleading impression of the proceedings of the Conference but also presents serious difficulties for us. It is a well-known fact that at both the formal and the informal meetings of the Conference the Turkish delegations expressly raised objections to a number of articles and submitted amendments thereto, and never gave their consent to those which did not accommodate the Turkish views.

141. Consequently, Turkey regrets that in view of the prejudicial wording contained in paragraph 41, it will not be able to sign the Final Act.

142. I should like to put on record our understanding with regard to some of the provisions of the Convention to which we attach considerable importance.

143. I turn first to article 2, on the legal status of the territorial sea. This article confirms a basic and traditional concept of customary international law, namely, the sovereignty of a coastal State over its territorial sea and the airspace above it. I should like to underline paragraph 2 of this article with regard to the status of the airspace above the territorial sea, which is also a well-known and generally accepted principle of customary international law and which reads "This sovereignty extends to the airspace over the territorial sea..." [*A/CONF.62/122*].

144. The implication of this provision when read in conjuction with article 58, paragraph 1, and article 87 is clear and leaves no room for any interpretation as to the legal régime of the airspace above the territorial sea. The sovereignty of the coastal State over the airspace is limited by the breadth of its territorial sea, beyond which no claim of sovereignty could be adduced or entertained.

145. Next I turn to article 3, entitled "Breadth of the territorial sea". It should be noted that the 12-nautical-mile limit as envisaged in this article is neither a compulsory limit nor a limit to be applied automatically. The 12-mile limit is the maximum breadth that may be applied within the general limitation imposed by article 300 of the Convention, which in fact embodies a general principle of international law. It reads

> "States parties [to the Convention undertake to] exercise the rights, jurisdictions and freedoms recognized in this Convention in a manner which would not constitute an abuse of right" [*ibid.*].

146. The doctrine of abuse of right has emerged in international law out of the necessity to modify rules to suit special circumstances.

147. In the narrow seas, such as enclosed and semi-enclosed seas, on which Turkey is bordered, the extension of the territorial sea in disregard of the special characteristics of these seas and in a manner which would deprive another littoral State of its existing rights and interests creates inequitable results which certainly call for the application of the doctrine of abuse of right.

148. Turkey is of the opinion that the 12-mile limit for territorial waters has not acquired the character of the rule of customary international law. Moreover, it is not possible to speak of a rule of customary international law in cases where the application of such a rule constitutes an abuse of right.

149. It should also be mentioned that international custom depends on the consent of States and it is a rule of international law that a State may contract out of a custom in the process of formation.

150. Turkey, in the course of the preparatory stages of the Conference as well as during the Conference, has been a persistent objector to the 12-mile limit. As far as the semi-enclosed seas are concerned, the amendments submitted and the statements made by the Turkish delegations manifest Turkey's consistent and unequivocal refusal to accept the 12-mile limit on such seas. In view of the foregoing considerations, the 12-mile limit cannot be claimed vis-á-vis Turkey.

151. I come next to article 15, entitled "Delimitation of the territorial sea between States with opposite or adjacent coasts". As the International Court of Justice stated in the fisheries case: "The delimitation of sea areas has always an international aspect. It cannot depend merely upon the will of the coastal State as expressed in its municipal law". Article 15, by accepting negotiations and agreement as the principal method of delimitation, concurs with the view expressed by the Court. Therefore, attempts to establish maritime boundaries regardless of the legal position of other States is contrary to recognized principles of international law.

152. Although the wording of article 15 is different from that of articles 74 and 83 concerning the delimitation of the economic zone and the continental shelf, the principle of equity is also the guiding principle in the delimitation of territorial waters, since it is inadmissable to think that the intention of the authors of this article was to permit an inequitable delimitation. The reference in the article to special

circumstances, which is a means to arrive at an equitable result, also confirms this view.

153. The reference in the article to the median line does not give the median-line method prominence over other methods. The median line can be applied only if it produces an equitable delimitation.

154. Articles 74 and 83, on the delimitation of the exclusive economic zone and continental shelf between States with opposite or adjacent coasts, are the result of prolonged negotiations and reflect a compromise between the divergent positions of the States. As such they should be interpreted in the light of developments in international law with regard to the delimitation of the continental shelf or economic zone. Articles 74 and 83 confirm the generally accepted view that the delimitation should be effected by agreement between States with opposite or adjacent coasts. The only concrete guidance provided in those articles is that the ultimate goal of the negotiations between the parties should be "to achieve an equitable solution".

155. The Court's judgment of 1982 on the continental shelf case between Tunisia and the Libyan Arab Jamahiriya clarifies the concept of "equitable solution" as follows:

> "The result of the application of equitable principles must be equitable ... It is, however, the result which is predominant. The principles are subordinate to the goal."

The Court also indicates how, in practice, the equitable principles should be applied. The application of equitable principles involves, according to the Court, action "to balance up the various considerations which it [the Court] regards as relevant in order to produce an equitable result." The Court then examines the relevant circumstances which are to be taken into account in the application of equitable principles. In the Court's opinion, "It is virtually impossible to achieve an equitable solution in any delimitation without taking into account the particular relevant circumstances of the area."

156. It is thus clear that the term "equitable solution" in articles 74 and 83 comprises the idea of applying equitable principles by taking into account all relevant circumstances with a view to arriving at an equitable result. As stated in the same judgement, the existence and position of the islands in the area to be delimited is certainly one of the most significant and relevant factors to be taken into consideration. That judgment of the Court is of particular importance since the Court took into full consideration the relevant articles of the Convention and, *inter alia*, articles 74 and 83.

157. The phrase in articles 74 and 83 "on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice" is the product of a last-minute compromise and, in fact, does not have a different connotation from the concepts of "equitable principles" or "equitable solution".

158. It is now generally recognized that equity is the rule of international law to be applied to the delimitation of the continental shelf or the exclusive economic zone. This principle is reflected in the 1969 North Sea continental shelf case,[6] in the Arbitral Tribunal's decision in 1977 on the delimitation of the continental shelf between France and the United Kingdom and in the case concerning the continental shelf between Tunisia and the Libyan Arab Jamahiriya,[7] of 1982.

159. In the North Sea continental shelf case of 1969, the Court provides that "in this field it [equity] is precisely a rule of law that calls for the application of equitable principles."

160. In the Tunisia-Libyan Arab Jamahiriya case, the Court stipulates that "the legal concept of equity is a general principle directly applicable as law." Furthermore, the Court rules:

> "The principles and rules of international law applicable for the delimitation ... are as follows: The delimitation is to be effected in accordance with equitable principles and taking account of all relevant circumstances."

161. Therefore, it is to be concluded that the words "on the basis of international law" do not add any new element to articles 74 and 83 since, in the delimitation context, equity or equitable solution, which already exists in the articles, is the rule of law.

162. On the other hand, the reference to international law does not leave the door open to introducing the equidistance method or the median-line method as a rule of international law, nor does it lead to a presumption in favour of equidistance or median line in relation to other methods.

163. In the Tunisia-Libyan Arab Jamahiriya case, the Court provides that "Treaty practice, as well as the history of article 83 of the draft convention on the law of the sea, leads to the conclusion that equidistance may be applied if it leads to an equitable solution. If not, other methods should be employed ... since equidistance is not, in the view of the Court, either a mandatory legal principle or a method having some privileged status in relation to other methods."

164. The same thinking is embodied in the North Sea continental shelf case and in the decision of the Court of Arbitration on the delimitation of the continental shelf between France and the United Kingdom.

165. Article 121, on the régime of islands, is in our opinion an article of a general nature which does not predetermine the maritime space to be allocated to the islands in delimitation. The presence of islands in the area to be delimited is, as I have already mentioned, one of the relevant circumstances to be taken into account in order to arrive at an equitable solution.

166. The maritime spaces of the islands situated in the areas to be delimited are determined by the application of equitable principles. Hence article 121 is not applicable to the islands located in the maritime areas which are subject to delimitation.

The PRESIDENT: I would point out to the representative of Turkey that he has exceeded the time-limit.

Mr. KIRCA (Turkey): I shall soon be concluding this statement, Mr. President.

167. As I was saying, that view is also confirmed in the Arbitral Tribunal's decision on the continental shelf delimitation between France and the United Kingdom, in which islands are given partial effect and channel islands belonging to the United Kingdom are enclaved by the French continental shelf, as well as in the Tunisia-Libyan Arab Jamahiriya case, in which one Tunisian island is completely disregarded and another is given half effect.

168. With regard to article 33, "Contiguous zone", in view of the newly emerging concept of exclusive economic zone, the "contiguous zone" has lost its significance and has already become obsolete. Nevertheless, it should be stressed that the rights of the coastal State in such a zone are limited and do not amount to sovereignty, and thus cannot affect the rights of States over the high seas. Moreover, a contiguous zone may be established only by a proclamation.

169. The remarks I have made with regard to the breadth of the territorial sea in narrow seas are also valid for the establishment and breadth of contiguous zones.

170. The Convention is silent on the delimitation of contiguous zones between States with opposite or adjacent coasts. By analogy, the provisions on the delimitation of exclusive economic zones and continental shelves should also be applicable to the delimitation of contiguous zones.

[6] *North Sea Continental Shelf, Judgment, I.C.J. Reports, 1969*, p. 3.

[7] *Continental Shelf (Tunisia/Libyan Arab Jamahiriya) Judgment, I.C.J. Reports, 1982*, p. 18.

171. Furthermore, we should like to refer to and confirm our written statement contained in document A/CONF.62/WS/34 of 15 November 1982.

172. Finally, though an objective interpretation of the above-mentioned provisions of the United Nations Convention on the Law of the Sea can only be made as stated, we solemnly declare that this treaty can in no way be applied against Turkey, nor would Turkey be bound by any one of its provisions, since such claims would have no juridical validity.

173. As I have already stated, Turkey is of the opinion that the 12-mile limit for territorial waters has not acquired the character of rule of customary international law. Moreover, it is not possible to speak of a rule of customary international law in cases where the application of such a rule constitutes an abuse of right.

174. We should like further to reiterate that the delimitation of the economic zone and of the continental shelf in such semi-enclosed seas can be settled only through agreements to be reached directly between the parties concerned on the basis of equity.

175. In conclusion, I should like to thank the Government and the people of Jamaica for their generous and gracious hospitality in such a wonderful environment.

176. Mr. SLIM (Tunisia) (*interpretation from French*): Mr. President, I am pleased to see you presiding over this final, historic session of our Conference, thus bringing to a successful conclusion the tireless efforts of all States during the past years.

177. I am all the more pleased that it will be under your wise and dynamic presidency, in this wonderful environment of Montego Bay, that I shall have the happy duty of signing, on behalf of the Tunisian Government, the Final Act of our Conference and the United Nations Convention on the Law of the Sea.

178. After slow, patient and detailed work the Third United Nations Conference on the Law of the Sea, despite its ups and downs, has finally prepared a historic document which, without exaggeration, constitutes the greatest achievement of codification and the progressive development of international law in an area that is particularly sensitive and of high priority.

179. Remarkable progress, even if at times it may have appeared imperfect, has been made since the General Assembly decided in resolution 2750 C (XXV) to convene in 1973 a conference on the law of the sea which would deal with the establishment of an equitable international régime—including an international machinery—for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction.

180. This achievement is due in great measure to the wisdom, lucidity and vast experience of the two Presidents who successively led the Conference throughout its many sessions, the late Hamilton Shirley Amerasinghe of Sri Lanka and you, Sir, Mr. Tommy Koh. On behalf of Tunisia I wish today to pay a well-deserved tribute to them for the constant efforts they made to ensure the success of the undertaking and for the sacrifices they had to make for that. Now, as we are gathered to proceed to the signing of the Convention, I am convinced that all the delegations present here share that feeling.

181. This tribute is addressed also to the Chairmen of the various committees, whose valuable contribution enabled the Conference to finish its work, as well as to the Rapporteurs and to the Drafting Committee. I also wish to express heartfelt thanks and gratitude to all the members of the Secretariat who, under the successive leadership of our two great friends Mr. Stavropoulos and Mr. Zuleta have given effective and dedicated support to our work and have largely contributed to the success of our Conference.

182. The Convention is the result of a collective effort and of the direct and active participation of the Members of the United Nations on the basis of equality, sovereignty and the reconciling of various legitimate but sometimes contradictory interests. The fact that the work of the Conference has been successful, after a long period of gestation, is proof, if proof be needed, that the solutions and the legal régime adopted for the various maritime areas in question were achieved with the agreement of almost all the participating States after due reflection on ideas. Although some delegations began to show impatience and to express concern that the work was becoming bogged down, it now is clear that this long period of gestation was, on the contrary, a guarantee of success because throughout that period a real effort was made to achieve consensus or at least to ensure true agreement.

183. The result is an innovative achievement in terms both of methods of negotiation and of the ideas approved in the final text. Thus there was a reshaping of customary and conventional law which had governed the seas and oceans for a long time. On many points the Convention breaks away from rules and even from certain principles inherited from the four Geneva Conventions of 1958. While their positions were not always identical, especially because of geographical location, the developing countries approached the negotiations in a constructive spirit, in particular making quite substantial concessions within the framework of the Group of 77. But they also demonstrated creative imagination because they were the instigators of new ideas and concepts which have found their rightful place in the Convention. Such is the case, in particular, of the concept that the sea-bed and the ocean floor are the common heritage of mankind.

184. For the first time we have a Convention that is truly universal because all States have been directly involved in its preparation throughout all its stages over about 10 years.

185. It must be said that the principle of the need for change was widely shared by other delegations, those from the East and those from the West, even if there were different perceptions of the idea to change. Despite all this, we were able to achieve quite a consistent global view of the many aspects that revision of the law of the sea entails: navigation, communication, exploitation of mineral and fishing resources, conservation of the marine environment, delimitation of the sea-bed and the subsoil thereof, and a more rational exploitation of resources.

186. In those and many other fields the negotiations were fruitful and most of the time resulted in reconciling, through subtle input and mutual concession, divergent and sometimes even contradictory legitimate interests.

187. The new order of the sea is based on the quest for equity. In this constructive task States have had to face the state of anarchy and the lack of precision which characterize the régime of the various maritime spaces and which are moreover at the root of many conflicts among countries of the same region.

188. Tunisia for its part supports the spirit of resolution 37/66 just approved by the United Nations General Assembly, and shares the objectives aspired to in the United Nations Convention on the Law of the Sea. Nevertheless, my delegation agrees with the conclusion of the group of Arab experts on the law of the sea that the signing or ratification of this Convention by a State does not imply recognition of that State and cannot in any way entail co-operation in any field whatsoever with that country.

189. With that reservation, the trends that emerged in the Third United Nations Conference on the Law of the Sea constitute, for the most part, a stake in the future and clearly fit into the framework of a new international economic order. In many fields, prospects for fruitful and mutually beneficial co-operation are opened up for States: co-operating in the

exploitation of some maritime spaces; preventing and coping with certain maritime disasters such as pollution.

190. For many countries the most important of those prospects is the promising co-operation with respect to the exploitation of all the resources contained in the area of the sea-bed and the ocean floor recognized as being the common heritage of all mankind, notwithstanding the various geographical locations of States.

191. Thus the ideas put forward over a decade ago by Mr. Arvid Pardo of Malta have found a place in the new Convention. Present and future generations of the various countries of the world will doubtless benefit from this example and will learn to think about the effects of this legislation, adopted by the international community, which gives significance to international solidarity by allowing for equitable justice.

192. International co-operation thus extends into a new field. According to the text that has been adopted, developing countries have the same right to profits from the great wealth of the international area as developed countries with the financial and technological means to exploit those resources, particularly polymetallic nodules. In this area the International Sea-Bed Authority is called upon to play a regulating role, in particular by preventing the overexploitation of the heritage and unilateral recourse to the exploitation of those spaces by certain States that would thus be tempted to bring their selfish interests to bear over the interests of mankind.

193. Like any human endeavour, the United Nations Convention on the Law of the Sea has certain weakness. These are inevitable and are understood in different ways by States, depending on their geographical location and their degree of development. The reluctance that has been shown to accept certain ideas or with regard to the legal régime for certain spaces is for the most part understandable. However, it should not detract from the largely positive aspects of this enormous task of codification and, above all, progressive development of this branch of international law.

194. With reference to article 310 of the Convention, I wish to make it clear here that Tunisian legislation in force is in line with the provisions of our Convention. Law No. 73-49 of 2 August 1973, on the delimitation of the Tunisian territorial waters, maintains the distance of 12 nautical miles from the baselines. That same law also retains previous provisions relating to a reserved fishing zone. The legal régime in the Tunisian regulations, which have been in force for a very long time in my country, is not very different from the legal régime defined by the Convention with regard to the exclusive economic zone. On these points my Government will at a later date submit any necessary notification taking account of the Convention and will make declarations in conformity with the provisions.

195. In deciding to sign the various legal instruments of the Convention the Tunisian Government wishes to affirm its commitment to dialogue, to international co-operation and to the pooling of efforts for the good of the entire international community, in particular to ensuring orderly and equitable exploitation of the resources of the common heritage of mankind. Tunisia believes that those resources must be protected from all violations, and in particular from any exploitation which is based on unilateral legislation or which follows agreements with other States that may be in contradiction with the provisions of the United Nations Convention on the Law of the Sea.

196. In conclusion we express the hope that the important functions entrusted to certain organs of the Convention and the Final Act will be strengthened. We have in mind mainly the Preparatory Commission, which will have to establish rules for the management of the machinery governing the pioneer activities, and the International Sea-Bed Authority, which will have its headquarters here in Jamaica.

197. Finally I should like to say how pleased we are to be meeting here on this beautiful Jamaican coast. On behalf of the Government of Tunisia it is my pleasure sincerely to thank the friendly Government of Jamaica for its kind invitation to hold the ceremony here and for the very warm hospitality it has extended to us.

198. Mr. POWELL-JONES (United Kingdom): The Third United Nations Conference on the Law of the Sea, which is now approaching its conclusion, has constituted a very important part, but still only a part, of a historical effort by the international community which goes back to the 1930s if not earlier. The four conventions drawn up by the first United Nations Conference in 1958 represented an important achievement. This Third Conference has been more ambitious in its endeavour to reach agreement on virtually every aspect of maritime and coastal activity.

199. The objectives of the United Kingdom delegation at this Conference were set out in a statement by the then leader of the United Kingdom delegation at the session in Caracas in July 1974. These objectives have not changed to any significant extent over the intervening years. Many of them are shared by the majority of, if not all, the other delegations which have participated in the Conference, including freedoms of navigation and overflight, preservation of the right of innocent passage, the protection and development of the fishing industry, the establishment of effective conservation measures, and a régime for scientific research in the oceans which serves the interests of all countries. The overriding concern of the United Kingdom, as was stated in the speech of 1974, was and has remained "to seek a new convention which would be generally acceptable to all States".[8]

200. Many of the Convention's provisions are a restatement or codification of existing conventional and customary international law and State practice. Within this category are the articles concerning the right of innocent passage through the territorial sea, which is not subject to prior notification or authorization by the costal State.

201. Other provisions make more precise what is inherent or implicit in existing international law. They manifest concepts which have emerged over the past 25 years. A particular case is the definition of the extent of the continental shelf. In my delegation's view, article 76 accurately reflects the evolution and development of the concept. We believe that the attempts which have been made to introduce additional scientific requirements into the definition of the continental shelf in that article are misconceived. In this context I should also like to refer to certain statements which have been made with regard to the status of the exclusive economic zone and which appear to be in conflict with article 310 in that they purport to modify the effect of the Convention's provisions. To that extent I wish to record that my delegation does not agree with those statements.

202. There is also a third category of provisions in the Convention which are new, indeed unique. The most obvious examples are those which seek to make new law which would give obligatory effect for participants in the Convention to the idea of the common heritage of mankind set out in General Assembly resolutions on the exploitation of the deep sea-bed beyond the limits of national jurisdiction.

203. Much in the Convention is valuable and generally acceptable. But it is unfortunately the case that, despite the years of effort, the Conference was not able to achieve consensus on the Convention. The explanation of this disappointing outcome is to be found mainly, though not exclusively, in Part XI of the Convention and the related annexes. Some States, however, have decided not to participate in the Convention on other grounds.

[8] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I, 29th plenary meeting, para. 30.

204. In consequence we have to contemplate that the Convention may come into force without enjoying general acceptance. In that event the legal position would be complicated. With regard to those provisions which express, codify or clarify existing law, the substantive norms which govern behaviour and define rights and duties will be the same both for parties and for non-parties, even though the source of the norms, which is the basis of States' obligations, may differ. The legal position may be compared with the Vienna Convention on the Law of Treaties,[9] which has been signed by some 45 States and ratified by some 40, but which in many respects restates customary law. On the other hand, with regard to those provisions which seek to make new law, the parties to the Convention will assume among themselves a new contractual relationship. This will not deprive others of existing rights nor, of course, can a conventional régime or obligation be imposed on them. Existing rights such as those which derive from the freedom of the high seas, as well as existing conventional law, will remain. Until there is universality, we will need to seek accommodation between those who have adopted new conventional rules and those who act on the basis of existing law.

205. The British Government has given very careful consideration to the Convention. Much is acceptable, as I have already indicated. But the provisions relating to the deep sea-bed, including the transfer of technology, are unacceptable to my own Government, and a number of other industrialized countries share our misgivings. We need to obtain significant and satisfactory improvements in the text of these provisions, and we wish in the months ahead to explore with others the prospects for such improvements. The Convention remains open for signature for two years, and there is time for revision before the United Kingdom need take a final decision on signature. As I suggested at the start of this statement, it is appropriate to regard the Convention as part of a historical process of which our present Conference is not the beginning, nor necessarily the end. This process may be seen as a search for consensus or universal agreement. Until that is reached, the search must continue. The Convention must not be used to divide States. We must try, starting with the Preparatory Commission, to build on what is generally agreed in the Convention and seek co-operation between those who today have different perceptions of the Convention and its various provisions. This session, when we sign the Final Act, is not the final conclusion, as Mr. Arias Schreiber and other representatives have also pointed out in their statements this week. Even though there may be deeply felt and divergent opinions, it is our hope that the search for general agreement will continue.

206. In conclusion, I should like to follow those who have spoken before me and express the grateful appreciation of the United Kingdom delegation to the Government of Jamaica for its hospitality and for the excellent arrangements which have been made for this final session. I also wish to pay a sincere tribute to all those leading figures in the Conference who, during the long and arduous negotiations, have sought with diligence and diplomatic skill to reconcile differences and achieve agreement. It would be impossible to mention them all, but I fully share the sentiments which have been expressed about the inspiration and guidance of our late President, Hamilton Shirley Amerasinghe. I am also very conscious of how much the Conference owes to you, Mr. President, who with unfailing patience and determination have carried on his work, and to the Special Representative of the Secretary-General, the Executive Secretary and other members of the Secretariat for their contributions.

[9] See *Official Records of the United Nations Conference on the Law of Treaties, documents of the Conference* (United Nations publication, Sales No. E.70.V.5).

207. Mr. JACKSON (Guyana): The journey from Caracas to Montego Bay has taken eight years. It has been long and it has been arduous. That so many of us have stuck the course stands as a tribute to our acumen and to patient scholarship. But the presence here today of the representatives of so many countries, liberation movements and organizations, governmental and non-governmental, and the purposes for which most of us have gathered here go beyond those attributes. What is primarily reflected is individual and collective political commitment to concert our respective national interests for the democratization of international relations and for promoting conditions propitious to harmonious relations between States and mechanisms for strengthening international peace and security.

208. That we have reached this stage in the progressive development of a régime of international law governing the territorial sea and ocean space covering 75 per cent of the world's surface is due in large measure to the astute leadership which this Conference has had. Let me put on record Guyana's appreciation of the outstanding contribution of the President, Ambassador Tommy Koh of Singapore, and that of his colleagues who make up the Collegium. You, Sir, will, I know, understand when I plead for a pause to recall and record the yeoman service given by your predecessor in office, my departed friend and colleague Shirley Amerasinghe of Sri Lanka. Among the many monuments to him and to you, Sir, must be the successful conclusion of this Conference. But this tribute will not be complete if we do not acknowledge the high quality of support which the Conference received from the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and his able staff.

209. The United Nations Convention on the Law of the Sea which will be signed on Friday, 10 December 1982, represents a watershed in international relations. Beyond the particularity of its provisions, the Convention demonstrates what is possible through international negotiations when they are conducted in good faith and when there is a shared concern among the peoples of the world in recognition of their common humanity and their desire to build appropriate régimes which can serve to fulfil their aspirations to justice and to equity.

210. It is now trite to say that we live in an interdependent world. But this interdependence must not be an interdependence akin, dare I say, to the relationship between the master and the slave. Rather, I suggest that the interdependence of which we all so easily speak must be one in which we are all ready to make adjustments in the sure knowledge that one person's gain is not necessarily another's loss. Furthermore, the results of our efforts as a collectivity to give practical expression to interdependence must be arrangements from which there is mutual benefit.

211. This Convention is an imperfect one, and it cannot be otherwise, because it represents an attempt to reconcile conflicting interests. Yet, despite its imperfections, it is an integrated package and a remarkable achievement. The Convention and the experience of arriving at a final text can in many respects be beneficial in providing examples of modalities—some of which you, Mr. President, so aptly described—for agreeing to multilateral arrangements in other areas of human commons.

212. I turn now to the provisions of the Convention itself. The régime it proposes leaves several issues ambiguous. It is not entirely satisfactory to Guyana, to other States in the Group of 77 and, indeed, to any State which will sign it here or later. It, however, embodies the best result attainable in the circumstances. In any event, it is the view of Guyana that when it becomes operative, as it must, the Convention will serve as an inhibiting factor where States might be tempted to go outside the curtilage of international law in an endeavour

to place their perceived national interests above those of the international community as a whole.

213. More positively, the Convention treats some of the fundamental needs of mankind—food, energy and development. It sets a standard for the protection and the preservation of the marine environment and the transfer of marine technology. It makes provision for the preoccupations of States on the question of freedom of passage and innocent passage, and it seeks to reconcile those interests with the pre-eminent interests of coastal States in the security, good order and management of the seas and oceans around their shores. For small States like Guyana, recognition by the international community of specific areas of the seas and oceans as being under the exclusive jurisdiction of coastal States confers on them a certainty in the disposition of their maritime zones. But it does more.

214. The Convention provides for a 12-mile territorial sea and an exclusive economic zone and for the determination of the outer limits of the continental shelf of a State. This is a signal contribution to the development of the international law of the sea. The Convention embodies, too, a concern for those who are less well endowed in the living resources of the sea, and it provides for land-locked States to enjoy access to the living resources of the seas in their region or sub-region and takes account of the interests of States which are geographically disadvantaged.

215. For neighbouring States the question of delimitation looms large. In the final analysis this has to be achieved by agreement, as is provided for in the Convention. Articles 74 and 83 provide the basic guide for the approach of parties in this regard.

216. Yet we must be on guard lest there be attempts to insinuate into bilateral relations, under the guise of maritime delimitation, disputes and controversies which owe their inspiration to ambitions rooted in territorial aggrandisement.

217. The Convention elaborates a régime for the peaceful uses of the seas. In this sense Guyana notes with keen interest the provisions dealing with the peaceful settlement of disputes through compulsory procedures. Furthermore. Guyana is particularly attracted to article 301, under which States, in exercising their rights and performing their duties under the Convention, are enjoined to refrain from any threat or use of force against the territorial integrity or political independence of any State.

218. Some changes in international relations are evolutionary; others are revolutionary. Arvid Pardo, whose seminal contribution Guyana acknowledges, was revolutionary when he proposed in 1967 that the resources of the deep sea-bed beyond the limits of national jurisdiction should be the common heritage of mankind. We have not fully realized his dream, but we have made a modest start towards achieving equitable treatment for all in sea-bed mining. We urge all States to comport themselves in the spirit of Mr. Pardo's "common heritage" and to take positive action to associate themselves fully with the provisions of the Convention.

219. Like others, Guyana cannot say that all parts of the Convention meet with our support. That notwithstanding, Guyana will sign the Convention. For we believe that it provides for the orderly enjoyment by man of the seas and oceans, that it will promote harmonious relations between States, and that it will contribute to the strengthening of international peace and security.

220. I could not conclude without saying how privileged my delegation and I feel at being in the sister Caribbean State of Jamaica for this historic occasion. Less than a month ago, those of us from the Commonwealth Caribbean savoured the hospitality of the Government and people of Jamaica when we met in Ocho Rios for the Third Conference of Heads of Government of the Caribbean Community. We express our profound gratitude to our Jamaican brothers and sisters who have spared no effort to make us comfortable and to provide us with a home away from home. Thank you, Jamaica.

221. Mr. BWAKIRA (Burundi) (*interpretation from French*): At the outset, on behalf of the delegation of Burundi I should like to express to the people and Government of Jamaica our deep gratitude for the welcome and hospitality showered upon us from the moment of our arrival.

222. I should like also to express to you, Mr. President, and the other members of the Bureau our gratitude for the exemplary way in which you have conducted our work during this culminating phase.

223. Our thanks go also to the members of the Conference secretariat for the dedication that they have shown throughout this Conference.

224. On 30 April 1982 the Third United Nations Conference on the Law of the Sea, after years of arduous negotiations, sustained efforts and mutual concessions, achieved the conclusion of the United Nations Convention on the Law of the Sea.

225. Comprising issues as diverse as exploitation of ocean and sea-bed mining resources, navigation, delimitation of maritime boundaries, transport, the environment and the peaceful settlement of disputes, the United Nations Convention on the Law of the Sea substitutes harmony and the rule of law for the chaos produced by the uncontrolled use of the seas and the oceans. In so doing it establishes a new order regulating the use and exploitation of the sea-bed and the oceans.

226. The United Nations Conference on the Law of the Sea will go down in history not only because of the complexity of the issues which had to be codified or because of the time it took to conclude its task but also, and above all, because it has shown that with a minimum of political will nations can, while respecting the essential interests of everyone and acting for the common good of the international community, reconcile divergent interests which initially seemed irreconcilable.

227. Conceived to manage, among other things, the common heritage of mankind, the United Nations Convention on the Law of the Sea is one of the rare international legal instruments whose drafting was made possible through the participation not of a small club of nations but of the international community as a whole.

228. As the representative of a land-locked country, we belong to that group of States which throughout the Conference has been, in varying degrees, the poor relation of the Conference. We are grateful that the Convention has recognized, if only symbolically, the right of access to the sea and from the sea and the right of transit for land-locked countries.

229. It would in fact be inconsistent for Burundi, itself a potential producer of one of the principal metals to be extracted from polymetallic nodules, the production of which is regulated under Part XI of the Convention, to remain indifferent to the United Nations Convention on the Law of the Sea.

230. We are convinced that the United Nations Convention on the Law of the Sea represents not a victory of one interest group over another but, rather, a victory of order, realism, peaceful coexistence, co-operation and international peace and security over chaos and national self-interest. On the basis of that conviction, the Government of Burundi has decided to sign next Friday the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

231. Besides the advantages offered by that Convention, which preceding speakers have eloquently described, the Convention we are about to sign will serve as a frame of reference to give renewed impetus to the North-South negotiations.

232. In present circumstances it would be an illusion for any State, whatever its economic and financial power, to base its prosperity on isolation and defiance of the consensus of the rest of the international community.

233. The United Nations Convention on the Law of the Sea fully satisfies no one, nor does it impair the interests of any particular State. It would therefore be paradoxical for a given State to decide in exercise of its sovereignty to remain outside the scope of the Convention while at the same time seeking to gain advantage from some of its provisions, on the pretext that the provisions now codified by the United Nations Convention on the Law of the Sea were already a part of customary international law.

234. The time has come to translate the concept of the common heritage of mankind into fact. Massive accession to the United Nations Convention on the Law of the Sea will be the best way to transform yesterday's dream into tomorrow's reality.

235. Mr. CHARRY SAMPER (Colombia) (*interpretation from Spanish*): Mr. President, we begin this statement by praising your leadership, your skills, your tenacity, your competence and your strict application of the principle of good faith as an element inseparable from international negotiations, and that is the tribute which the delegation of Colombia wishes to pay you.

236. I wish to say how proud we are to see a compatriot of ours—Bernardo Zuleta Torres, the Special Representative of the Secretary-General— among the founders of the Convention. Thirty-seven years ago his father, Eduardo Zuleta Angel, was elected in London President of the Preparatory Commission; his son now continues a tradition related to Colombia's presence in world institutions and our attachment to law, embodied in the United Nations Convention on the Law of the Sea— perhaps the most important treaty adopted since the founding of the United Nations.

237. The selection of Jamaica as the headquarters for the Authority is indeed symbolic and a threefold recognition. It recognizes a wonderful Caribbean nation as one of the axes of the new global balance for the seas aimed at a more just reordering of its wealth and resources. It recognizes Jamaica's role in the third world as a protagonist of history and not simply as a spectator of the feats of the major maritime Powers. It recognizes the role of Latin America and the Caribbean in the creation of a new law which can be termed universal, not only by its extension but also because of the participation of all.

238. The preamble includes the purposes, the principles and the philosophy of the Convention. This is codification and a progressive development of the whole law of the sea, not a mere compilation. The Convention is proof of the fact that the problems of maritime spaces are interrelated and must be considered as a whole. That is why States, knowing that every part of the Convention affects every other part and the whole, do not accept reservations. That would be incompatible with the unity and interrelationship of its rules, which distinguishes it from the Geneva Conventions of 1958. That is why the declarations authorized in article 310 cannot exclude or modify the legal effect of the provisions of the Convention.

239. Something which this law defines is the consecration of the zone of the sea-bed and the subsoil thereof, beyond the limits of national jurisdiction, and the resources thereof, as the common heritage of mankind.

240. In saying that the interests of the developing countries must be taken into account, international justice is supported. And in proclaiming that there must be a spirit of understanding and co-operation in solving problems of the law of the sea and that peace and security are the objectives, the equality of States is upheld. The exclusive economic zone is an innovation in the law, following the practice of the vast majority of States, among which is Colombia.

241. The Convention is a global pact for development, for the equitable utilization of the wealth of two thirds of the world and the peaceful and juridical settlement of disputes, including delimitation of the seas. We welcome the establishment of the International Tribunal for the Law of the Sea, which will make possible the settlement of conflicts and thus contribute to the peace of the world.

242. We attach to the régime of sea mining the importance it has in the world economy and we emphasize the special situation of land-based mineral producers which require special protection.

243. The new international law in the area of the delimitation of the ocean and the sea-bed has been defined. The negotiations which may be carried out in the future will have to take this new law into account, developed and codified with the participation of representatives of all schools of law and of all political and economic systems.

244. The basis of the Convention is the obligation to settle disputes by peaceful means, seeking in the first place agreement between States, excluding unilateral acts, strengthening equality for the benefit not only of the parties but also of the entire international community, which is interested in the delimitation of the seas, since the preamble sets forth that the zone and resources beyond the limits of national jurisdiction are now the common heritage of mankind. An interrelationship is thus created between delimitation and the common heritage.

245. Articles 15, 74, 83 and 121 constitute the new law of the sea in the field of delimitation. Article 298 establishes the procedures for settling disputes peacefully and in accordance with law. The criteria for delimitation, interim measures and settlement of disputes entailed difficult compromises in the Conference, in the same spirit with which successive compromises were reached on the other subjects.

246. Article 15 establishes as a rule for the delimitation of the territorial sea that of the median line and establishes that no State will have the right, unless there are stipulations to the contrary, to extend its territorial sea beyond the median line. Exceptions are allowed only through agreement between the parties.

247. Articles 74 and 83 use the same text for the delimitation of the continental shelf and the economic zone and they have a relation to article 15. They establish that delimitation will be done preferably through agreement between the parties and exclude delimitation as a unilateral act by any State. The basis for the agreement is the international law contained in Article 38 of the International Court of Justice's Statute, which will have to apply. This stresses the predominant role of the Convention and gives only second place to customary law, as evidence of a practice generally accepted as law.

248. Articles 74 and 83 advocate the "equitable solution" of disputes, which is substantially different from the use of "equitable principles" as a procedure for delimitation. If the States do not reach agreement, they will resort to Part XV, which contains the obligation to settle disputes by peaceful means.

249. Conciliation is the key contribution that this Convention makes to the settlement of marine disputes. It is one of the innovations—namely, that conciliation is no longer a simple intermediary step; it is an independent method.

250. Another institution which represents a balance is to be found in articles 74 and 83. States which have not reached agreement will do everything possible, in a spirit of understanding and co-operation, to agree on provisional practical arrangements. Unilateral measures are not authorized between the time of the onset of a dispute and its legal settlement. Everything that may endanger or hamper definitive agreement is excluded.

251. Article 121 defines what is an island and the difference between islands and rocks. Islands have a right to a territorial sea, a continental shelf and an exclusive economic zone. Rocks are entitled only to a territorial sea since they cannot sustain human habitation or economic life of their own. This is logical. It is a "package" which results from the view that these maritime spaces have been granted to benefit the inhabitants, with an economic concept. Any other interpretation would distort the concept.

252. The rules contained in the Convention on delimitation of the territorial sea agree with international custom. Whoever may wish to invoke the rights and the corresponding obligations has to accept the norms as a whole.

253. There are two aspects of the Convention which Colombia wishes to emphasize. In the first place, there is in the text a balance between rights and duties, between freedoms and obligations of States. The Convention, for example, provides for the preservation of the marine environment to prevent pollution. Consequently, no one can attempt to enjoy the benefits of the Convention without submitting to it, or to derive advantages without complying with its commitments. The new law of the sea is either accepted or rejected as a whole. There can be no selectivity or partial application, because that would destroy the balance obtained between the interests of the community and those of States reflected in the Convention.

254. In the second place, once the Convention is adopted it will not be possible to invoke custom against it. International custom is not applicable by analogy in spheres where it cannot be supported or when rules are embodied in international conventions, such as that on the sea, which then constitute priority international law.

255. We attach all due importance to the operation of the Preparatory Commission which should pave the way for universality and not hamper it. Developing countries need developed countries, their technology, their financial and human resources and their markets for our raw materials as much as they need us.

256. On behalf of my Government, I wish to announce that Colombia will sign the Final Act and the United Nations Convention on the Law of the Sea. We sign fully aware of our status as a coastal, developing country, in solidarity with the third world, fully trusting in international law and certain that that is the best path towards strengthening peace and finding justice.

257. The Convention on the sea constitutes the legal, technical-scientific and economic frame for the so-called race for the sea to take place under the inspiration of the noblest and most representative historical trends in this twilight of the twentieth century.

The meeting rose at 1.15 p.m.

190th meeting

Wednesday, 8 December 1982, at 3.05 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*continued*)

1. Mr. Kyung Won KIM (Republic of Korea): I should like to begin by expressing, on behalf of the Government and the people of the Republic of Korea, our sincere appreciation to the Government and people of Jamaica for having invited us to hold this historic concluding session of the Third United Nations Conference on the Law of the Sea in this beautiful city of Montego Bay and to the Prime Minister, Mr. Edward Seaga, for having taken some of his valuable time to inaugurate this historic session.

2. It also gives me great pleasure to join the many preceding speakers who have expressed their admiration and appreciation to you, Mr. President, for your eminent wisdom and leadership. Your dedication and integrity are beyond praise.

3. I also wish to express our gratitude to the chairmen of the three main Committees, the chairmen of the drafting committees and the Rapporteur-General of the Conference, as well as the Special Representative of the Secretary-General and the excellent staff and experts of the Secretariat for their devotion and valuable contributions to the successful holding of this final session of the Conference.

4. In April this year the eleventh session of the Third United Nations Conference on the Law of the Sea succeeded in adopting the Convention on the Law of the Sea, a comprehensive constitution for the oceans of the world.

5. My delegation takes great satisfaction from the fact that 164 countries have been able to negotiate successfully this single, comprehensive Convention which will regulate every aspect of man's utilization of the oceans and their resources.

6. While welcoming the new régime of the law of the sea which has evolved from our long and arduous deliberations, my delegation wishes to take this opportunity to address itself to one important aspect of the Convention.

7. My delegation is of the view that our task of establishing a new legal order does not end with the adoption of the text of the Convention. The adoption of this text is only the first step in the process of giving to the provisions of the Convention the status of generally accepted guiding rules for the orderly use of the seas and their resources.

8. There still remains the task of ensuring that its provisions are duly observed and implemented. In a sense, this is a far greater challenge than that of producing the text of the Convention.

9. The successful implementation of the Convention, which is intended to benefit mankind as a whole, depends on effective co-operation unfettered by political or ideological considerations between and among the States parties to the Convention. This is a very important issue, to which my Government attaches considerable importance.

10. A system of co-operation or consultations is indispensable, especially in such areas as settlement of disputes, conservation of fishery resources, protection of the marine environment, deep sea-bed mining and delimitation of the continental shelf and the exclusive economic zone. It is indeed one of the fundamental principles of this Convention that its successful implementation presupposes various forms and degrees of co-operation, consultations or negotiations between and among the States parties concerned.

11. As a peninsula, my country is surrounded on three sides by the sea. Both the Yellow Sea and the Sea of Japan which

enclose the Republic of Korea are themselves semi-enclosed seas. My country's geography makes regional co-operation among the bordering States essential. One of the important areas in which regional co-operation is both indispensable and urgent is protection of the marine environment. Measures designed to protect the marine environment can be effective only on a regional basis.

12. For example, the Yellow Sea, a relatively shallow semi-enclosed sea with a large amount of land effluent in the water, which has given it its descriptive name, is encircled by land masses which support the world's heaviest concentration of population. Offshore exploration of oil and gas is rapidly increasing in this area. The fish catch from the Yellow Sea is an essential source of protein supply for the surrounding populations. A major tanker catastrophe, for instance, would spell environmental disaster and would inflict long-lasting damage upon the entire region. Therefore the overwhelming need for regional co-operation for the purposes of preventing, reducing and controlling pollution of the marine environment in this area is quite clear.

13. It is in that connection that I should like to make clear our readiness to engage in mutual co-operation and consultations on matters pertaining to the Yellow Sea, including the question of delimitation of the continental shelf and the exclusive economic zone with the neighbouring State concerned. It is the earnest hope of my Government that the Convention will, when it enters into force, open new avenues for constructive relations among States, whether large or small, developed or developing, irrespective of political differences, thus allowing this Convention to make a positive and creative contribution to attaining peace and prosperity throughout the world.

14. Before concluding my remarks, I should like to take this opportunity to stress the serious interest of the Korean Government in deep sea-bed mining. The developing countries' consumption of mineral resources will surely continue to rise in the future and an adequate supply of such minerals will be important to both the developed and the developing countries. We cannot, therefore, overemphasize the importance of secure supplies of the minerals at a reasonable price in this age of ever-increasing demand for natural and mineral resources.

15. My country is already experiencing a rapid increase in its demand and need for mineral resources as its industrial development continues. The Republic of Korea, however, is without natural resources of its own and depends largely on foreign countries for the supply of necessary minerals and other natural resources. It is therefore the policy of the Korean Government strongly to encourage its private companies to participate in the deep sea-bed mining activities. At the present time, a modest number of our own private companies are preparing to participate actively in the exploration and exploitation of deep sea-bed resources by meeting the requisite conditions laid down under the Convention.

16. In this connection, I should like to state that the Government of the Republic of Korea, as one of the developiong countries, looks forward to organizing joint ventures with other newly industrializing and developing third-world countries to exploit the sea-bed resources.

17. Finally, I wish to inform the Conference that the Government of the Republic of Korea plans to sign the Convention as soon as the necessary domestic procedures are completed. It is the intention of my Government actively to participate in the work of the Preparatory Commission as a full member by signing the Convention as soon as possible.

18. Mr. ROSENNE (Israel): After the adoption of the Convention and related resolutions on 30 April last, my delegation issued a statement to the press supplementary to my explanations of vote at the 182nd meeting. We explained *inter alia* that Israel's interests on the sea are complex and include the maintenance of freedom of navigation and overflight through all kinds of geographical formations, security interests, fisheries on a small scale, the preservation of the marine environment and related ecological issues. We should also like to take advantage of the new arrangements for the diffusion of marine technology and scientific research and shall be happy to make available to others our own expertise, centred above all in our oceanographic institutes and institutes of higher learning.

19. On the question of straits used for international navigation, we feel that Part III contains regressive elements caused by distortions introduced in the interests of political opportunism. My delegation maintains the view that the fundamental rule of law controlling this aspect is that a single legal régime applies to passage through and overflight of all such straits, except where a different régime is prescribed by treaty. The distortions in the Convention remain a source of great difficulty for us, except to the extent that particular stipulations and understandings for a passage régime for specific straits, giving broader rights to their users, are protected, as is the case for some of the straits in my country's region, or of interest to my country.

20. In that respect may I recall what I said in greater detail at the 163rd meeting of the Conference, on 31 March last. More particularly in relation to the Strait of Tiran and the Gulf of Aqaba, I wish to quote the statement of the representative of the United States delegation on 29 January last, as follows:

> "The United States fully supports the continuing applicability and force of freedom of navigation and overflight for the Strait of Tiran and the Gulf of Aquaba as set out in the Peace Treaty between Egypt and Israel. In the United States view, the Treaty of Peace is fully compatible with the Law of the Sea Convention and will continue to prevail. The conclusion of the Law of the Sea Convention will not affect those provisions in any way."

That quotation can be found in the *Congressional Record*, Volume 128, No. 47, 97th Congress, second session, 27 April 1982, in the Senate part of the volume at page 4089.

21. One of our main difficulties is that we are not yet satisfied that some of the major concepts embodied in the new Convention are fully applicable in the form in which they are presented in the semi-enclosed and narrow seas on which our two coasts lie—the Mediterranean Sea and the Red Sea. Conceptually speaking, the main thrust of the Convention is towards the world's great oceans. It would seem to require adjustments both conceptual and textual before it can be fully applied in other oceanic formations. We have expressed these ideas often in the informal meetings of the Conference, but I want to take this opportunity to place this idea in a succinct form on the record and to stress again the necessity for particular arrangements to meet this type of situation, applicable to all the States concerned.

22. In our later written observations we summarized some other of our major difficulties with regard to the Convention. We have not yet completed our detailed examination of its text, and we shall not, therefore, be signing it on 10 December 1982, the anniversary of the adoption of the Universal Declaration of Human Rights, as a previous speaker has reminded us. We will need to examine very closely some of the statements that have been made here in the course of this concluding session and to establish accurately their implications for the interpretation and application of certain relevant provisions of the Convention, themselves the product of delicate negotiations.

23. When the Final Act of the Conference was adopted on 24 September last, I stated that, having regard for our well-known objections to a certain group purporting to be a

national liberation movement being granted any rights whatsoever under the Convention or resolution IV, we were not parties to the consensus by which the Final Act was adopted. At the same time, I stated that we would re-examine it in the light of all the proceedings of the Conference.

24. I am glad to state that we are now able to sign the Final Act. At the same time, I have to make the following statement:

> "This signature of this Final Act in no way implies recognition in any manner whatsoever of the group calling itself the Palestine Liberation Organization or of any rights whatsoever conferred upon it within the framework of any of the documents attached to this Final Act, and is subject to the statements of the delegation of Israel at the 163rd, 182nd, 184th and 190th meetings of the Conference and document A/CONF.62/WS/33."[1]

That statement will be appended to my signature of the Final Act.

25. It is now my pleasant duty to thank the two Governments that have acted as hosts of this Conference whenever it has met outside United Nations Headquarters—the Government of Venezuela, for our first substantive session in 1974, and the Government of Jamaica, for this concluding session. Like many others we regret that the Government of Venezuela has difficulties with the Convention, but the name of its illustrious Ambassador Andrés Aguilar, who was the Chairman of the Second Committee through most of its crucial stages, will always be associated with the Convention. In this context I cannot pass in silence over the name of the Ambassador of El Salvador, Mr. Galindo Pohl, who in 1975 was instrumental in producing the first informal single negotiating text laying the basis for the settlement of the general law of the sea, which is our main interest. I wish also to express my delegation's great appreciation of the devoted work and valuable contributions of the other leaders of the Conference: the Chairmen of the First and Third Committees, our friends Paul Bamela Engo of Cameroon and Mr. Alexandr Yankov of Bulgaria; the Chairman of the Drafting Committee, Mr. Beesley of Canada; the Committee Rapporteurs, the Chairmen of all the other negotiating, working and language groups; and Mr. Kenneth Rattray of Jamaica, our General Rapporteur.

26. This historic Conference, one of the most difficult ever held, would not have reached this point without the devoted work of its secretariat, headed first by Mr. Constantin Stavropoulos and later by Mr. Bernardo Zuleta as Special Representative of the Secretary-General, so ably backed by Mr. David Hall. If I mention these three gentlemen, I do not wish to be taken as being forgetful of the other members of the secretariat, whatever their ranks and positions, with whom we have had such long and pleasant working relationships and through which I hope bonds of personal friendship transcending political differences have been formed. But I should like to mention particularly the documents officers in New York and in Geneva, always so helpful, especially during the work of the Drafting Committee and its language groups.

27. Finally, I come to the presidency. The late Hamilton Shirley Amerasinghe of Sri Lanka, Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and then of this Conference until his lamented death at the end of 1980, brought inestimable services to the international community. My delegation is glad to see that a memorial fellowship is being established in recognition of his unique contribution to the work of the Conference. His sudden death and your election to the presidency of this Conference, Sir, confronted you with a bundle of seemingly intractable problems which made great demands on all your well-known skills and personal attributes. If my delegation could not accept certain aspects and had to appeal some of your rulings, I am sure you realize that deep political factors lay behind those positions and that our actions do not detract in the slightest from the admiration and esteem in which we hold you for the conduct of the presidency since you took office.

28. Once again my delegation would like to express its thanks to the Government of Jamaica and to the authorities of Montego Bay, who have done so much to make our stay here a pleasant and memorable occasion of a historic event.

29. Mr. JUNG (Federal Republic of Germany): I should like to associate myself with previous speakers and express the gratitude of my delegation for the kind hospitality extended to us by the Government of Jamaica in this beautiful country, where the longest and largest conference in modern history is now coming to its conclusions. It is with deep respect that the Government of the Federal Republic of Germany and my delegation look at the enormous amount of work and energy that the delegations of nearly all the countries of the world have over a period of nine years devoted to the drawing up of the Convention before us.

30. We highly appreciate the great efforts made over so many years by all countries and delegations present in the search for compromise and mutually acceptable solutions.

31. We should like in particular to pay tributes to the two Presidents of this Conference, the late Hamilton Shirley Amerasinghe and you, Mr. Koh, to the Chairmen of the Committees and of the numerous working groups; and last but certainly not least to the staff of the United Nations Secretariat under the diligent guidance of Mr. Bernardo Zuleta. Without the untiring efforts of all these outstanding diplomats and lawyers the work of this Conference could not have been accomplished. We should also like to express our gratitude to all the delegations, colleagues and friends with whom we have had the honour and privilege of working.

32. It is therefore with all the more regret that we must state that despite the labours of these years and despite achievements in detail our common objective—a universally acceptable Convention on the Law of the Sea—has not been reached. It has been our opinion that all the possibilities for negotiation and compromise may not have been exhausted. Thus, a consensus on the Convention as a whole was not possible.

33. Of course, like any other international treaty, the United Nations Convention on the Law of the Sea will become effective only if and to the extent that States express their consent to be bound by it. While many provisions of the Convention reflect existing rules of international law, it should be borne in mind that to a considerable extent the Convention also purports to create new law, in particular in those parts that relate to the legal régime of the deep sea. As a matter of law, States cannot be subject to obligations under the Convention until it has been duly ratified and has entered into force for them. Pending such entry into force, States may validly rely on and are bound by all rules of the law of the sea as developed by the generally recognized practice of States or as contained in relevant Conventions already in force.

34. The position of the Federal Republic of Germany with respect to the matters dealt with in the United Nations Convention on the Law of the Sea has been stated several times during the Conference. I refer in particular to my written statement of 10 March 1981 (*A/CONF.62/WS/16*) and to my letter of 24 August 1982 relating to zones of coastal State jurisdiction (*A/CONF.62/L.155*), which contain detailed references in this regard. On this occasion, I wish to emphasize again that as a geographically disadvantaged State but State with important interests in the traditional uses of the seas, the

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

Federal Republic of Germany remains committed to the established principle of the freedom of the high seas. This principle, which has governed all uses of the sea for centuries, has been reaffirmed and, in various fields, adapted to new requirements in the provisions of the United Nations Convention on the Law of the Sea, which will therefore have to be interpreted to the furthest extent possible in accordance with that traditional principle. Also, in our view promotion and creation of favourable conditions for scientific research, as postulated in the Convention, are general principles governing the application and interpretation of all relevant provisions of the Convention.

35. The Federal Republic of Germany especially welcomed the incorporation into the Convention of a system for compulsory settlement of disputes. My Government has always attached great importance to this concept, both for the development of international relations in general and for the viability of a new convention on the law of the sea in particular. The decision by the Conference to establish the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg has been appreciated by my Government as recognition not only of our active participation in the work of the Conference but also of the special interest the Federal Republic of Germany takes in the field of peaceful settlement of disputes.

36. On the other hand, as a highly industrialized country dependent on development of technology, on a sufficient supply of raw materials and on free trade, the Federal Republic of Germany has consistently been critical of the deep sea-bed régime worked out by the Conference. We have been especially concerned over the provisions relating to transfer of technology and production limitation, as well as over financial burdens resulting from the system, in particular the highly risky investments in deep sea-bed mining. We are equally concerned over the provision for a review conference, which also involves serious constitutional problems for us. In spite of all efforts, considerable problems remain in this field.

37. The United Nations Convention on the Law of the Sea as adopted by this Conference will need not only to be signed: it will eventually have to pass the test of ratification by States. It is our view that in time to come adjustments and improvements will have to be made in order for the Convention to become effective. The Preparatory Commission may have an important role to play in this respect.

38. The Federal Republic of Germany will sign the Final Act of the Conference. As to the United Nations Convention on the Law of the Sea, the Government of the Federal Republic of Germany has not yet taken a decision on whether to sign it. Since the Convention remains open for signature for a period of two years there is no urgent need to sign immediately. The Federal Government will take its decisions in respect of the Convention in due course and in the light of further developments. The Federal Republic of Germany will, in any event, continue to take an active part in the field of the law of the sea.

39. Mr. WERMUTH (Switzerland) (*interpretation from French*): I should like, first, to join all those who have congratulated the Government and authorities of Jamaica for the warm welcome given to us. At the same time, I wish to express my thanks and admiration to you, Mr. President, and to all your assistants in the Secretariat for the excellent work you have accomplished throughout the Conference and during our brief stay here in Montego Bay.

40. Having come at last to the end of their work, representatives of States participating in the Third United Nations Conference on the Law of the Sea are meeting for the last time within the framework of the Conference in order formally to celebrate that event. May I say that I regret, as I am sure most of us here do, that this celebration does not reflect unanimous adherence to the results of so much effort expended over so many years.

41. As my delegation stated at the 182nd meeting, on 30 April 1982 in New York, Switzerland is in favour of the Convention, despite its shortcomings and imperfections, because the many reciprocal concessions leading to the global compromise on which the Convention rests reflect, for the vast majority of States, the desire to see order and not anarchy reign over the seas and in the seas. While all States, regardless of their situation, are equally interested in having a new world maritime order become the framework for harmonious co-operation and not the source of tension and conflict, it is equally true that some States, because of their geographical location or because of the activities they carry out in the areas covered by the Convention, including the sea-bed, are more immediately or more intensely interested than other States in this regulation that has been established. No one will disagree that States that are called upon to benefit the most from the Convention in the various fields it covers also have a greater responsibility for ensuring that it enters into force and is implemented.

42. Switzerland, whose attitude towards the Convention as a whole is positive, will not hesitate to sign it when the support of those States reflects the generally shared will to make this instrument the solid basis for the new international law of the sea.

43. Mr. Le PENSEC (France) (*interpretation from French*): The United Nations Convention on the Law of the Sea, to be opened for signature the day after tomorrow, constitutes an essential step in the task undertaken by the United Nations to codify and develop international law.

44. After nine years of work, the Third United Nations Conference on the Law of the Sea has adopted a text of historic importance which is destined to regulate all the activities on or involving the seas. My country voted in favour of that Convention last April and will sign it.

45. First of all, the Convention contains many positive aspects on the status of maritime spaces and the régime for the utilization and protection of the marine environment. In that respect, it has achieved a compromise, acceptable to the overwhelming majority of States represented in the Conference, between the rights of coastal States and the interests of maritime countries, and between the two main uses of the seas, depending on whether they are viewed as a treasure and a source of wealth or as a means of communication.

46. Here are a few examples to illustrate my point.

47. First, the extension of the breadth of the territorial sea to 12 miles has as its counterpart the right of unobstructed transit passage through international straits, while the right of innocent passage of all vessels through territorial waters is unambiguously confirmed.

48. Secondly, the coastal State has sovereign rights over the exploration and exploitation of the natural resources of its economic zone and continental shelf; but those rights must not unjustifiably interfere with the freedoms of overflight, navigation, laying of cables and pipelines and other legitimate uses of the sea.

49. Thirdly, in regard to pollution—to which France, as a result of unfortunate experiences such as that of the *Amoco Cadiz*, attaches particular importance—the Convention achieves a satisfactory balance between the traditional prerogatives of the flag State and the legitimate rights of the coastal or port State.

50. Fourthly, in regard to marine scientific research, the Convention establishes the principle of prior consent of the coastal State for any research operation carried out in its economic zone or on its continental shelf. But it expressly lim-

its the cases in which the coastal State may at its discretion refuse that consent. It prohibits the useless or unreasonable obstruction of genuine research being carried out for exclusively peaceful purposes.

51. Finally—and this is of course not an exhaustive list—I should like to mention the positive solutions achieved with respect to the régime of islands or in the sphere of maritime delimitation between States with opposite or adjacent coasts.

52. Further, the Convention proclaims the sea-bed situated beyond the limits of national jurisdiction to be the common heritage of mankind and places exploration and exploitation activities carried out there under the control of an international authority the mandate of which is to ensure an equitable sharing of the resources for the benefit of all mankind. In so doing, the Convention takes a decisive step, in the North-South dialogue, towards the establishment of a new international economic order, in which my Government is very particularly interested. It seems to us necessary to take this step, although it does not guarantee the success of the broad undertaking thus begun.

53. Indeed, as pointed out by the French Prime Minister in his statement to the United Nations General Assembly on 30 September last, certain provisions of Part XI of the Convention and its annexes III and IV have serious defects and shortcomings that explain why, unfortunately, a consensus could not be achieved on this text last spring. These defects and shortcomings relate, for example, to the obligatory transfer of technology, the cost and financing of the future Authority and the first seat of the Enterprise. They must be corrected by the rules, regulations and procedures to be worked out by the Preparatory Commission. Those rules, regulations and procedures should be perceived in such a way as to facilitate the acceptance of the new régime by the entire international community and should make possible the genuine exploitation of the common heritage of mankind.

54. The French Government is indeed convinced that the success of the new régime, the effective establishment of the International Sea-Bed Authority and the economic viability of the Enterprise will depend on the quality, the earnestness and the results of the work of the Preparatory Commission. Hence, my Government feels that all the decisions taken by the Preparatory Commission should be by consensus. We feel that is the only way of preserving the legitimate interests of every party involved and of increasing the number of participants in the Convention.

55. France intends to participate actively in the work of the Preparatory Commision and will do everything in its power to ensure that its work is successful. France hopes that all States will come to Kingston next March in the same state of mind and that as a result the Convention will not remain a dead letter, thus enabling the resources of the great international sea-beds to be exploited for the benefit of all.

56. That hope will be realized only if the Preparatory Commission is determined that it should be. Responsibility for the success or failure of the Convention—which we shall sign the day after tomorrow—will from that point on fall to it. For its part, the French Government will decide on ratification of this Convention in the light of the results that the Commission achieves.

57. In regard to our signature of the text, my delegation would like to recall that my country is a member of the European Economic Community and that it has transferred competence to the Community in certain matters governed by the Convention. Detailed declarations on the nature and extent of such competence will be made in due course, in accordance with the provisions of annex IX of the Convention.

58. I cannot conclude without paying a tribute to the memory of your predecessor, Mr. President, and without thanking you personally for the constant efforts you have made towards the success of the work of this Conference. You took on a very heavy task with talent and devotion, and I wish to emphasize that.

59. I should like also to pay a tribute to all the members of the Bureau and of the Secretariat who have contributed so actively for many long years to the progress of the Conference.

60. Finally I express my gratitude to the Government and people of Jamaica for their warm welcome during this Conference.

61. Mr. AL-BAHARNA (Bahrain) (*interpretation from Arabic*): We are very pleased that this closing meeting of the eleventh session of the Third United Nations Conference on the Law of the Sea is being held in Montego Bay, Jamaica, for the purpose of signing the Final Act and opening the Convention on the Law of the Sea for signature by the heads of delegations present here.

62. For the last nine years the delegations participating in this Conference have made a praiseworthy effort to achieve, through continuous and strenuous negotiations, the conclusion of an international, ambitious and well-balanced convention to govern the rights and obligations of coastal and land-locked States with respect to the use of the seas and the exploitation of their living and natural resources, in the interest of the entire international community. We can be proud that the efforts of the States represented at this Conference have been crowned with success, thanks to the adoption in New York on 30 April last of the final text of the draft convention by an overwhelming vote.

63. Although Bahrain is not completely convinced that the Convention on the Law of the Sea should contain some provisions relating to the interests of developing States in general and to geographically disadvantaged States in particular, we have accepted the Convention on the Law of the Sea because my country is deeply convinced that, considered as a whole, with all its provisions, it constitutes the best possible way of protecting the common interests of the international community and of reconciling equitably their various interests. Most important, it constitutes an earnest and civilized way for the efforts of the international community to establish the bases for peace and economic development in accordance with the principles of mutual understanding, justice, equity and law.

64. The Convention to be signed at the end of this Conference is a comprehensive and very important international document, second only to the United Nations Charter. It constitutes, furthermore, a historic event, since it is the result of negotiations among delegations of more than 150 States of the international community represented in the Organization. The importance of this Convention as a historic event without equal resides also in the fact that it creates a new international régime which did not exist in contemporary customary international law, to regulate the use of the seas and the exploitation of their natural and living resources in the interest of the international community.

65. The very precise and well-balanced provisions of this Convention in this regard, particularly the new principle of the common heritage of mankind, constitute not only a codification of the principles of customary international law but also a significant further development of the provisions and rules of international maritime law. As a result of the materialization of these new principles and rules in an integral and consolidated law, this Convention—once it has been ratified and enters into force—will be one of the most important sources of international maritime law in peacetime, which in itself is a great achievement of which the international community may well be proud, a régime that will promote stability in the use and exploitation of the seas and their resources, in the interest of all peoples.

66. Nothing better proves the lofty purpose and universality of this Convention as one of the legislative sources of international maritime law than the diversity of the issues with which it deals and the fact that it does so in a very delicate and well-balanced way, taking account of the interests of the coastal, land-locked and geographically disadvantaged States, in accordance with the possibilities and the circumstances of each group of States. The matters dealt with in this Convention are vast and diverse, including the delimitation of the breadth of the territorial sea at 12 miles, the establishment of the exclusive economic zone at 200 miles, the affirmation of a new principle for fisheries and the conservation of living resources, the regulation of international navigation on the high seas and the principle of innocent passage in territorial seas and transit passage in international straits and archipelagic waters.

67. The Convention provides, *inter alia,* for a new régime for the high seas and maritime spaces within the framework of the national jurisdiction of coastal States. It deals also with the rights of land-locked and geographically disadvantaged States, to access to the exploitation, on the basis of justice, of the resources of the continental shelf of coastal States beyond the 200-mile limit. It also gives those countries the right to benefit from the "surplus" living resources of the exclusive economic zones of their neighbours.

68. We should have preferred to see other innovations and improvements in the Convention benefiting the geographically disadvantaged States. The Convention provides also for measures to combat pollution in the marine environment and to encourage marine scientific research and ensure the transfer of technology. However, there are well-balanced and very detailed provisions in the Convention for the peaceful settlement of disputes between States parties concerning the interpretation or application of the Convention in the future.

69. Finally, the most important achievement of this Convention is, we feel, the adoption of Part XI and its relevant annexes. They very rightly occupy a great part of the Convention.

70. This part of the Convention on the establishment of the International Sea-Bed Authority and a comprehensive legal régime governing the exploitation of the natural and mineral resources of the sea-bed and the ocean floor is an important step forward in the drafting of the Convention. The principle that the natural resources of the sea-bed beyond the national jurisdiction of coastal States are the common heritage of mankind and must be explioted for the benefit of the international community as a whole constitutes a new concept in contemporary international law. Hence, after the entry into force of the Convention, it will not be possible to extract these natural resources from the international Area governed by the Convention for the benefit of one State, or a group of States, any private enterprise or a consortium of commercial enterprises if such exploitation is not in keeping with the measures and provisions contained in the Convention. Any exploitation of these natural resources by any State, or by any commercial concern belonging to it, which is not provided for by the Convention and which, hence, runs counter to its provisions, would therefore create very serious political and legal problems for that State.

71. We are pleased that the adoption of Part XI and the relevant annexes of the Convention gives concrete expression to well-established legal provisions and concepts adopted by the United Nations General Assembly in its resolution 2749 (XXV) of 17 December 1970, which laid down the principles governing the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as in its resolution 2750 C (XXV) of the same date, which called for the convening of a conference on the law of the sea to deal with the establishment of a new international régime, including international machinery governing the sea-bed and the ocean floor.

72. After this brief account of the provisions of this Convention, which is unique among all other international conventions, I should like to state that the Government of Bahrain has decided to sign the Final Act and the United Nations Convention on the Law of the Sea, which will be opened for signature on Friday, 10 December. My Government has entrusted me with signing on its behalf.

73. In conclusion, I wish to extend heartfelt thanks to the Government of Jamaica for its hospitality and warm welcome and for the facilities that have been provided for the holding of this historic Law of the Sea Conference.

74. Mr. President, I also wish to thank you personally and to express to you our esteem and gratitude for your tireless efforts and unceasing work, in co-operation with the secretariat of the Conference, to ensure the success of this Conference and the achievement of its goals. That has been done in the best possible manner, and in this connection I should like to say how much we appreciate the efforts made by the former President of the Conference, the late Hamilton Shirley Amerasinghe, before his untimely death. I pay a tribute also to the Chairmen of the Committees and working groups of the Conference and to the secretariat of the Conference for their efforts to ensure that our work in the drafting of the United Nations Convention on the Law of the Sea was crowned with success.

75. Mr. TEMPLETON (New Zealand): It is with a considerable sense of satisfaction and achievement that the New Zealand delegation has come to Jamaica to participate in this, the final session of the Conference on the Law of the Sea. We are most grateful to the people and the Government of Jamaica for their warm welcome.

76. We are now completing a process extending over many years of modernizing the law of the sea. In spite of careful preparation, the first attempts at that task, in 1958 and 1960, met with failure, or partial failure, on key questions. The reasons for that failure may be seen, perhaps, in the major changes and innovations that appear in the new treaty. The negotiation of those changes and innovations, which began with the establishment of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in 1968 and proceeded with universal participation at the Third United Nations Conference on the Law of the Sea from 1973 onwards, has extended over many weary sessions. But, unlike the earlier attempts, it has produced consensus solutions on all the questions before it, solutions which have proved acceptable to the great majority of participating States. It has also produced a multilateral Convention which is far more extensive and far more complex than any before it. In terms of its long-term significance, it must be second only to the United Nations Charter itself.

77. There were certain requisites for the achievement of a single comprehensive treaty on the law of the sea. Foremost, it has been necessary that every State subordinate to the common good some portion of its national interests as it has perceived them. The Convention which has been produced is thus an earnest of States' preparedness to co-operate and to make concessions in order to reach a common objective—in this case, the orderly and peaceful use of the oceans. We have shown in this Conference that the multilateral treaty-making process can and will work, even in the face of a wide range of competing interests, when States commit themselves to this result. We can draw some encouragement that this may happen in other spheres.

78. As well as being a monument to the good sense of States, this Convention is also a tribute to the good sense and leadership of the officers of this Conference. In your time in office, Mr. President, you have expertly guided the Conference

through perhaps its most difficult period. We owe you much for your good judgement, your total grasp of the issues and your own particular admixture of flexibility, determination, humour and candour—especially, perhaps, candour. Nor should I fail to acknowledge our deep debt to our late President, Hamilton Shirley Amerasinghe, whose contribution is indelibly marked on the Convention. It is a matter of great sadness to us that he is not here to witness the fruits of his wholehearted commitment to the multilateral treaty-making process and to this Conference. The Chairmen of the Main Committees and of the innumerable informal negotiating groups, the indefatigible secretariat—all have made their contributions. I shall not risk the unpardonable omission by mentioning any more names.

79. In the early days of the Sea-Bed Committee, the New Zealand delegation spelled out what it saw as its particular interests in the forthcoming law of the sea negotiations. Some of these were common with other coastal States: a small merchant marine, a fishing industry which, although expanding, was not able fully to exploit adjacent waters and a vulnerability to marine pollution. New Zealand shared the coastal-State view that the existing law of the sea was unduly weighted in favour of a relatively small number of major maritime Powers, and we wanted to have that imbalance redressed. At the same time, we were not indifferent to the interests of the maritime Powers. On the contrary, we shared many of their concerns. As a geographically isolated country, New Zealand is heavily dependent upon ocean-borne trade and on naval mobility for its defence. We therefore had as much need as anybody else to preserve freedom of navigation.

80. One of the major tasks before the Conference has been to balance the interests of most States—not only the major maritime States —in freedom of navigation with the need to give coastal States an equitable expansion of their jurisdiction. The solutions provided by the Conference have been conceptually unique. In our view, they have also achieved the necessary balance between coastal-State and maritime interests. They have taken account as well of the interests of those States with restricted maritime spaces or none at all.

81. For New Zealand's neighbours, the small island countries of the Pacific, the problems of geographic isolation are particularly acute. For most of them the resources of their exclusive economic zones are their only real asset. In relative terms, therefore, these countries have probably had more at stake in the Conference than any others. New Zealand has been pleased to work closely with these countries, both inside and outside the Conference, to ensure that their particular interests and concerns were given proper account. At the most recent meeting of the South Pacific Forum, in August of this year, South Pacific Heads of Government expressed satisfaction with the new Convention and urged early signature of it.

82. For all of the small Pacific island countries, the major living resource of their exclusive economic zones is highly migratory species of fish. The acquisition of jurisdiction over these fish has been coupled with a clear willingness to co-operate with one another in their management and a South Pacific Forum Fisheries Agency has been established for this purpose. Co-operation has also been developing with those distant-water-fighting nations that are prepared to respect the sovereign rights of Pacific island countries over all living resources within their zones, including tuna, in accordance with customary international law and the terms of the Convention. Most of these small countries lack the ability to enforce their resource jurisdiction. They will obtain the full benefit of their exclusive economic zones only if other, more powerful States are prepared to respect their international obligations in this regard.

83. There are of course other benefits conferred upon developing countries by the Convention. All of the island countries of the Pacific will, in this capacity, derive particular benefit from the distribution of revenues by the International Sea-Bed Authority. Most of these revenues are likely to have come from sea-bed exploitation in the Pacific area in the first place. It is particularly appropriate that in all these respects the Cook Islands and Niue will have the right to participate on the same basis as their Pacific island neighbours, as they already do in Pacific affairs, as full parties to the Convention.

84. The completion of the Convention and its opening for signature mark the end of this particular task. It is of course a disappointment to us that the Convention could not be adopted unanimously and that not all countries are able to sign it at this stage. We hope that time and a constructive implementation of the Convention will cure this particular problem. We cannot believe that nations which have taken a leading role in negotiating the compromises which have made this treaty possible, nations which have vital interests in every major activity within its scope, nations which have traditionally sought and upheld the traditional freedoms which it enshrines, nations which have consistently advocated the development of international law and order, will not come to see the acceptance of this treaty as the course of wisdom and statesmanship.

85. Although we have no direct interest in sea-bed mining, New Zealand will follow the work of the Preparatory Commission with considerable interest. We hope that in approaching its task of developing the requisite rules and procedures the Preparatory Commission will bear constantly in mind the desirability of ensuring the broadest possible participation in the Convention.

86. Finally, it is with a sense of optimism about the prospects for widespread acceptance and implementation of all parts of the new treaty that my Government has authorized me to sign the Convention, as well as the Final Act, on behalf of New Zealand. We look forward to the early entry of the Convention into force. We hope that in the meantime both the signatories and those who have yet to sign will act in the spirit of the Convention. We hope they will recognize that the exercise of rights spelled out in the Convention must be balanced by acceptance of the limitations, obligations and duties which it also imposes. It will be our own aim to act in accordance with this principle, whose observance helps to distinguish the rule of law from the arbitrary exercise of power.

87. Mr. MBAI (Gambia): I should like, first of all, to convey to the Government and the people of Jamaica the profound gratitude and warm fraternal greetings of the President of the Republic of the Gambia, Alhaji Sir Dawda Kairaba Jawara, and the felicitations of the Government and the people of the Republic of the Gambia for the singular honour accorded this beautiful part of the Caribbean in having been chosen to act as host for these historic ceremonies and to be the headquarters of the International Sea-Bed Authority, thereby giving due recognition to its contribution to the global effort towards the triumph of the rule of law over the seas and oceans of the world. We are very pleased indeed that Jamaica was chosen.

88. This is a historic and momentous occasion for all mankind. Indeed, to be alive to witness and be a part of this solemn ceremony is the greatest chance of a lifetime. For we are all gathered here in the beautiful city of Montego Bay, representing well over 100 nations and millions of people all over this world, to observe and to celebrate the triumph of law and order over chaos and lawlessness, right over might and prudence over prowess in an area of the world which constitutes the greatest part of our planet.

89. It is also an occasion of self-congratulations and of eloquent testimony to the faiths and hopes of mankind in the United Nations system, which has been able to bring together so many sovereign independent States with divergent economic interests and political ideologies to discuss, debate

and eventually elaborate this landmark United Nations Convention on the Law of the Sea reflecting the common aspirations of mankind as a whole.

90. The Government of the Republic of the Gambia and my delegation have the honour of paying a special tribute to the Secretary-General of the United Nations, to his Special Representative here, to you, Mr. President, to your predecessor and to all the other jurists for their inspiration, good guidance and clairvoyant leadership. We should also like to pay a tribute—through you, Sir—to the other men and women whose tireless contributions have also ensured the tremendous success of this Conference.

91. The voyage from Caracas to Montego Bay has been long and arduous. It has been eight tremendous and exciting years of dedication, good faith and an inspiring commitment to international co-operation, peace and security. The negotiations have been conducted on complex issues with far-reaching economic and political implications. But if the journey has been long and difficult, the Convention on the Law of the Sea which is now to be opened for signature is sufficient global reward and justification.

92. It is the view of my delegation that this Convention represents the best codification, modification, simplification, modernization, reform and systematic development of the international law of the sea, with new, enlightened and progressive juridical spheres, institutions and competences, for the benefit of all mankind and for the promotion of international co-operation, peace and security in a world craving order, justice and stability.

93. The Convention is also singularly significant in its concept of the common heritage of mankind and the equitable sharing and better utilization of ocean resources as the first concrete step towards the realization of the New International Economic Order.

94. It is gratifying to note that the Convention before us has been successfully negotiated in a spirit of give and take and of compromise, and on the basis of consensus. My delegation therefore subscribes to the hope that these enlightened and progressive procedures, which have characterized the success of this gigantic human endeavour, will continue to underline modern theories and practices of international relations.

95. It is a matter of regret to my delegation, however, that a sudden and last-minute reversal of attitude in some quarters has given the Conference no alternative but to abandon the principle of consensus in order to save the minimum that can be acceptable to the internatonal community. We hope, however, that this is temporary and that in the end the spirit of Montego Bay will prevail.

96. It is the view of my Government that signature of the Convention before us is a moral obligation both to mankind and to posterity.

97. In conclusion I have the honour to inform this Conference that I have been authorized by my Government to sign both the Final Act of this Conference and the Convention on the Law of the Sea on Friday, 10 December 1982.

98. Mr. LACLETA MUÑOZ (Spain) (*interpretation from Spanish*): It has been my honour to participate in the Third United Nations Conference on the Law of the Sea for nine years, from the first procedural meeting in New York to this session in Montego Bay, and I must say that I am sad to be speaking in the Conference for the last time. During this long period all of us, representatives and delegations, have been working intensively in the hope of reaching a final agreement on which there could be a consensus. During this period many very good personal friendships have been formed. Some, alas, have ended, truncated by death, and I wish to pay a tribute to the memory of President Amerasinghe, who led our work very effectively for so long.

99. But other friendships continue, and will do so for ever, even though delegations may stop meeting once, twice or even three times a year, as did the members of the Drafting Committee, to which it was my honour to belong. This is all to the good, because in diplomatic activity personal friendship compatible with professional opposition greatly facilitates negotiation, although at times it can also make it more difficult because it is neither easy nor pleasant to fight a friend, even though it may be only with negotiating dialectics.

100. In any case, the Convention that has emerged from our work is an important effort not only in terms of the codification of customary international law but also in terms of its development, since it formulates new conventional norms not only in the field of the exploitation of the sea-bed beyond national jurisdiction but also in other numerous fields such as the detailed regulation of the exclusive economic zone, norms on archipelagos, pollution, marine scientific research and so on. And, since I have mentioned archipelagos, I should like to say that my delegation does not think it appropriate—indeed, it thinks it unfair—for the text of the Convention to exclude from the archipelagic régime those archipelagos that form part of a State having continental territory.

101. I shall not repeat here statements that are well known with regard to the position of the delegation of Spain and with regard to some new norms included in the text adopted on 30 April 1982, which compelled my delegation to go as far as submitting formal amendments once we had exhausted all efforts to achieve consensus. I should like to express our gratitude to the delegations that supported us and to recall that the views of the Spanish Government on articles 39 and 42, in particular, of Part III were contained in my statement of 15 April 1982 and in document A/CONF.62/L.136 dated 26 April 1982.[1]

102. I should also like to make explicit reference to the formal reservation of the position of my Government—whatever its attitude may be on the Convention—with regard to resolution III, on territories under colonial domination. The Government of Spain considers that the question of that part of Spanish territory that is subjected to colonial domination—for the solution of which through negotiation and in accordance with the relevant resolutions of the General Assembly Spain has always been ready—is subject to those resolutions alone.

103. Now, and without detriment to what I have just said, I wish to recall that my delegation abstained in the voting on 30 April at the 182nd meeting.[1] My Government is fully aware that the Convention covers a very broad range of questions. It is also aware that very few of the participants in this important Conference can feel fully satisfied. That is true of us. Together with a great number of norms we may consider satisfactory, there are others that are not so satisfactory, and still others that are barely acceptable. Apart from the questions to which I referred a moment ago, there are other provisions—such as delimitation and access by third parties to the resources of the exclusive economic zone, which are the result of difficult and lengthy negotiations in which the balance attained is in any event a compromise—which we can support since if they are correctly interpreted they protect our interests even though they may not be the precise regulations we desired.

104. We must now undertake a detailed study and an overall assessment, taking into account all positive and negative factors. That work has in fact been started by the Government of Spain. However, internal political events that have led to the dissolution of Parliament, the holding of general elections and the establishment of a new Government, which took office on Friday last, have inevitably delayed that process, which will of

course go beyond mere administrative considerations and involve the Government and the Parliament.

105. I can assure the Conference that in making a final analysis of the Convention, which will be open for signature on 10 December, the Government of Spain will bear in mind the meaning of the Convention in its aspiration to be a universal code which may be the basis for the peaceful and orderly use of the sea and its resources, and, regardless of objections which may be raised to the text adopted on 30 April, it will also bear in mind its significance for the implementation of the principle of the common heritage of mankind, which has beyond any doubt been accepted by my Government, as well as the positive significance which so many developing countries—many Spanish-speaking countries among them—attach to this first step towards a new economic order, in which they have placed so many hopes.

106. It remains only for me to congratulate you, Mr. President, on your tireless, skilful and effective work. I wish also to congratulate all your assistants, whom I shall not name for fear that I shall forget some, though I do wish to mention the Special Representative of the Secretary-General of the United Nations, Ambassador Bernardo Zuleta, the members of the Secretariat and especially all those who helped us in the Drafting Committee.

107. Lastly—and I say "lastly" only because of the chronological order of events—I should also like to thank, on behalf of my delegation, the Government of Jamaica, the authorities of Montego Bay and the people of Jamaica for the manner in which they have in so short a period of time prepared this closing session, as well as for their very warm hospitality here.

108. Mr. AL-ASHTAL (Democratic Yemen) (*interpretation from Arabic*): I should like first of all, on behalf of my country's delegation that has participated in this historic and important event, as well as on my own, personal behalf, to convey to you, Mr. President, our congratulations and gratitude for your continued efforts that have enabled the Third United Nations Conference on the Law of the Sea, one that has faced some of the most difficult of challenges throughout its long course, to reach its desired goal, namely, the adoption of the United Nations Convention on the Law of the Sea.

109. Now, at the culminating moment of this important international event, we should like to pay a tribute to all those who have, by their constructive efforts and innovative spirit, contributed to the work of this Conference throughout its arduous course. We wish in particular to mention one who is no longer with us, the late Hamilton Shirley Amerasinghe, President of the Conference and author of the draft negotiating text that formed the basis for our present Convention. We also wish to pay a tribute to the memory of Mr. Mustapha Yasseen, the former co-ordinator of the Arabic-language group. We should like to stress the spirit of co-operation and compromise that has always prevailed in the Conference throughout the negotiations, even during the discussions of the most difficult questions, in our efforts to reconcile the various interests involved.

110. The United Nations Convention on the Law of the Sea which we are about to sign is the fruit of tireless international negotiations typified by broad world-wide participation. At all sessions of the Conference, all the States of the world have participated, as have representatives of national liberation movements. The Convention may therefore be looked upon as the first international instrument in the formulation of which the whole of the international community has taken part. This broad international participation in the preparation of the Convention gives it a special status, one that no other international instrument has previously enjoyed. In this connection, we would have liked the Conference to accord to the national liberation movements that participated in the Conference, for example the Palestine Liberation Organization and the South West Africa People's Organization, the right to sign the Final Act of the Conference and the Convention as well.

111. The importance of the Convention can be seen in the very delicate questions that are dealt with in it. A large number of preceding speakers have either paid a tribute to the Convention or voiced certain criticisms of it. Everyone, however, agrees that it represents a delicate and balanced conciliation, in the interests of all States, with regard to the use and exploitation of the seas and oceans and of the resources thereof.

112. As we now come to the stage of codifying the law of the sea as contained in the present Convention, which is regarded as an advance over the 1958 Geneva Conventions, a single document that covers every question and subject relating to the interests, rights and duties of States in the seas and oceans, a document that is a legal instrument within the framework of the progressive codification of international law; we must realize that it is also a further development of international law that contains innovative concepts of contemporary international law, among them the exclusive economic zone and the international zone.

113. Such new concepts must become engrained and reaffirmed. This will be possible only through our commitment to the relevant texts, making them prevail as recognized and accepted norms, and through our refusal to recognize any activity or unilateral exploitation that may be undertaken outside the purview of the Convention.

114. In that connection, we should like to support what the President said in his opening statement—that is, that any activity or exploitation of the resources of the international area that is carried out on the basis of unilateral legislation or bilateral agreements will be regarded as an illegal action.

115. We have no doubts whatsoever that the entry into force of this Convention will constitute a very important step by mankind on the path towards the realization and affirmation of a new international economic order, one that is more just and equitable. We should like the Convention and the method that was followed in its preparation to stand as a source of inspiration and motivation so that more international instruments may be prepared that are designed to strengthen international co-operation and to enshrine consensus on questions relating to the future of mankind and mankind's peaceful survival, such as the limitation of the arms race.

116. Democratic Yemen has always supported and will continue to support every effort designed to strengthen and uphold the objectives of the United Nations Charter with regard to international co-operation. The experience of the Third United Nations Conference on the Law of the Sea has been proof of the fact that, through continued negotiations and given a spirit of responsibility on the part of the negotiators, it may be possible to reconcile various divergent interests that may seem irreconcilable and to reach compromise agreements acceptable to all—save, of course, for those who constantly strive to impose upon others their concepts and personal convictions of how things are to be. To them, we say that the era of exploitation and spoliation is over and done with and that they must now conform to the contemporary reality that is reflective of the true desires and aspirations of the peoples of the world.

117. Democratic Yemen has participated in all the sessions of the Third Conference on the Law of the Sea. Through our participation, we have been able to make our position towards the questions under consideration abundantly clear, especially those that affect us directly as a coastal State and a riparian State on one of the sea lanes—Bab El-Mandab.

118. Throughout the various stages of the Conference we have shown flexibility and understanding and have partici-

pated in the consensus or the unanimity on questions of general agreement. On this occasion, and without repeating those positions we should like to recall the President's statement at the 176th plenary meeting of the Conference on 26 April 1982[1] with regard to the amendment proposed in document A/CONF.62/L.117.[1] We were among the sponsors of that amendment. In his statement, the President mentioned that the withdrawal of that amendment did not undermine the rights of coastal States to take the measures necessary for the protection of their security in accordance with articles 19 and 25 of the Convention.

119. We should like to reaffirm here, in connection with the delimitation of the maritime boundaries between Democratic Yemen and any States with adjacent or opposite coasts, that we shall be bound by the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. This will apply also to the maritime boundaries of the territorial space of Democratic Yemen and its islands.

120. Before I conclude, it is my pleasure to announce that my Government has instructed me to sign the United Nations Convention on the Law of the Sea and the Final Act the day after tomorrow.

121. Finally, I wish to express to the people and the Government of Jamaica the gratitude and appreciation of my delegation for their hospitality on the occasion of this important historic meeting.

122. The PRESIDENT: The President of the General Assembly has just joined us. On behalf of everyone here, I should like to welcome him to this Conference.

123. Mr. PRANDLER (Hungary): It is indeed a great honour that has been bestowed upon me to speak on behalf of the Hungarian delegation at this last part of the final session of the Third United Nations Conference on the Law of the Sea, convened for the signing of the Final Act and the opening of the Convention for signature.

124. First of all, my delegation wishes to join all previous speakers who have expressed their gratitude and appreciation to the Government of Jamaica for the invitation extended to the Conference to hold this session of particular importance in this wonderful and hospitable country of the Caribbean.

125. It is no exaggeration to stress that the Third United Nations Conference on the Law of the Sea and its final session for the signing of the Final Act and the opening of the Convention for signature can rightly be called a historic event in the process of international co-operation, or, as you, Mr. President, put it so ably on an earlier occasion, it is indeed "a rendezvous with history" for a good number of reasons.

126. First, the completion of the work of the Third United Nations Conference on the Law of the Sea and the signature of the Convention should be viewed in the context and in full awareness of the overall deterioration in international relations and of the urgent necessity of limiting the arms race, avoiding a nuclear catastrophe and giving new impetus to détente, not only in Europe but in all continents. The Hungarian delegation is convinced that the new United Nations Convention on the Law of the Sea is by its very nature bound to exert a beneficial influence on inter-State co-operation in general and, in particular, on the prevention and, it is hoped, even on the elimination of tension and confrontation attributable to the manifold uses of the seas and oceans.

127. Secondly, my delegation is equally aware of the dangers which threaten this new and comprehensive legal régime of the seas. It suffices to recall that there are certain States—in particular the United States of America—which, at least for the time being, refuse to sign the Convention and are prepared to undertake unilateral actions either alone or by multilateral agreements concluded by them in relation to activities in the international sea-bed area. Any attempt to use the oceans and their resources to circumvent the provisions of the Convention should be rejected as a violation of the emergent new legal régime of the oceans and as action detrimental to the interests of other States with regard to the areas of the sea most likely to yield mineral resources.

128. Thirdly, the Hungarian delegation is of the opinion that the United Nations Convention on the Law of the Sea is of paramount significance because it is able to respond positively and flexibly to the multiple challenges and needs confronting humankind in terms of a more intensive, more beneficial and at the same time more equitable use of the living and non-living resources of the sea. Indeed, the Convention responds positively to the development of technology in this field and, last but not least, to the urgent requirement of preventing and controlling marine pollution from any source, as well as of promoting marine scientific research. In reference to the positive response given by the Convention to the overall needs of human activity in the oceans, my delegation is of the view that special emphasis should be placed on the provisions of the Convention which spell out the traditional freedom of navigation on the high seas and in the economic zones, as well as innocent passage in the territorial sea and unimpeded transit passage through straits used for international navigation.

129. Fourthly, the new Convention has a special significance for the land-locked and geographically disadvantaged States too. As has been emphasized by the Hungarian delegation time and again during the past sessions of the Third United Nations Conference on the Law of the Sea, we attach particular importance to Part X of the Convention, on the right of access of land-locked States to and from the sea, the freedom of transit and the right of land-locked States to participate in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States. Although those provisions are far from perfect, from the point of view of the land-locked States, they do ensure certain basic rights without which the Convention would be quite meaningless for that group of States. We equally stress the importance of the provision of article 140 that: "Activities in the Area shall . . . be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked . . .".

130. Having carefully considered all the relevant aspects of the Convention, the Presidential Council of the Hungarian People's Republic has decided to sign the Final Act of the Conference and the United Nations Convention on the Law of the Sea, on behalf of the Hungarian People's Republic. By doing so the Hungarian People's Republic, a socialist State, wishes to express first of all its deep commitment to the principles of mutual co-operation, non-discrimination and the peaceful coexistence of States. Furthermore, it firmly believes that the signature and the eventual entry into force of the Convention will contribute—even if modestly—to the lessening of international tension and to the strengthening of international peace and security by providing a comprehensive legal order for the use of the sea.

131. On the occasion of the signing of the Convention, the Hungarian People's Republic wishes to reserve its right to make, at an appropriate stage, declarations in conformity with article 287 on the choice of procedure for the settlement of disputes concerning the interpretation of this Convention and article 298 on optional exceptions. We equally reserve our right to make declarations under article 310, if the need arises and with due regard to the declarations that will be made by other States.

132. It goes without saying that not all the provisions of the Convention are entirely satisfactory to my Government. There are shortcomings in the Convention which are partly due to the nature of a package deal and the rule of consensus, which played an important and positive role throughout the

lengthy and arduous negotiations almost up to the very end of the Conference. Speaking of these shortcomings, I cannot fail to point out that the land-locked States are clearly among the losers in this Conference on a number of issues, in relation to some of the provisions on the legal régime of the exclusive economic zone as well as in relation to the outer limit of the continental shelf, which reduces the area for the common heritage of mankind and heavily favours the broad-margin States. On the other hand, some of the shortcomings are due to the pressure of a certain group of States, which resulted in the formulation of provisions of a discriminatory nature, for example, in the case of resolution II of the Final Act, governing preparatory investment in preparatory activities relating to polymetallic nodules. It was due to this resolution, which accords discriminatory treatment to various groups of States, that the Hungarian delegation was not able to give its full and unqualified support to the adoption of the Convention and the related resolutions. My delegation wishes to express its hope that in the course of the work of the Preparatory Commission and, after the coming into force of the Convention, of the Authority itself, due care will be taken to ensure that no States may circumvent the provisions of the Convention, taking advantage of the legal loopholes purportedly contained in resolution II.

133. Within the confines of the given time-limit, my delegation is not able to go into details concerning a number of issues which are of particular importance to us—for example—resolution I, concerning the function and tasks of the Preparatory Commission for the International Sea-Bed Authority; resolution III, concerning territories whose people have not attained full independence or other self-governing status recognized by the United Nations, or territories under colonial domination; and resolution IV, concerning the status of the national liberation movements.

134. I cannot let this occasion go by, however, without expressing the sincere gratitude and congratulations of the Hungarian delegation, first of all to you, Mr. President, and through your intermediary to all the officials of the United Nations Conference on the Law of the Sea, above all to the members of the Collegium—the Chairmen of the Committees, the Rapporteur-General, the Chairman of the Drafting Committee, the Chairman of the Credentials Committee and that of the group of land-locked and geographically disadvantaged states—as well as to the Special Representative of the Secretary-General, Mr. Bernardo Zuleta; the Executive Secretary, Mr. David Hall; and the members of the Secretariat for being so instrumental in the negotiation, drafting and adoption of this Convention, which should certainly be ranked among the major landmarks in the uphill battle for better political co-operation and understanding among States, as well as in the progressive development and codification of international law.

135. Mr. SALLAM (Yemen) (*interpretation from Arabic*): Mr. President, I should first of all like to congratulate you personally for having achieved what you aspired to—this final and important stage, the opening of the Convention on the Law of the Sea for signature. You made constant efforts, with your well-known determination, in the course of the negotiations in order to ensure the attainment of our objective, now realized. Thus the history of the signing of this very important Convention will always be totally linked to your extremely valuable efforts and contributions, which have had the greatest possible impact in achieving this document so important for all mankind. At this historic stage I should like too to pay a tribute to your very distinguished predecessor, the late Hamilton Shirley Amerasinghe of Sri Lanka, whose memory will always be linked to this historic event, for his very important efforts and valuable contributions. By the same token we should not wish to fail to express our very great appreciation and gratitude to the secretariat of the Conference, and particularly to Mr. Bernardo Zuleta, the Special Representative of the Secretary-General, for their efforts.

136. The passage of foreign warships and nuclear-powered vessels in the territorial waters near the coasts of small developing States is difficult to describe as innocent, whatever justifications may be used. The Governments and peoples of those States cannot view favourably the presence of foreign warships in their territorial waters without prior notification or knowledge of their intentions and purposes. Similarly it is difficult to say that such passage does not infringe the sovereignty of these small developing coastal States.

137. Despite this defect in the Convention, as well as some other aspects, the delegation of Yemen will sign the Final Act and the United Nations Convention on the Law of the Sea, in conformity with the principle of compromise and since we have all agreed that this Convention is an indivisible whole. But my delegation would like to join the many preceding speakers who have stressed the importance of the present version of article 21. My Government participated with 29 other States in sponsoring the amendment in document A/CONF.62/L.117 to article 21, mentioning the laws and regulations promulgated by the coastal State in order to safeguard its territorial seas with respect to health, immigration, pollution, custom duties and taxes, without mentioning the laws of the coastal State with respect to security. Mr. President, on 26 April 1982 you appealed to sponsor States not to insist on that amendment, in order to make it possible to adopt all the articles of the Convention by consensus. My delegation, together with the other sponsors of the amendment in document A/CONF.62/L.117, heeded your appeal after you stated officially and without misgivings that our concept and interpretation of articles 19 and 25 of the Convention, as reflected in the official summary record, document A/CONF.62/SR.176 of 30 April 1982,[1] would enable the coastal States to take the necessary measures to ensure their interests with respect to security in the area.

138. My delegation, which recognizes the Palestine Liberation Organization as the sole legitimate representative of the Palestinian people, would like to express its deep satisfaction at the fact that participation in the signature of the Convention has been ensured. We feel that the signature of the Convention by the Palestine Liberation Organization, on an equal footing with the other signatories, constitutes a step forward in the exercise by the Palestinian people of its inalienable national rights on the soil of Palestine. Similarly, the delegation of the Yemen Arab Republic believes that the signing of the United Nations Convention on the Law of the Sea by the South West Africa People's Organization is recognition of that organization by the international community and signifies progress in the struggle of the Namibian people to recover their rights and accede to sovereignty and independence.

139. In conclusion, I should like to express the thanks and gratitude of the delegation of the Yemen Arab Republic to the Government and the fraternal people of Jamaica for their generous hospitality and warm welcome to the Conference in this very beautiful city.

140. Mr. BARMA (Chad) (*interpretation from French*): It is a special honour and a pleasant duty for me to participate, on behalf of my country, in this major event—the session at which the international Convention on the Law of the Sea will be signed in Montego Bay, this lovely Jamaican city.

141. First of all, I should like to express my delegation's deep gratitude to the Government and the people of Jamaica for the warm welcome and special attention bestowed upon us since our arrival here.

142. As previous speakers at this rostrum have so rightly said, one could not have chosen a better place for the signing of the Convention and the headquarters for the future Inter-

national Sea-Bed Authority than Jamaica, a beautiful island typifying the perfect union of land and sea.

143. The drafting of the United Nations Convention on the Law of the Sea has been long and arduous, and the great efforts and resolute political will of the participants, industrialized and developing countries alike, have been required to arrive at the adoption of a compromise text.

144. In this connection it is fitting to pay posthumously a resounding tribute to the late Hamilton Shirley Amerasinghe of Sri Lanka, who for several years presided with courage, competence and skill over the work of the Third United Nations Conference on the Law of the Sea. Unfortunately, death suddenly took him away from this noble mission, to which he was so devoted, and prevented him from seeing the fruit of his praiseworthy efforts.

145. I am pleased also to pay a tribute to Mr. Pardo of Malta, who was the first to launch and actively contribute to the development of the concept that the resources of the high seas are the common heritage of mankind—a concept which has pride of place in the new Convention.

146. Mr. President, since you began guiding the work of the Third United Nations Conference on the Law of the Sea, you have displayed much authority, wisdom and tact, and that has contributed to the successful completion of the Conference.

147. Lastly, my delegation wishes very sincerely to thank all the Chairmen of groups and, especially, the successive chairmen of the Group of 77 and the members of the United Nations Secretariat, at whatever level, for their signal contribution to the success of the work of our Conference.

148. My country, Chad, was among the overwhelming majority of States which on 30 April 1982 voted in favour of the United Nations Convention on the Law of the Sea. In so doing, we wished to associate ourselves fully with a legal instrument of universal scope aimed at ensuring a more just, more equitable and, consequently, more human new international order.

149. As everyone has stressed emphatically, this Convention embodies a set of reciprocal concessions and, therefore, is a compromise which does not really fully satisfy any one country because no country's legitimate interests are entirely taken into account.

150. For its part, my delegation believes that the political will to arrive at an international Convention has prevailed over selfish national interests.

151. That is why it would be highly desirable for all States to sign and ratify the Convention and implement all its provisions in good faith. In any event, that is the pressing appeal which, on behalf of my delegation, I address to all the States that voted against the draft Convention or abstained.

152. We also wish to draw attention to the fact that the States intending to ratify the Convention or adhere to it should not take advantage of article 310 to give the Convention a restrictive interpretation robbing it of its substance, since, as everyone has said, it is an indivisible whole.

153. My country, Chad, is located at the very heart of the African continent, more than 1,500 kilometres from the sea. To this geographical location, not favoured by nature, are added the negative effects of drought and civil war—a war which was instigated, and is being maintained, from abroad and which has now lasted for more than 17 years. At first glance, therefore, one might think that my country would not be directly interested in the law of the sea. But the broad concept that the authors of the Convention have given to that document, especially for reasons of international solidarity, accounts for the fact that Chad, a land-locked country, is an interested party in the Convention. The new law of the sea therefore concerns not merely coastal States but all States of the globe.

154. Thus the resources of the high seas, which will be placed under the responsibility of the International Authority, will benefit—at least we hope so—all developing countries, particularly the poorest among them, my country included.

155. But, obviously, those countries will benefit from those resources only when they are exploited commercially.

156. Article 69 provides for the right of land-locked States "to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region".

157. It is also obvious that the total lack of resources in a number of countries will not permit them to benefit from that provision in the near future; but this is a safeguard, albeit minimal, of the interests of land-locked States.

158. It should also be noted that Part X of the Convention provides for the right of access of land-locked States to and from the sea and to freedom of transit. My delegation is pleased with those provisions which directly affect developing countries, in particular those which, like Chad, do not have a coastline.

159. The Convention constitutes a historic and balanced compromise that can contribute to the establishment of a new international economic order and therefore to the strengthening of international peace, security and co-operation.

160. It is therefore my honour and pleasure to announce to the Conference that Chad, through me, will sign the Convention and the Final Act on Friday, 10 December 1982.

161. Mr. AKINJIDE (Nigeria): For the past nine years Nigeria has taken part fully in the deliberations of the Third United Nations Conference on the Law of the Sea. We have attended all meetings and all sessions, whether of the plenary Conference or of committees. It is therefore with great joy and with nostalgia that my delegation looks back over the past nine years and has the honour of taking part, in this great hall, in this great meeting. History is being made and I agree entirely with the remarks of my friends from Tanzania and Gambia.

162. The process that has started is irreversible. What is taking place today is not an event but a process.

163. My delegation also rejoices with the people and the Government of Jamaica, first, for the honour of having been chosen as the place for the signing of this great Convention, and secondly for having been chosen as the headquarters of the International Sea-Bed Authority. We rejoice with them for two other reasons: first, Jamaica, like Nigeria, is a developing country; secondly, Jamaica is also a member of the Commonwealth. This occasion also shows the great importance which the United Nations attaches to the developing countries.

164. I should like to say a few words about the provisions of the Convention, particularly Part XI. I do not want to go into details because for the past nine years my delegation has spoken on the various provisions in the Committees and at plenary meetings and I think it would be irrelevant at this stage to go into more detail. Furthermore, other delegations have spoken on various points, some of them subjectively and some objectively.

165. I would divide the Convention into two parts: first, the sea-bed mining provisions and secondly, the non-sea-bed mining provisions. As regards the non-sea-bed mining provisions, I think the approach has generally been one of consensus and there is little dispute except on the part of those nations which take a subjective approach for reasons of national interest. But as regards the sea-bed mining provisions, I should first of all like to pay a tribute to those nations of the world, particularly the advanced countries, which are

very sympathetic to the views of developing countries and which have agreed not only to sign the Final Act but also to sign the Convention. But the attitude of our friends who have reservations, who have been complaining about the sea-bed mining provisions, seems to me to be imponderable.

166. In the first place, for the first time in the history of the world the developing countries will have two advantages: first, an opportunity fully to participate in the management of part of the world's resources; and, secondly, an opportunity to share those resources. I would have thought that those industrialized countries that for years and decades have been giving us aid would be happy at this new development. By taking part in the management of the resources of the sea, we shall get technology, and by sharing those resources we shall move away a bit from our poverty. I would have thought that we have been given aid over the years for these two reasons. Thus to me their attitude seems to be inconsistent, unless the aid they have been giving us has not been in good faith.

167. As far as the developing countries are concerned, what is involved in this particular Convention is the politics of the belly, the politics of the stomach, the politics of poverty and the politics of development. And on these issues there can be no compromise. We have now embarked on a reordering of the world's resources. No nation has the right to remain poor for ever, and no nation has the right to be rich for ever. It is not our fault that we were born in a developing country. When we were coming into this world, we did not know that we would be born in a developing country. Nor did those who come from the advanced countries, the rich countries, know, when they were coming into this world, that they would be born in rich countries. How, then, can anyone punish us for a situation over which we have no control? It is just like the colour of one's skin: whether one arrives as a Japanese, as a black, as a yellow or as a white, one has no control over it.

168. The purpose of the United Nations and the objective of the peoples of the world should be to have no third world, no second world, but only one world; then there will be peace, there will be stability. And I hope those friends of ours from the advanced countries that have reservations because of Part XI of the Convention will undertake an agonizing reappraisal of their attitude and see that it is not only in our interest but also in their own interest that the world not be divided between the poor and the rich.

169. I also wish to observe that these decisions were taken in accordance with the rules of procedure. They were taken in accordance with the democratic norm. So I cannot understand why anybody should say he should not be bound by it. In particular I think I should make a brief reference to the United Kingdom. At the Commonwealth Conference in Australia last year, this matter was on the agenda, and it was agreed that all the Commonwealth countries should support this Convention. It seems imponderable to me that at the last minute the United Kingdom, for reasons best known to it, should be the odd man out. I only hope that this attitude of the United Kingdom represents only a separation from the Commonwealth, not a divorce.

170. May I inform the Conference that I have authority from my Government not only to sign the Final Act but also to sign the Convention. I wish to congratulate the people and Government of Jamaica, a member of the Commonwealth. We would assure it that, as the headquarters of the Authority, it has the fullest support of Nigeria in all matters. We are sure that as a participant, as host for the Conference and as the headquarters of the Authority it will be successful.

171. Mr. President, I accepted your caveat to be brief. I have been brief, but I shall submit to the Secretariat the full text of my statement so that it may be included in the proceedings of this Conference.

172. Mrs. JONES (Liberia): I shall begin with an expression of profound gratitude and appreciation to the Government and people of Jamaica for the warm hospitality and the excellent facilities that have been provided to us for the signing ceremony for the United Nations Convention on the Law of the Sea.

173. We wish to pay a tribute to the late Mr. Amerasinghe for presiding over our earlier deliberation with distinction. Equally we thank Ambassador Tommy Koh for his untiring efforts, patience, skill and competence in bringing our deliberations to a successful conclusion. We also wish to thank Mr. Zuleta and all the members of the Conference secretariat for their dedication and their contribution to our negotiations.

174. The Government and people of Liberia take great pride in being represented here in Montego Bay, Jamaica, to participate in the solemn signing ceremony for the United Nations Convention on the Law of the Sea. In our opinion this Convention is indeed one of the most important documents ever to emerge in the history of mankind. It contains not only the idea of economic benefits for all mankind but also that of the right of all nations and peoples of the world to greater human dignity, freedom, justice and equality.

175. The underlying principle which has guided the arduous and protracted negotiations on this Convention in which nations have participated fully and freely is a concept that has come to be universally accepted—that the seas are the common heritage of all mankind—and is the basis upon which this international legal régime of the law of the sea now rests. It is a concept through which all the nations of the world, rich or poor, large or small, weak or powerful can accommodate and merge their national self-interest in the common task of ensuring that the world we inhabit is more peaceful and secure.

176. The United Nations Convention on the Law of the Sea is the beginning of a historic process which seeks to realign the existing system of international economic order through dialogue and negotiations and through international law and regulations that are fair and equitable.

177. My Government notes with some regret the decision of a few countries, in the exercise of their sovereign rights as States, not to sign the United Nations Convention on the Law of the Sea at this time. It is our profound hope that these nations will come to a greater understanding that the world today calls for vision and understanding and for commitment and solidarity between peoples and nations. The national interests of the world are so intertwined, albeit not identical, that our hope for a better future for all mankind lies not in unilateral actions but in effective international co-operation and organization and in the special protection and promotion of the interests of the less-developed countries.

178. As a developing nation, Liberia has consistently participated in and supported efforts at the international level to restructure the international economic order which unduly burdens countries of the third world. Most of today's international institutions were established without the effective participation of third world countries because they were either non-existent or too weak to have meaningfully participated. The recognition of this fact and the further worsening of the state of third-world economies have culminated in an attempt to negotiate a new arrangement, a new international economic order that seeks to reshape the existing international economic system into a more just and more effective one that will foster a healthy world development of the world economy, particularly in the developing countries. With a realization of our mutual interests, both the developed and developing countries have embarked upon a course of dialogue and negotiations in an attempt to find solutions to many of the world's problems. Further efforts are under way within the United Nations system and in other international organi-

zations to reach international agreements which take into consideration not only the self-interests of some nations but the interests of all nations as a world community.

179. The United Nations Convention on the Law of the Sea is universal in character and touches the important areas of sea-bed mining, the continental shelves, the protecting and exercising of rights over the exclusive economic zones, the freedom of the seas and guaranteed passage to all nations in straits and waterways. We recognize and note with deep appreciation the fact that the United Nations Convention on the Law of the Sea embraces clearly established provisions of international law and does not seek to impede free and open access to the world's oceans and waterways and the rights of any nation to exercise its sovereignty in respect thereto.

180. The Government of Liberia is fully aware that no document, however perfect, can guarantee to fulfil the expectations or attain the results it seeks unless there exists a right attitude and spirit on the part of those who are signatories to it and those charged with the responsibility for its implementation. My Government therefore calls upon the international community to assist the developing countries, particularly the countries of Africa, in their efforts to exploit the resources of their sea-beds with respect to training and appropriate manpower, joint ventures and the transfer of technology. The Government of Liberia further calls for assistance from the appropriate United Nations agencies for the harmonization of our maritime laws to the maximum extent possible, both legislative and administrative, for the benefit of our individual countries and, indeed, of the world as a whole.

181. I wish to state that the Government of Liberia fully supports this Convention and the principles embodied therein. We stand firm and call for increased international dialogue and negotiations in the interest of international co-operation predicated on the principle of the sovereign equality of States. Liberia will sign the United Nations Convention on the Law of the Sea. Liberia, however, reserves its right, under article 310 of the Convention, to review certain articles of the present Convention and to submit revisions as necessary after the signing of the Convention.

182. Today let it be said that mankind has taken one great step forward, not for the selfish conquest of new horizons on earth but as an expression of an unselfish act and unselfish interest for the salvation of all mankind everywhere on this tiny globe.

183. Mrs. TAU (Lesotho): Like all the speakers who have preceded me, I wish to thank most heartily the Government and the people of this great country for their generous hospitality during our stay here for this historic event.

184. At this final stage of our Conference we would also pay a tribute to the late Ambassador Amerasinghe of Sri Lanka, who dedicated himself so untiringly to the work of this Conference, both during the days of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and during the greater part of the Third United Nations Conference on the Law of the Sea, as its President until his untimely death.

185. We wish also to acknowledge with great satisfaction the contribution you, Mr. President, and the Collegium have made towards the success of this Conference. As this is almost the end of one era and the beginning of another, an era full of hope, we wish to thank all those within the United Nations and the representatives of delegations who gave of themselves untiringly so that we could reach this moment of the signing of the Convention.

186. I have asked for this opportunity to speak only to endorse and associate my delegation with the noble sentiments expressed by most of the previous speakers. We wish, however, to stress the importance of universal adherence to this Convention. We also urge the States which have not decided to sign the Convention to do so.

187. We appeal to the parties of the proposed "mini-treaty" to review their position. They have played an important part in the formulation of this Convention.

188. We subscribe to the principle that the resources of this international area can be subject only to an international régime and that they can be managed and regulated only by appropriate international machinery, such as that embodied in this Convention. We subscribe to the principle, which has crystallized into international law, that the international area is free from State sovereignty and as such cannot be subject to appropriation by any State or persons, for it constitutes the common heritage of mankind.

189. In conclusion, I wish to inform the Conference that although my country as a land-locked State does not stand to benefit from this Convention immediately, as all representatives know, my Government has nevertheless decided to sign it in the hope that all the other peace-loving States will also sign so that law and order can take the place of anarchy and uncertainties hitherto prevailing in the affairs of the maritime environment.

190. Mr. PAREDES-PEÑA (Ecuador) (*interpretation from Spanish*): First of all, I wish to express my gratitude for the excellent work done by the authorities of the Conference, by you, Mr. President, and your distinguished predecessor, the late Hamilton Shirley Amerasinghe.

191. Much of what have been attained throughout the difficult and lengthy negotiations are due to the talent, wisdom and special qualities as diplomats and statesmen of our dear departed Mr. Amerasinghe and you, Mr. President.

192. The spirit of understanding inspired by the deceased, the importance which he always attached to the concerns and difficulties of all delegations, be it from the most powerful countries of the earth or from small States, was one of the keys to his successful work.

193. As far as you, Mr. President, are concerned, the harsh tests which you met during the final sessions, in which your wise and firm hand weathered the storms lurking on the horizon, clearly proved your special qualities.

194. I also wish to highlight the intelligent, effective and devoted work of the Chairmen of the Main Committees and the Drafting Committee, the Rapporteur-General, the Executive Secretary and our dear friend Mr. Bernardo Zuleta, the Special Representative of the United Nations Secretary-General.

195. Throughout history Ecuador has been a maritime nation. Its indigenous inhabitants were navigators by nature and desire, extracting traditionally from its rich seas the resources they needed for subsistence and progress.

196. For my country, which has long continental and insular coastlines, the sea is of fundamental importance with direct implications for the present and future well-being of its people. The seas surrounding the Galapagos Islands, which because of their exceptional wealth of flora and fauna have been described by the United Nations Educational, Scientific and Cultural Organization as "the natural heritage of mankind", deserve special treatment, one which takes account of the circumstances and allows them to preserve their natural wealth for posterity.

197. Ecuador's links with the process of the modern development of the law of the sea are long indeed. The Declaration of Santiago of 1952,[2] signed by Chile, Peru and Ecuador, is at the basis of the legal development of the system of the South Pacific. The principles on which the Declaration

[2] See *Yearbook of the International Law Commission*, 1956, vol. I.

of Santiago are based constitute one of the richest formative and guiding sources of the law of the sea.

198. On this occasion I wish to recall the letter which was addressed to you, Mr. President, by the delegations of the member countries of the Permanent Commission of the South Pacific—Colombia, which when it joined a few years ago brought particular encouragement to our regional organization, Chile, Peru and Ecuador. The text of that letter is contained in document A/CONF.62/L.143 dated 29 April 1982.[1]

199. On 30 April 1982, at the 182nd meeting, in a vote in New York, the United Nations Convention on the Law of the Sea was adopted. At that time the delegation of Ecuador made a formal statement that it would not participate in the vote and expressly set forth the reasons for that decision. I also wish to recall other formal statements by the delegation of Ecuador and especially those delivered at the tenth and eleventh sessions, in which my country's position was clearly set forth.

200. At this time and on instructions from my Government, I wish to state that despite the important advance made in the negotiations of the Third United Nations Conference on the Law of the Sea and the fact that the Convention contains fundamental principles and rights for coastal developing countries and the international community in general, the Convention which will be opened here for signature by States does not fully satisfy the rights and interests of Ecuador. Ecuador has exercised and continues to exercise such rights under its national legislation, which was passed without violating any principle or norm of international law, before any of the three Conferences held under the auspices of the United Nations was convened. Recognition of the rights of sovereignty and exclusive jurisdiction over all the resources, living and non-living, of the adjacent seas up to 200 miles, and the sea-bed thereof, is a conquest for coastal States which began with the far-sighted Declaration of Santiago of 1952. An important role has been played in this achievement by the Territorialist group of which the delegation of Ecuador is the permanent co-ordinator.

201. My country actively participated in the eight years of negotiations of the Third United Nations Conference on the Law of the Sea and in the preparatory meetings, and given the importance that Ecuador, a country with long continental and insular coastlines and rich sea-beds, attaches to this question, we will continue to be associated with this evolutionary process of the law of the sea for the better defence and promotion of national rights. In affirmation of this we will subscribe to the Final Act of the Third United Nations Conference on the Law of the Sea.

202. At this time of subscribing to the Final Act, and despite the difficulties presented by the law of the sea, my delegation wishes to reiterate its position in defence of its 200-mile territorial sea.

203. In conclusion, I wish to express my gratitude for the warm welcome extended to us by the Government and people of Jamaica, which have made this historic meeting in this beautiful Caribbean land a most pleasurable and unforgettable experience.

204. Mr. OULD HAMODY (Mauritania) (*interpretation from French*): The delegation of the Islamic Republic of Mauritania is pleased to thank the people and Government of Jamaica for the welcome organized with such a brief space of time for the participants in this last stage of the eleventh session of our Third United Nations Conference on the Law of the Sea.

205. We should like most warmly to congratulate you, President Koh, for the great talent and determination with which you have met the challenge of the conclusion of the Convention.

206. We wish to pay a tribute to Mr. Pardo of Malta, and to pay a tribute to the memory of your predecessor, Mr. Amerasinghe of Sri Lanka, who, until his sudden death, presided over the first, difficult sessions of our Third Conference.

207. We wish also to thank very sincerely the chairmen and members of the Bureau of the three technical Committees, as well as the Chairman, Rapporteur-General and members of our Drafting Committee, and to pay a tribute to the memory of our brother, Mustapha Yasseen, the former co-ordinator of the Arabic language drafting group.

208. A country possessing an important Atlantic coastline and placing very great hopes for its economic development, at the present but also in the future, in the immense potential of its ocean space, the Islamic Republic of Mauritania attaches priority attention to this last part of the eleventh session of our Third United Nations Conference on the Law of the Sea. But the document now before countries for signature has a meaning that is very much greater for our country than the simple, narrow considerations of national interest.

209. We see in it, first of all, at the end of nine years of tireless negotiations and patient efforts, a real demonstration of mutual concessions made by all participants without exception, an unprecedented magnificent achievement which makes the 320 articles and nine annexes to the Convention a very model of what global, equitable, realistic and mutually beneficial North-South economic relations should be.

210. For my country this Convention is, on another level, a revolutionary act establishing the primacy of a truly universal, new and global maritime law encompassing all continents, all interests—the appropriate picture of the contemporary world and its geographical upheavals.

211. Finally, the Convention gives us satisfaction, with the same force, by account of the interests of certain entities which have been deprived of their sovereignty without their consent. This is true of our sister Namibia, which will sign, through the United Nations Council for Namibia, the Convention and the Final Act. It is true also of the observer status granted to two sister nations—Palestine and Azania—through their national liberation movements, the Palestine Liberation Organization and the African National Congress. It is true, finally, of certain other Non-Self-Governing Territories with observer status.

212. The Convention and its annexes and the Final Act clearly cannot satisfy fully the legitimate desires of all the parties represented here.

213. Our country, which has fully supported every consensus, wishes, in accordance with the provisions of article 310 of our Convention, to make a brief statement of explanation.

214. First, the Islamic Republic of Mauritania would like to stress that article 62 of the Convention, dealing with the utilization of the living resources, which grants coastal States exercise of sovereign rights over the living resources in their exclusive economic zone, does not recognize other concurrent rights.

215. Secondly, with respect to article 69, on the right of land-locked States, and article 70, on the right of geographically disadvantaged States, the Islamic Republic of Mauritania would like to emphasize the significance of articles 69 and 70—that is that these land-locked and geographically disadvantaged countries can have access to the resources of the exclusive economic zone only on the basis of bilateral subregional or regional agreements.

216. Having said this, Mauritania would like to dwell on Part V of the Convention, dealing with the exclusive economic zone. My country several years ago actually extended its jurisdiction to 200 nautical miles and played an essential role in formulating the Declaration of the Organiza-

tion of African Unity on the Issues of the Law of the Sea adopted in 1973.[3] That resolution brought about our continent's adhesion to the principle of the exclusive economic zone, a principle that is given legal confirmation as international law in our Convention.

217. Thirdly, my country would like also to recall that its signing of the Convention does not imply its obligatory recognition of all the signatory parties nor does it impose on Mauritania the maintenance of normal political, economic, cultural or other relations with all those countries.

218. Fourthly, my country feels, moreover, that its signing of the Convention does not prejudge formal recognition of the rights of other signatory States, peoples or entities which cannot at the present time exercise full sovereignty over their national territory and territorial waters.

219. That being the case, the Convention adopted last 30 April in New York, and by such a large majority, constitutes in our view, with its annexes and Final Act, a single and indivisible document which deserves the approval of the internaitonal community as a whole. In this regard we should recall the difficult and wise balance achieved, in the drafting of our Convention, between the divergent interests of the developing countries and those of the advanced industrialized countries, and between those two groups of countries collectively.

220. We have no doubt that if this exercise were to be attempted anew, the Group of 77 could not demonstrate the same degree of flexibility, and thus the whole carefully achieved balance would collapse, taking with it a dream that has now come true—to the honour of our international community.

221. Therefore, in the final analysis no one's interests can really be served by calling this great achievement into question at this late date, least of all the interests of the great economic and naval Powers.

222. Hence, we support all those who sincrely call for the signing of this document, so vital to all our futures, by the recalcitrant countries, in particular those which are needed to make it fully universal.

223. We must make no mistake. This Convention, which is by far the most complete and the most decisive of the treaties of international law adopted so far, must be the charter of the law of the sea, codifying economic and military relations in the marine environment and must be the model for the preservation of that environment, which is particularly threatened. Above all, it must, under the aegis of this high international authority, manage for present and future generations this common heritage of mankind. The same admirable concept of the common heritage of mankind, as set forth by the Convention on the ocean and maritime space of the Area, augurs well for the future, in that perhaps the same patience and sense of reason will make it possible for our international community to take into consideration the aspirations of all human families, going beyond the restrictive customary law of a single continent and the not too specific values of a single civilization, beyond selfish interests, in international economic relations. One need not be a prophet to state that this will open up the way to a just world order embracing all areas of our life and taking into consideration in the broadest possible sense the heritage and interests of all men, all peoples and all nations. In any event, that is what the Islamic Republic of Mauritania will be counting on when, on Friday, 10 December 1982, through its plenipotentiary, it signs the United Nations Convention on the Law of the Sea and the other decisions and related matters of the Third United Nations Conference on the Law of the Sea.

[3] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III, document A/CONF.62/33.

224. Mr. KNIPPING VICTORIA (Dominican Republic) (*interpretation from Spanish*): First of all, I should like to express our gratitude to the people and the Government of Jamaica for their generous hospitality and warm welcome in this fraternal Caribbean land. At the same time, we also wish to underscore the admirable organizational efforts made by the Government of Jamaica to ensure the holding of this historic session under the best possible conditions. As the representative of a country member of the family of Caribbean nations, I am very proud of this solid achievement of the people and the Government of Jamaica and I take pleasure in attesting to it publicly on this great occasion.

225. Because of its particular geographical location, my country, the Dominican Republic, has carefully considered everything relating to the legal régime of the seas. The people of the Dominican Republic has always proceeded in this manner throughout its history. Because of its maritime traditions, it has been possible for my country, together with the other Latin American and Caribbean countries, to develop in that part of the world a legal awareness which has made a lofty contribution to the evolution of world legal thought in respect of the law of the sea.

226. On this occasion, I should like to recall the 1956 Declaration adopted by the Interamerican Specialized Conference on the conservation of natural resources: the continental shelf and the waters of the oceans, which bears the name of the Dominican Republic's capital city, and the more recent Santo Domingo Declaration, of 1972, the fruit of the efforts of the coastal States of the Caribbean Sea. In their respective historical perspectives, both Declarations constituted very important precedents for the formulation of the legal order of the seas.

227. We have now reached the culmination of the greatest negotiating effort of the organized international community in its entire history. Born of this exemplary and determined negotiating process, the United Nations Convention on the Law of the Sea is a result of a clear and unambiguous awareness throughout the world of the overriding need to regulate maritime space and its peaceful uses with a view to contributing to the noble objectives of peace, justice and the economic and social progress of all peoples of the world. As has been clearly shown by the negotiating process, all this has been possible because such objectives are basic, coinciding aims of all the legal orders represented in the United Nations system.

228. Given all that, and taking into account the element of universality which characterized the negotiations, the present Convention can to a certain extent be considered as reflecting the legal conscience of mankind.

229. While it is true that the Convention, like any other international treaty, has the desired legal effect only between and among the parties, given the nature of the negotiations that led to it and the scope of its objectives—international peace and social justice—it can be presumed that its norms and principles will serve as guidelines for the behaviour also of States that are not parties to it. We believe that this assessment is of extraordinary importance and should be shared by all, since the present Conference was not limited to codifying pre-existing law but also was called upon to develop and establish novel norms, instruments, machinery and principles for a new law of the sea. In this respect the Conference has contributed to one of the main functions of the United Nations, namely, to promote the progressive development of international law and its codification.

230. Now, the ideal result would have been for the Convention to be signed and ratified by the entire international community, since in this way these new norms and principles would have reflected a universal feeling of international solidarity, co-operation and friendship.

231. We sincerely call upon those States that are having difficulties in subscribing to the Convention—difficulties which we understand and respect—to reflect upon the merits of its provisions and objectives and the role it can play as an instrument of peace and economic and social progress for all peoples of the world, in accordance with the purposes and principles of the United Nations.

232. The Government of the Dominican Republic believes that the United Nations Convention on the Law of the Sea constitutes a great step forward in the legal sphere and that its application will contribute to the achievement of a just and equitable international economic order taking account of the interests and needs of mankind as a whole and, in particular, the special interests and needs of the developing countries. In keeping with this conviction, my country will sign the Convention.

233. In conclusion, I should like to pay a tribute to the memory of Mr. Hamilton Shirley Amerasinghe, who with great faith and dedication gave such impetus to our work.

234. Similarly, I wish also to pay a tribute to his illustrious successor, our current President, Mr. Koh, who with his incomparable wisdom and unequalled diplomatic skill has led us to a happy conclusion; as well as to the Chairmen of the Committees and groups and their colleagues, to the Rapporteur-General of the Conference, Mr. Kenneth Rattray of Jamaica, and to all the members of the Secretariat, under the leadership of an eminent son of Colombia, Mr. Bernardo Zuleta.

235. Mr. KABWE (Zambia): Mr. President, I am greatly honoured to be able to say a few words during this historic final session of the Third United Nations Conference on the Law of the Sea. I bring to you, Sir, and to the representatives fraternal greetings and wishes of goodwill from my President, Mr. Kenneth David Kaundu, and from the Government and the people of the Republic of Zambia.

236. During the last few days various colleagues have outlined their respective personal recollections of the epoch-making first and second sessions, held respectively in New York in December 1973 and Caracas from June to August 1974. It is my delegation's wish to be associated fully with those sentiments and with the well-deserved sighs of relief that the international community has finally made it.

237. It indeed has been a very long and sometimes quarrelsome journey through the 11 sessions that have been held in New York and Geneva up to now. That journey reminds one of the words of a folk song by an Afro-Caribbean musical group, Osibisa. It goes like this:

"We will get there,
Heaven knows how we will get there
We know we will."

238. Yes, indeed, we have got here, in this apt setting of beautiful and sunny Jamaica.

239. The United Nations Convention on the Law of the Sea is a treaty that represents a child born out of compromise. It is a realization of a dream of not one nation but a collection of nations and peoples whose aspirations are quite obviously diverse and wide. But this Convention is the nearest we could have got to a tangible and attainable hope for humanity.

240. At various stages throughout the negotiations my country did indicate areas which we thought required improvement in terms of our particular problems, together with other countries in a similar situation as geographically disadvantaged States and mineral-producing nations. If I were to recount all such areas I fear that I might not have sufficient time, in view of the President's strict 15-minute rule. Suffice it to say that Zambia has had and continues to have faith in the spirit of Caracas, which has permeated the negotiations leading up to the mandate of Montego Bay.

241. My Government has participated fully in consultations and meetings among the various interest groups, such as the group of African States and the Group of 77. We have made our views known on such crucial matters as, first, the question of production limitation, which is fundamental to the economies of those countries producers of minerals to be mined from the sea-bed; secondly, the protection of pioneer investments in the exploration of the sea-bed; thirdly, the question of participation by liberation movements; fourthly, the issue of participation by international organizations, particularly in relation to the concerns expressed by our colleagues with other regional interests; fifthly, the concerns and alternative solutions presented to the Conference by the Government of the United States in matters mostly dealing with Part XI of the Convention, pertaining to the international sea-bed area; and sixthly, the issue of the establishment of the Preparatory Commission.

242. It is also on record that, following a request from my Government, and using assumptions that it was privileged to provide, the United Nations Secretariat produced an addendum to the report of the Secretary-General of the United Nations in order to determine the effect of sea-bed mining on the economies of developing countries which produce copper, cobalt, nickel and manganese from the land. The addendum clearly showed that developing land-based producers of cobalt and manganese would definitely lose their traditional markets if sea-bed mining were to take place. Thus the system of compensating developing land-based producers of affected minerals became crucial to Zambia, a matter of life or death. For the work on this important aspect of the Convention, Zambia is greatly indebted to the personal interest and involvement of the Special Representative of the Secretary-General of the United Nations, Mr. Bernardo Zuleta.

243. Although Zambia's concerns in the area I have just outlined have not been fully taken care of in the final clauses of the Convention, we have not, as others have, abandoned the Conference or disowned the Convention. We have stayed through because we believe that the alternative to the Convention represents uncontrolled international piracy of mankind's bounty from the sea-bed. We cannot see ourselves subscribing to such illegalities. I should like to join those who have spoken before me in appealing to those of our friends who have opted to leave us at this most important stage to reconsider their positions and sign the Convention at the earliest convenient time.

244. Ideas of unilateral mining of the sea-bed or mini-treaties should be set aside. Ideas of attempting to derive benefits through the back door and of refusing to accept the correlative duties of the Convention should not be allowed to take root.

245. You, Mr. President, as a distinguished and learned diplomat, have been reported as having said that if certain countries were to go it alone, either through mini-treaties or through unilateral mining, their action would be morally unjust and legally it would "probably be an illegal act under customary international law". I am lucky not to be a lawyer, so I am not restricted by either the inhibitions or the niceties of the learned fraternity and can therefore say that to Zambia such acts will without doubt be regarded as exploitation of man by man by virtue of using the might of technology in taking advantage of the weak.

246. Signature of the Convention and the Final Act is the mandate that has been given my delegation by my President and the people of Zambia, and sign them I shall with profound pride and optimistic hope for the future and as a fitting tribute to all those who have laboured over the years to produce an international treaty that has formulated a new and generally acceptable Convention on the Law of the Sea that will avoid the defects that were inherent in the four Geneva

Conventions of 1958. In this connection I am thinking of the late first President, Mr. Hamilton Shirley Amerasinghe of Sri Lanka.

247. Finally, Mr. President, may I through you convey my delegation's gratitude to the Government and people of Jamaica for their very warm hospitality and for the way arrangements have been made and are being executed to take care of all our needs.

248. May I also, Mr. President, thank you for the way you have guided the Conference at these last crucial sessions, as well as the staff of the United Nations, which continue to work so hard.

249. Mr. BARAKAT (Palestine Liberation Organization) (*interpretation from Arabic*): Now that our Conference is drawing to a close, I wish to congratulate you, Mr. President, on the excellent way in which you have directed our work, which has enabled this session and previous sessions to be successful.

250. I take this opportunity also to pay a tribute to the memory of the late President Amerasinghe, so well known for the remarkable way in which he presided over the work of the Third Conference on the Law of the Sea, and for his defence of human rights during the period when he was the Chairman of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.

251. On behalf of the Palestine Liberation Organization, the sole representative of the Palestinian people and the leader of that people's struggle to achieve its national aspirations in freedom and independence, we wish to thank the people and Government of Jamaica for their warm welcome. Also, we congratulate Jamaica on the confidence shown in it by the decision to make it the headquarters of the International Sea-Bed Authority.

252. When the Palestinian people, under the leadership of the Palestine Liberation Organization, chose the path of various forms of struggle—supported by international legitimacy—to put an end to the foreign occupation of its homeland, it stated at the same time that the best means for settling disputes is a commitment to respect Conventions, the provisions of international law and the United Nations Charter, basing itself on the principle that the exercise of the right to self-determination is an inalienable right of all peoples. With the support of all peace-loving forces, the Palestine Liberation Organization succeeded in obtaining observer status in the United Nations and its affiliated organizations and specialized agencies. Since then—that is, since the thirty-second session of the United Nations General Assembly—delegations of the Palestine Liberation Organization have participated in all the activities of the international Organization, firmly convinced that the Charter and the provisions of international law and the Declaration of Human Rights are on the side of the oppressed peoples whose territories have been occupied as a result of foreign aggression.

253. The Palestine Liberation Organization has shown particular interest in the various sessions of the Conference on the Law of the Sea and has participated in the work of that Conference. There has been continuing co-ordination between the various regional groups, and above all between the League of Arab States, the Asian group and the Group of 77. Even though we are fully convinced that the Convention that has been achieved is a compromise taking account of the general interests of peoples, we accepted the compromise in regard to national liberation movements in order to ensure the success of the Conference. We are convinced that the national liberation movements are the legitimate representatives of their peoples and that they are the legitimate defenders of the rights of the peoples they represent. That is why they should have had the right to sign not only the Final Act but also the United Nations Convention on the Law of the Sea.

254. In any event, we believe that signature of the Final Act constitutes an obligation on the international community to defend the interests of peoples, their maritime and natural resources. This belief is based on our understanding of resolution III and the provisions of Article 73 of the United Nations Charter, concerning Territories that have not yet attained national independence and relating to the defence of the interests of those peoples and the protection of their resources, which are at present being exploited by occupation forces. This resolution is complementary to a series of resolutions adopted by the General Assembly and the Economic and Social Council, relating to the natural resources of the occupied Palestinian territories, which Israel seizes and exploits. This resolution also complements the resolution adopted by the Conference on New and Renewable Sources of Energy, held in Nairobi in 1981,[4] which called upon Israel to stop the work of digging a canal to link the Dead Sea and the Mediterranean, since such a canal would have harmful effects on the nature of the soil and would violate the interests of the Palestinian people. Furthermore, the decision to dig the canal was contrary to the provisions of the four Geneva Conventions.

255. Once again, Israel is rejecting international unanimity. It is the only Member of this international Organization that rejects the commitment that stems from its membership status to abide by the Charter and United Nations resolutions. It considers itself a State above the law, but without the protection of the United States Israel would have been expelled from the United Nations, for it has frequently violated the Charter and the provisions of international law and has refused to implement international resolutions. We believe that it is incumbent upon us all to consider that State as one outside the law and to take the appropriate measures under the Charter.

256. The signing of the Final Act of the Conference on the Law of the Sea by national liberation movements is further evidence of its universal nature. We are convinced that the bitter struggle and sacrifices of the Palestinian people to achieve their national independence will end in victory. I appeal therefore to all the peace-loving countries participating in this Conference to ensure that international law and the United Nations resolutions on Palestine are heeded, in order that my country may take its place among them as an independent State, participating along with them in the creation of a more just and progressive society.

The meeting rose at 6.20 p.m.

[4] See *Report of the United Nations Conference on New and Renewable Sources of Energy, Nairobi, 10–21 August 1981* (United Nations publication, Sales No. E.81.I.24)

191st meeting

Thursday, 9 December 1982, at 10 a.m.

President: Mr. T. T. B. KOH (Singapore)

Statement by the President

1. The PRESIDENT: I should like to inform representatives that this morning the Collegium held its last meeting. As I said in my opening statement, on Monday, the Collegium of this Conference is quite a unique institution. It is not to be found in the rules of procedure; it has evolved in response to the need felt by the Conference for leadership and I think that my colleagues and I in the Collegium have been fortunate in that we have been able to work very well together.

2. In my opening statement I paid a tribute to Mr. Arvid Pardo, who has contributed two important, indeed seminal, ideas to the work of this Conference. My tribute to him has been echoed by almost everyone who has addressed the Conference. I am very pleased that Mr. Pardo is with us today and I should like him to stand so that we may express our tribute to him in the usual way—that is, with a round of applause.

Statements by delegations (*continued*)

3. Mr. BHATT (Nepal): The delegation of Nepal joins other delegations that have expressed their thanks and appreciation to the Government and the people of Jamaica for the excellent arrangements they have made for the holding of the final session of the Third United Nations Conference on the Law of the Sea.

4. I should also like to convey to you, Mr. President, the compliments of my delegation for the statesmanlike manner in which you have discharged the difficult task entrusted to you by the international community. We should like to congratulate you on your perseverance in bringing the work of the Conference to a successful conclusion. We also thank the Special Representative of the Secretary-General, Mr. Bernardo Zuleta; the Executive Secretary, Mr. David Hall; and the staff of the Secretariat for their assistance in the work of the Conference. My delegation would like to pay a tribute to the leadership given during his presidency by the late Mr. Hamilton Shirley Amerasinghe of Sri Lanka.

5. This final session of the Third United Nations Conference on the Law of the Sea brings to an end the long and arduous process of negotiations to establish a new régime of the sea. It has taken almost 10 years for the Conference to reach a broad consensus on the complex issues before it. Owing to the divergent interests of the participants, the final document is naturally a compromise text. It represents the consensus, with the widest support, of the international community. My delegation is gratified that the common efforts of the international community have reached a successful conclusion. We earnestly hope that the spirit of co-operation and understanding shown during the course of negotiations will guide our activities in the implementation of the provisions of the Convention.

6. The views of my delegation on questions of particular interest to us have been expressed on many occasions in the past sessions of the Conference. The provisions relating to land-locked countries, particularly Part X of the Convention, are of special importance to us. We are not wholly satisfied with regard to the rights of transit of land-locked countries in article 69 of the Convention. Similarly, provisions relating to the sharing of resources in the continental shelf and to the exclusive economic zone do not correspond to our aspirations.

7. During the course of the Conference, Nepal, with 11 other delegations, proposed a common heritage fund, but the concept did not find enough support. We hope that in future this concept will be able to gain wider support from the international community.

8. The progressive development of the law of the sea from 1958 to 1982 has taken the form of the present Convention. This positive development is one of the stages along the long road towards the establishment of a more just and equitable régime of the law of the sea. We hope this process will continue in the future as well.

9. The delegation of Nepal was deeply conscious of the difficulties involved in reaching consensus on issues on which States had different views and of the essential need for such a consensus if the Convention were to receive the widest possible support. In this spirit of co-operation and compromise, Nepal voted in favour of the draft convention on 30 April 1982. We hope that this Convention will receive support from all the participants in the Conference.

10. Mr. ANDERSEN (Iceland): This is indeed a historic occasion, as we meet in Jamaica to sign the Final Act of the Third United Nations Conference on the Law of the Sea and the long-awaited United Nations Convention on the Law of the Sea. It marks the culmination of the process of evolution that was started almost 35 years ago. Its origins can be found in the fourth session of the General Assembly held in 1949.[1]

11. At that time the International Law Commission had just been established, and that Commission had suggested three topics on its priority list for the starting of the codification and progressive development of international law. These topics were treaties, arbitration and the régime of the high seas. I was then the representative of Iceland on the Sixth Committee—the Legal Committee—of the General Assembly, and I proposed that the law of the sea should be included in its entirety in the list of priorities, and not only the régime of the high seas, because one cannot know where the high seas begin unless one knows the extent of coastal jurisdiction. This proposal was objected to by some who contended that the extent of the territorial sea was clearly established at three nautical miles and that there was no coastal jurisdiction over the living resources of the sea beyond that distance.

12. The Icelandic proposal was adopted, and in the following years Iceland always advocated the policy that a clear distinction should be made between the territorial sea, on the one hand, and the extent of fishery limits, on the other, and that the various elements of the law of the sea were so interrelated that they should be dealt with as a whole. That policy was confirmed by General Assembly resolutions on several occasions, in 1953, 1954, 1957, 1973 and so on.

13. As we know, the International Law Commission was never able to agree on the extent of the territorial sea or fishery limits and it proposed that an international conference be convened. That is why the three United Nations Conferences were eventually convened, the first in 1958, the second in 1960 and the third in 1973. Thus we do have a continuous development extending over a period of almost 35 years.

14. At long last we now have the results ready in the Convention before us. For a country like Iceland, wholly dependent on the resources of the sea surrounding our coast, the text of the Convention represents formidable results because

[1] General Assembly resolution 374 (IV).

it recognizes the sovereign rights of the coastal State over the resources within the exclusive economic zone of 200 miles and over the sea-bed resources of the continental shelf even beyond 200 miles. Within the exclusive economic zone the coastal State makes all the decisions regarding the total allowable catch, as well as its own capacity to utilize that catch and the disposition of any surplus. These decisions of the coastal State cannot be referred to any third party for its decision.

15. These policy guidelines were all contained in Icelandic Law No. 44 of 5 April 1948 concerning the Scientific Conservation of the Continental Shelf Fisheries, and the basic provisions of the Convention dealing with the territorial sea, the economic zone and the continental shelf were incorporated into Icelandic legislation by Law No. 41 of 1 June 1979 concerning the Territorial Sea, the Economic Zone and the Continental Shelf.

16. On this occasion, in addition to recording the satisfaction of the Icelandic people at the historic achievements of the Third United Nations Conference on the Law of the Sea, I want to avail myself of this opportunity to thank all delegations for their co-operation and friendship during the long years that went into the making of this Convention. The same sentiments go to you, Mr. President, and to the entire Collegium, as well as to the members of the Secretariat, without whose exemplary efforts we would not have been able to reach our goal today. I pay a tribute also to the memory of your distinguished predecessor, President Amerasinghe.

17. The Icelandic delegation will be pleased to sign the Final Act of the Conference and the United Nations Convention on the Law of the Sea tomorrow, 10 December 1982. After all, the Icelandic people has been waiting for this result for 35 years.

18. Mr. HAN Xu (China) (*translation from Chinese*): First of all, please allow me, on behalf of the delegation of the People's Republic of China, to express our congratulations on the convening of the final session of the Third United Nations Conference on the Law of the Sea and on your assumption, Sir, of the presidency of this historic Conference. At the same time, I wish to take this opportunity to extend our thanks to the Government and people of Jamaica for providing all the facilities for the Conference.

19. With the concerted efforts of all the participating States, the Third United Nations Conference on the Law of the Sea adopted on 30 April this year the United Nations Convention on the Law of the Sea, after nearly nine years of long and difficult consultations.

20. Through a review of the progress of the Conference, we have seen clearly that the third-world countries waged unremitting struggles to oppose maritime hegemonism and reform the unreasonable and unjust old maritime régimes and put forward many reasonable propositions and proposals, thus providing a good basis for formulating the United Nations Convention on the Law of the Sea and making important contributions to the success of the Conference.

21. Generally speaking, the new Convention is quite an improvement on the old one. The new Convention has laid down a number of important legal principles and régimes for safeguarding the common heritage of mankind and the legitimate maritime rights and interests of all States and brought about a change in the former situation, in which the old law of the sea served only the interests of a few big Powers. This is conducive to the fight against maritime hegemonism, the establishment of a new international economic order, and the promotion of friendly co-operation and exchanges between the peoples of all countries.

22. The Chinese Government has always supported the third-world countries in their struggle against maritime hegemonism, stood for the formulation of a new convention on the law of the sea which ensures the legitimate rights of States, and actively participated in the work of drafting the Convention. The Chinese delegation voted in favour of the present Convention at the Conference in New York last April. Now, the Chinese Government has decided to formally sign the United Nations Convention on the Law of the Sea.

23. However, we cannot but point out that there are still shortcomings and even serious defects in the provisions of quite a few articles in the Convention. The Convention is not entirely satisfactory to us. At the previous sessions of the Conference we repeatedly pointed out that in the articles of the Convention relating to innocent passage through the territorial sea there were no clear provisions regarding the régime of the passage of foreign warships through the territorial sea. A considerable number of States, including China, time and again submitted an amendment in this regard. To respond to the call of the President of the Conference, those sponsors of the amendment did not insist on a vote at the session held last April so that the draft convention on the law of the sea could be adopted by consensus. The statement made by the President of the Conference at that session showed clearly that this would not affect the principled position of the sponsors demanding that their security be ensured. In addition, the relevant provisions in the Convention also contain shortcomings as regards the definition of the continental shelf and the principle of delimitation of the exclusive economic zones and the continental shelf between opposite and adjacent States. The Chinese delegation has stated its principled position on this matter.

24. It should also be pointed out that resolution II of the Conference, governing preparatory investment in pioneer activities relating to polymetallic nodules, has done too much in the way of meeting the demands of a few industrialized nations and given them and their companies some privileges and priorities. We consider that inappropriate. In future, that resolution must be implemented strictly in conformity with the provisions of the Convention, and the fundamental principle of the international sea-bed resources being the common heritage of mankind must not be prejudiced in any way. It goes without saying that any acts concerning exploitation in the international sea-bed beyond the limits of the United Nations Convention on the Law of the Sea, such as unilateral legislation or the so-called mini-treaty, are illegal and null and void.

25. Although the United Nations Convention on the Law of the Sea has been adopted, the struggle over maritime issues will be a protracted one. As a member of the third world, China will continue to make joint efforts with the other third-world countries and all peace-loving and justice-upholding countries in a persistent endeavour against any maritime hegemonist acts, in order to maintain world peace and international security and promote the progressive cause of mankind.

26. In addition, we consider it necessary to point out that the session of the United Nations General Assembly held this year adopted once again by an overwhelming majority the resolution to accept the credentials of Democratic Kampuchea. The Coalition Government of Democratic Kampuchea is the sole legitimate Government of Kampuchea and has an indubitable right to participate in the Third United Nations Conference on the Law of the Sea.

27. Mr. KIM CHUNG (Viet Nam) (*interpretation from French*): We are at last gathered in this charming city of Montego Bay to celebrate the success of our Conference, one of the loftiest undertakings embarked upon under the auspices of the United Nations. On this solemn occasion, where each delegation present here may rightly feel satisfied at having made in one way or another its contribution to the monumental endeavour represented by the United Nations Convention on the Law of the Sea, my delegation wishes above all to

address its sincere thanks to the Government and people of Jamaica for the hospitable and warm welcome they have extended to this session devoted to the adoption and signing of the Final Act of the Conference and the opening of the Convention for signature. I should like also, on behalf of the delegation of the Socialist Republic of Viet Nam, warmly to congratulate the President of the Conference, all the members of the Bureau, the Special Representative of the Secretary-General, the Executive Secretary and all the members of the Secretariat for the dedicated and tireless efforts they have exerted over nearly a decade, leading to this most happy conclusion.

28. At this historic moment our deep thanks go also to Mr. Pardo, and we pay a tribute to the memory of the late President Hamilton Shirley Amerasinghe. They laid the first stones of this common endeavour and made an invaluable contribution to it.

29. Concerning, first of all, the meaning and general scope of the Convention, my delegation is pleased to note that a new legal order for the seas and oceans has indeed been refined and ushered in, a régime that takes due account of the sovereignty of States and the particular legitimate interests of each category of States and at the same time is essentially successful in settling a variety of complex problems pertaining to different maritime zones, in a spirit of understanding, conciliation and mutual co-operation. This new legal order will make a beneficial contribution as a first step in the establishment of a just and equitable new international economic order, notably by adopting a delicate compromise on a legal régime and on legal machinery for the management, exploration and exploitation of the sea-bed area that constitutes the common heritage of mankind. The new Convention is the fruit of a great collective undertaking that meets the legitimate interests of all categories of countries, and especially the interests and needs of the developing countries. The Convention thus constitutes without a doubt a success for the United Nations of undeniably historic proportions, contributing—as it must—to the strengthening of peace, security, co-operation and friendly relations among all nations of the world.

30. For that reason, although we are not entirely satisfied with certain provisions of the Convention, my delegation willingly subscribes to the global compromise and the method for the overall settlement of all law-of-the-sea problems, which make the Convention an indivisible package excluding any selective application. We have the honour to inform this Conference that we have been authorized and mandated by our Government to sign the Convention and the Final Act of the Conference tomorrow.

31. In view of the universal scope of the Convention, which directly affects the interests of all peoples, my delegation believes that the national liberation movements, which are the authentic representatives of peoples struggling for self-determination and independence and, moreover, are authentic potential States, such as the South West Africa People's Organization and the Palestine Liberation Organization, should also be admitted to sign the Convention and to be full-fledged parties to it.

32. My delegation also believes that the Council of Ministers of the People's Republic of Kampuchea, the sole authentic and legal representative of the Cambodian people, has the right to sign the Convention on behalf of the Kampuchean people. My delegation therefore opposes any attempt to allow the representatives of the genocidal Pol Pot régime to sign the Convention and believes that any such signature would be totally lacking in legal validity.

33. Another negative fact that should be pointed out is that the present Administration of the United States is bent on thwarting the process of implementation of the Convention. It does not confine itself to not signing the Convention itself: it is endeavouring, by means of pressure and relying on complacency, to induce other countries not to sign or to delay signing. We must point out, however, that the Conference has already granted the United States and certain other Western countries exorbitant privileges by allowing them to benefit from the rights and advantages reserved for pioneer investors, without themselves having to sign the Convention, through multinational consortiums. My delegation shares the view of delegations which have already spoken that this involves inequitable and unjustified discrimination against certain other countries, such as the Soviet Union. Not satisfied with such a prerogative, however, the United States has also sought to derogate from the relevant provisions of the Convention by concluding on 2 September 1982 an agreement which in fact aims at dividing up the sectors of the international area, independently of the Convention. In this respect, my delegation fully supports the statement made by the spokesman for the Group of 77 on 6 December 1982 that any unilateral act or multilateral agreement incompatible with the provisions of the Convention pertaining to the international sea-bed area would be devoid of any international validity (*185th meeting, para. 156*).

34. I come now to my Government's position on certain specific aspects of the application of the Convention.

35. First of all I should like to recall in this regard that my Government already made a declaration defining Viet Nam's territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf in a way essentially in conformity with the relevant provisions of the Convention. With a view to ensuring strict and judicious implementation of that declaration, my Government has promulgated a number of texts, notably a declaration defining the baseline from which we measure the breadth of the territorial sea of Viet Nam's continental territory.

36. As a coastal country, and, what is more, a country bordering a semi-closed sea, which we call the Eastern Sea and which is known on international navigation charts as the South China Sea, Viet Nam is prepared to foster broad international co-operation for the rational use of the seas for the benefit of all concerned. In particular, my country sincerely hopes to be able to promote active co-operation with the other States bordering this sea, in conformity with article 123 of the Convention, for this kind of co-operation would be in keeping with our oft-repeated wish to contribute to the development of friendly political, economic and other relations among the various countries of South-East Asia that could transform that region into a zone of peace, stability, friendship, co-operation and prosperity.

37. My Government hopes that it can settle with the countries concerned all disputes pertaining to various maritime zones, including the delimitation of maritime boundaries, through negotiations on the basis of mutual respect for the independence and national sovereignty of each country, in accordance with the spirit of mutual friendship and understanding and respect for equality and the legitimate interests of all, so as to achieve the proper observance of the principles of equity and to avoid excessively infringing upon the national interests of any one of the parties concerned.

38. It is on the basis of this consistent position in favour of the peaceful settlement of disputes that my delegation vigorously opposes any recourse to the threat or use of force by any country, whether it be to carry out acts of aggression, occupation and annexation against islands, archipelagos or maritime spaces of other countries or to impose its own solutions to disputes with other countries. In this spirit, my delegation believes that it is necessary once again to denounce the occupation by force of arms of the Vietnamese Hoang Sa Archipelago and the open threat to annex the Truong Sa Archipelago as well, since that occupation and that threat of

annexation are flagrantly illegal, and run counter to article 301 of the Convention and the fundamental principles of the United Nations Charter.

39. Given the impressive number of delegations that have come to Montego Bay to sign the Final Act of the Conference and the Convention, I wish to conclude my statement on an optimistic note by expressing my conviction that the unwavering solidarity and militant vigilance of the developing countries and the socialist countries, which have enabled them to adopt the United Nations Convention on the Law of the Sea, will certainly continue to thwart any attempt aimed at undermining the effectiveness of the Convention or running counter to its objectives.

40. Finally my delegation reserves its country's right to make declarations in conformity with articles 287, 298 and 310 as appropriate and as the situation may require at the time of ratification of the Convention.

41. Mr. ADDERLEY (Bahamas): First of all, I should like to convey through you, Mr. President, the sincere appreciation of my delegation to the Government and the people of Jamaica—a sister nation of the Americas—for the offer to act as host to these ceremonies and for the courtesies so generously extended to us.

42. The Bahamas will sign the Convention and Final Act. We shall ratify the Convention; we propose to implement the Convention and shall be bound by its terms, thereby indicating our commitment to the rule of international law.

43. The Third United Nations Conference on the Law of the Sea began in New York nine years ago, when its rules of procedure were drafted. That was the first year of Bahamian sovereign independence. The Conference's first substantive session was held in Caracas in 1974, when the Bahamas attended for the first time. Today, almost a decade later, we meet here in Montego Bay to sign the Final Act and the Convention. This is a historic occasion for us and, we believe, for the world. The accomplishments of the Conference, which we shall acknowledge by our signatures, are perhaps unparalleled in the history of international co-operation.

44. When we began in Caracas, we did so in the absence of agreed proposals. Rather, we proceeded on the basis of proposals submitted by interested groups of States; we examined their content and tried, on the basis of their common elements, to produce main trends. This approach to treaty-making may have been novel, but it has now proved its usefulness, as evidenced by the fact of these ceremonies.

45. The two previous United Nations Conferences on the Law of the Sea—in 1958 and 1960—and, indeed, the Conference for the Codification of International Law held at the Hague in 1930, were mostly affairs for lawyers. This Conference has differed in that, apart from the mixture of experts from many other disciplines, the political element has always been predominant. My delegation sincerely hopes that the political will which prevailed in the drafting and adoption of this Convention will continue so as eventually to ensure its universal acceptance.

46. The objective of the Conference was a "package deal". It was in this context that serious-minded delegations accepted that it would be impossible to satisfy each other's individual concerns. In this spirit, compromise agreements have been reached.

47. These accomplishments demonstrate the capability of more than 160 sovereign States to work out rational accommodations for diverse and competing interests. It is perhaps in this that the true significance of the Convention is to be found, rather than in its complexities and all-encompassing nature. These achievements will become even clearer when nation-States come to the realization that they are all neighbours and components of this planet Earth and that the Convention represents the best assurance of the avoidance of conflicts through the application of law.

48. The Commonwealth of the Bahamas is committed to the rule of law and, in particular, to the rule of international law. We have a long tradition of parliamentary rule, of which we are, we believe with justification, extremely proud. This year we celebrate 273 years of elected Parliament through years of colonialism, internal self-government and independence. We are therefore pleased to see in the Convention clarified in legal terms those areas of the law of the sea that had been left murky by previous Conferences. We believe that it is the duty of all States committed to the rule of law which have over the years made significant contributions to the achievements of this Conference to participate in the Convention.

49. In this regard, while the Convention is not perfect, it represents the accommodation of the interests of all. The Convention, which no doubt makes an extraordinary contribution to international law and international order, affords an excellent opportunity to all States to register their approval of this historic and momentous effort. It is my delegation's hope that they will do so. History dictates that they should do so because it was the history of the inequitable law of the sea of past eras that caused the international community to respond to the just demands of the developing world for a more equitable law of the oceans. We do not wish to contemplate failure. We share the view that the success of this Convention is pivotal to East-West, North-South relations, since it impinges upon the interests of all mankind—the inhabitants of States rich or poor, land-locked or coastal and developed or developing.

50. The Third United Nations Conference on the Law of the Sea has united the efforts of mankind in the endeavour to found international peace and security on international law. The result of the Conference is a Convention that seeks to harmonize the aspirations of all mankind through law. All States professing a belief in the rule of law, sovereign equality and the equitable distribution of social and economic justice owe a sacred obligation not to impede this treaty.

51. There were sceptics who in 1945 prophesied that the United Nations would fail. Yet today, 37 years later, it still stands as a monument to human endeavour to avert international conflict and promote social, economic and political justice.

52. It has been said that the oceans may very well be man's last frontier. If this be so, then humanity should not bereave itself of this opportunity for a collective effort to harness the resources of the oceans as the common heritage of all mankind.

53. The possession of power, wealth and military capabilities does not entitle the possessor to the right to be ambivalent or to be heedless of the responsibility incumbent upon all leaders to do justice.

54. I wish to express the gratitude of my delegation to the Conference for its most favourable consideration of the problems of mid-ocean archipelagos, heretofore left unresolved by the law of the sea. To our mind, the provisions of the Convention relevant to archipelagos strike a just balance between competing interests, in that on the one hand accommodation is provided for the legitimate aspirations of archipelagos to be regarded as a single entity and on the other the interest of the international community in the free and unobstructed movement of legitimate international maritime traffic is guaranteed.

55. In Caracas, in 1974, when I addressed this Conference I referred to the uniqueness of the geography of the Bahamas. This same geography affected our approach and was a determinant of our policies with respect to the law of the sea as it related to archipelagos. Our islands are formed of limestone and they stand upon a complex platform that extends beyond

the land frontier to form what are referred to as the Great and Little Bahama Banks. These features are permanently submerged, but the waters that cover them are so shallow that in most places they are non-navigable except by vessels of the shallowest draught. The Convention now recognizes the legal status of the Bahama Banks.

56. The special problem of archipelagos which perhaps distinguishes them from continental States is that the sea lanes which thread them have some of the characteristics of international straits through which rights of transit exist. We recognize that in the interests of commerce, communications and global defence these traditional freedoms of transit need to be preserved. We have no disposition to inhibit the freedom of navigation and overflight.

57. With regard to the provisions of the Convention in respect of the delimitation of the maritime spaces between opposite and adjacent States, which has been one of the key areas of difficulty for the Conference, my delegation is not entirely at ease. Our preference for a clear statement of the law that the median line should be mandatory is well known to the Conference, as is our preference for mandatory and binding dispute settlement procedures. Recognizing the virtual impossibility of achieving these desires, we are, in the spirit of accommodation and compromise, prepared to accept the provisions on delimitation contained in the Convention.

58. I should now like to turn to the mining of the deep sea-bed. We belong to the school of thought that claims the resources of the international area to be the common heritage of mankind. The Conference's negotiations led us to believe that all participating States shared this belief. We felt that the task of the Conference was then to work out acceptable arrangements which would transform the common heritage into meaningful reality. To our mind, the provisions of the Convention, together with the resolution for the protection of preparatory investment, accomplishes this. We would have preferred a unilateral rather than a parallel system of exploitation but we are, along with the rest of the developing world, prepared to accept the present system as a compromise. In doing so we barred ideological differences and concentrated instead on obtaining the best possible formula which we felt should have been acceptable to all.

59. In conclusion, I wish on behalf of the Bahamas to pay a special tribute to Mr. Arvid Pardo, without whose vision we would not have been here today, and to the late Mr. Hamilton Shirley Amerasinghe for the role he played in these negotiations. And, Mr. President, I would be remiss if I were not to congratulate you on your patience, ingenuity and indeed brilliance, without which we might not have been here either. I also congratulate the respective Chairmen of the Committees and the Chairman of the Drafting Committee—the original four wise men and now five, including the Rapporteur-General. Our sincere gratitude goes to the members of the Secretariat for their unrelentingly tireless efforts on our behalf over the long years of these negotiations.

60. Mr. MIR-MEHDI (Islamic Republic of Iran):[2] Mr. President, it is a great pleasure for me to address this meeting on behalf of the Government of the Islamic Republic of Iran. First of all, I should like to thank the Government of Jamaica for acting as host to this final session of the United Nations Conference on the Law of the Sea. Since this is the first time that I see you in the Chair, Mr. President, I avail myself of this opportunity to express the appreciation of my delegation for your vigilant and capable leadership in handling your difficult task during the Conference's final sessions, which terminated in the adoption of the United Nations Convention on the Law of the Sea with the overwhelming support of the participants.

61. It is, however, regrettable that the result of a decade of tireless and dedicated efforts provided by hundreds of distinguished lawyers, diplomats and specialists, including you, Mr. President, your predecessor the late Hamilton Shirley Amerasinghe and the members of the Collegium, and despite all the concessions made by developing nations with the hope of reaching a universally accepted treaty, the selfish and short-sighted position of one delegation barred the Convention from getting adopted through consensus. As a result, the implementation of this Convention, which could be considered one of the most important instruments for regulating all legal, economic and political aspects of the seas and oceans of the world and could provide a logical approach to North-South issues, was unfortunately disturbed before birth by the destructive hands of a pretentious so-called advocate of democracy.

62. It was hoped that the product of this lengthy Conference would be a promising framework helping to eliminate greed and selfish economic prejudices and ultimately helping to produce a new system for the exploitation of the enormous riches of the sea-bed which lie beyond the limits of national jurisdiction and which, at the twenty-fifth session of the General Assembly, had been proclaimed the common heritage of mankind, on the initiative of Mr. Arvid Pardo, to whom we all should pay a tribute. In fact, this opportunistic and contradictory attitude of the United States delegation is in line with the overall hegemonistic policy of that imperialist Power.

63. Moreover, the frustrating path pursued by a handful of States, which apparently intend to conclude a separate arrangement, called a "mini-treaty", is an alarming threat to the interests of the world community and should be taken seriously. It would indeed be a very dangerous move if those countries tried to overlook their moral obligations pertaining to the United Nations resolutions in respect of the New International Economic Order. However, those countries should keep in mind that the world community will stand firm in the defence of its legitimate rights as regards the common heritage of mankind and will, by every means, protect the resources of the international sea-bed from plunder by any intruder, whether through unilateral action or by means of a so-called mini-treaty.

64. Considering the present state of international relations, which is becoming bleaker every day due to unjust economic relations between countries producing raw materials and the industrial world, if the basic principles and the spirit of the Convention, which provide for the just and equitable distribution of the resources of the seas, take the form of reality, one of the most important victories of this century will indeed be achieved, provided that justice and right, not might, prevail and the developing States are allowed to have access to the technological know-how accumulated by the powerful States at the price of the misery of the poor and the powerless.

65. In fact the main cause of the serious crises dominating the world economy today are rooted in an unjust international economic order and the exploitative policies that world imperialism is implementing for the sake of preserving its material interests and political and cultural hegemony.

66. Despite all these misgivings and difficulties we have had as regards some sections of the Convention—particularly the questions of the innocent passage of warships through the territorial sea, the participation of national liberation movements such as the Palestine Liberation Organization, the priorities and privileges provided for some industrial countries in connection with the sea-bed régime—for the sake of unanimity in the pursuit of common goals together with the Group of 77, the delegation of the Islamic Republic of Iran voted in favour of adopting the Convention.

[2] Mr. Mir-Mehdi spoke in Persian; the English version of his statement was supplied by the delegation.

67. The Government of the Islamic Republic of Iran has participated with great interest in the past sessions of the Conference. Now I wish to inform the Conference that I have been empowered to sign the Final Act and the Convention on behalf of my Government, and we intend to participate actively in the establishment of the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea.

68. Nevertheless, at this solemn moment the delegation of the Islamic Republic of Iran avails itself of this opportunity to place on record its understanding in relation to certain provisions of the Convention. The main objective is the avoidance of eventual future interpretations of the following articles in a manner incompatible with the original intention and the previous position or in disharmony with national laws and regulations of the Islamic Republic of Iran.

69. It is, then, the understanding of the Islamic Republic of Iran that, first, notwithstanding the intended character of the Convention as one of general application and of a law-making nature, certain of its provisions are merely the product of *quid pro quo* and do not necessarily purport to codify the existing customs or established usage regarded as having an obligatory character. Therefore it seems natural and in harmony with article 34 of the 1969 Vienna Convention on the Law of Treaties[3] that only States parties to the United Nations Convention on the Law of the Sea shall be entitled to benefit from the contractual rights created therein. Those considerations pertain specifically but not exclusively to the following: the right of transit passage through straits used for international navigation—Part III, section 2, article 38, the notion of the exclusive economic zone—Part V, and all matters regarding the international sea-bed area and the concept of the common heritage of mankind—Part XI.

70. Secondly, in the light of customary international law, provisions of article 21, read in conjunction with article 19, on the meaning of innocent passage, and article 25, on the rights of protection of coastal States, recognize, though implicitly, the rights of coastal States to take measures to safeguard their security interests, including the adoption of laws and regulations regarding, *inter alia*, the requirement of prior authorization for warships willing to exercise the right of innocent passage through the territorial sea.

71. Thirdly, the right referred to in article 125 regarding access to and from the sea and freedom of transit of land-locked States is derived from mutual agreement among States concerned, based on the principle of reciprocity.

72. Fourthly, the provisions of article 70 regarding the rights of States with special geographical characteristics are without prejudice to the exclusive right of the coastal States of enclosed and semi-enclosed maritime regions—such as the Persian Gulf and the Sea of Oman—with large populations predominantly dependent upon the relatively poor stocks of living resources of those regions.

73. Fifthly, islets situated in enclosed and semi-enclosed seas which potentially can sustain human habitation or an economic life of their own but which, owing to climatic conditions, resource restriction or other limitations, have not yet been put to full development, fall within the provisions of paragraph 2 of article 121, concerning the régime of islands, and therefore have full effect in the boundary delimitation of various maritime zones of the interested coastal States.

74. Furthermore, with regard to compulsory procedures entailing binding decisions, the Government of the Islamic Republic of Iran, while fully endorsing the concept of settlement of all international disputes by peaceful means, and while recognizing the necessity and desirability of settling in an atmosphere of mutual understanding and co-operation issues relating to the interpretation and application of the United Nations Convention on the Law of the Sea, will at this time not pronounce itself on the choice of procedures pursuant to articles 287 and 298 and reserves its position, which it will declare in due time.

75. Finally, the delegation of the Islamic Republic of Iran would like to congratulate each and every member of the Third United Nations Law of the Sea Conference on the achievement of this difficult and monumental task. At the same time, it wishes once again to express its sincere gratitude to the Government and people of Jamaica for their warm and cordial hospitality.

76. Mr. GOUZHENKO (Union of Soviet Socialist Republics) (*interpretation from Russian*): After ten years of intensive work, the Third United Nations Conference on the Law of the Sea is approaching its conclusion. The Conference has faced a highly important and complex task in working out a new legal order for the peaceful use of the waters and resources of the oceans of the world, which cover more than two thirds of the surface of our planet—that is, in solving problems that affect the vital interests of many States. What, then, are the results of the work of the Conference?

77. We believe that the main result of the Conference is the fact that, despite numerous difficulties and obstacles, through the collective efforts of its participants it has succeeded in working out and adopting a comprehensive United Nations Convention on the Law of the Sea, a single international legal document regulating all the major questions of human activity in the waters of the oceans and on the sea-bed and its subsoil.

78. The new Convention not only specifies, develops and codifies the traditional law of the sea but also introduces as norms of international law new concepts which take into account the realities of the contemporary world. In particular, the Convention defines for the first time the régime governing the use of the sea-bed and its resources beyond the limits of the continental shelf, which have been proclaimed the common heritage of mankind. The exploration and exploitation of the resources of that area will be organized, implemented and controlled on behalf of mankind as a whole by a new international organization—the International Sea-Bed Authority—the structure and activities of which are based on the principles of the equality of States and the inadmissibility of discrimination against any social and economic system and have due regard for the interests of different groups of States.

79. The new Convention represents a complex and indivisible package of closely interrelated compromise solutions to all major problems of the law of the sea. And, like any compromise, the Convention cannot of course accommodate completely all the participants—and, incidentally, the interests of the USSR cannot be completely accommodated in it either—but, on the whole, it takes account of the interests of each of them to the same extent. That is why it proves to be acceptable to an overwhelming majority of States.

80. We consider that the new Convention may serve as an important instrument in strengthening international co-operation, law and order and peace on the seas. It may also present a serious obstacle for those who would try to carry out the policy of arbitrary control and *diktat* on the oceans. Consequently, the Convention may make an important contribution to the strengthening of peace and security and will have great significance within the framework of the common struggle for the establishment in international relations of principles of equality and mutual respect and of ensuring that nothing done is to the detriment of the interests of another. The Convention was worked out in such a way that it has become convincing proof of the fact that States, if they are guided by these principles and take into account each other's interests,

[3] See *Official Records of the United Nations Conference on the Law of Treaties, documents of the Conference* (United Nations publication, Sales No. E.70.V.5).

may solve on a compromise and mutually acceptable basis the most complex international problems, including those with respect to which the interests of different groups of States frequently diverge considerably. At the same time, the history of the drafting and the adoption of the United Nations Convention on the Law of the Sea has clearly demonstrated that any attempts to undermine such a settlement of international problems or to ignore the interests of other countries cannot succeed in the present world.

81. The support given the Convention by an overwhelming majority of States has shown that this majority is determined to struggle for the introduction into international relations of all the positive experience that has been accumulated by humanity in this field in a period of relaxation of tension. Thus the United States Convention on the Law of the Sea proves once again the truth of a recent statement made by the General Secretary of the Central Committee of the Communist Party of the Soviet Union, Mr. Yuri V. Andropov, that the policy of détente is in no way a thing of the past, as is alleged by some imperialist circles, and that the future belongs to the policy of détente.

82. Taking into account the important international legal and political significance of the new Convention, the Soviet Union, which resolutely and consistently advocated its adoption, intends to sign the Convention tomorrow. We hope that the number of countries which will sign it tomorrow will be sufficient to start the normal activities of the Preparatory Commission to establish the International Sea-Bed Authority and the International Tribunal for the Law of the Sea. The Soviet Union is ready to co-operate closely within the Commission's framework with other member States which have signed the Convention to ensure the Commission's effective implementation of its functions.

83. Today, summing up the results of the Conference's work, we consider it necessary to reaffirm our position of principle with regard to some provisions of resolution II, regulating preliminary investments in pioneer activities concerning the exploration of the polymetallic nodules, which was put to the vote as part of the Convention package. It is regrettable that that resolution contains different requirements for different groups of countries. However, those shortcomings of resolution II do not diminish the significance of the new Convention on the Law of the Sea and cannot influence the positive position of the USSR towards this Convention.

84. In signing the Convention the Soviet Union will refrain from declarations under article 310 of the Convention. Although these declarations do not change the legal force of the Convention, we feel they might provoke counter-declarations and, generally speaking, complicate the situation with respect to the Convention. Therefore we support the President's appeal addressed to all States which intend to sign the Convention to refrain from statements interpreting the substance of its provisions.

85. Unfortunately, similar declarations have been made and some of them have gone far beyond the framework of article 310 and can be regarded only as clear attempts to distort certain provisions of the Convention. That is why the Soviet Union reserves its right to take a stand on such declarations at a later stage.

86. At the time of signing the Convention the Soviet Union intends to exercise its right to choose the procedures for the settlement of disputes by submitting the relevant declarations in writing. They will state in particular that the Soviet Union will not accept the compulsory procedures entailing binding decisions on disputes related to sea boundary delimitations, disputes concerning military activities and disputes with respect to which the Security Council of the United Nations is exercising the functions entrusted to it by the United Nations Charter.

87. The problem of participation in the Convention is linked to certain political questions with respect to which the Soviet Union reaffirms its position of principle. We believe that only the Government of the People's Republic of Kampuchea, the sole legitimate representative of the Kampuchean people, has the right to represent Kampuchea in the international arena and, *inter alia*, to sign the United Nations Convention on the Law of the Sea.

88. The Soviet Union stands for the full participation in the Convention of the national liberation movements, such as the Palestine Liberation Organization.

89. We firmly believe that if the participation in the Convention of self-governing Associated States should entail a change in the status of the strategic Trust Territory of the United States, the Pacific Islands (Micronesia), then any change in the status and conditions of the Trusteeship Agreement should be sanctioned by the Security Council, in accordance with Article 83 of the United Nations Charter.

90. If we compare our Conference with a ship on the ocean, it should be recognized that the sailing of this ship is characterized by difficult conditions, particularly towards the end of the voyage. The United States has charted a course aimed at torpedoing the Convention, concluding separate agreements to carry out activities in the sea-bed bypassing and violating the Convention. At the same time, without undertaking any obligations under the Convention, it would like to enjoy the rights, privileges and benefits that the Convention confers upon the States parties. The United States representatives declare that one may, as it were, recognize some provisions of the Convention while ignoring others. However, one cannot adopt a selective approach to the norms of international law. The Convention is not a basket of fruit from which one can pick only those one fancies. As is well known, the new comprehensive Convention has been elaborated as a single and indivisible instrument, as a package of closely interrelated compromise decisions.

91. On this basis we completely share the statement made on behalf of the Group of 77 by its Chairman and similar statements made by you, Mr. President, as well as by representatives of many countries to the effect that if a State assumes obligations under the Convention it enjoys the rights envisaged in it. However, if it does not assume such obligations it is naturally deprived of the rights provided in the Convention for its participants.

92. We also support the statements made by many countries to the effect that any separate agreements, any "mini-treaties", concluded in circumvention of the Convention are illegal; they will have no legal validity.

93. The international community has the necessary means, including those provided for in the Convention and in the United Nations Charter, to counteract any attempts to violate the Convention and to secure its strict observance.

94. I should like to express the hope that all countries will sooner or later be won over by a sense of reality and thus become parties to the Convention on the Law of the Sea, that they will strictly observe its provisions and that the Convention will become an important factor in the strengthening of peace and security, the relaxation of international tension and the development of fruitful co-operation and friendly relations among all States.

95. In conclusion, the Soviet delegation would like to pay a tribute once again to the memory of Mr. Hamilton Shirley Amerasinghe and to express its gratitude to you, Mr. President, and to the members of the Collegium and to all those who have contributed to the drafting of the Convention, as well as to the people and Government of Jamaica for providing us with an opportunity to hold the closing session of the Conference in this country.

96. Mr. OMAR (Libyan Arab Jamahiriya) (*interpretation from Arabic*): In a few hours we will be signing the Final Act and the Convention on the Law of the Sea. This monumental event will mark this era and have important consequences in the years to come. We shall thus put an end to a long process which we began more than 10 years ago. During that process we faced many difficulties and complications owing to the many diverse interests. We proceeded in a piecemeal manner, solving one dilemma only to face another. The objective at times seemed at hand, but then faded away into the distance. But the overwhelming majority of the international community eventually succeeded in realizing its objective.

97. There is no doubt that all countries did their utmost and displayed the greatest patience, but the developing countries shouldered a greater burden in their efforts and in the patience they exercised and the sacrifices they made in the common interest. Indeed, they made so many concessions that there was no room left for them to make any more. Hence, we express our admiration and appreciation to the developing countries for their extremely responsible position, which demonstrated a full awareness of the interests of the international community.

98. When we sign the Final Act tomorrow, we will have entered a more critical and more important phase, one that demands greater readiness to make even more efforts, firmer resolve and increased vigilance, as well as good faith, to prevent the loss of the achievements of the past years and the exploitation of the riches of the seas and oceans by a handful of States, as well as the transformation of the provisions of this Convention into a dead letter.

99. Tomorrow we will witness the signing of the most important document of modern times. It is a Convention intended to establish a legal régime for the seas and oceans and designed to ensure their use exclusively for peaceful purposes. Thus this régime will be an important contribution to the maintenance of international peace and security and to the establishment of a more just and more equitable international economic order that takes account of the interests and needs of all mankind, and especially those of the developing countries, be they coastal or land-locked. This régime is designed also to strengthen co-operation and relations among States in accordance with the principles of justice and equality and to promote the social and economic progress of all peoples of the world.

100. The most important element in the United Nations Convention on the Law of the Sea is its provision that the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction and their resources are the common heritage of all mankind.

101. On the basis of this principle, no State may claim or exercise sovereignty or sovereign rights over any part of the area or its resources and no State or juridical or natural person may appropriate any part thereof. Such claims, exercise of sovereignty or sovereign rights, and appropriations will never be allowed. This provision implies that activities in the area are to be conducted in the interests of all mankind, regardless of the geographical location of States, and are to give due regard to the interests and needs of the developing peoples and countries that have not yet attained full independence or other forms of self-government.

102. We all know the circumstances in which the negotiations on the provisions of Part XI of the Convention were held. We also know that many concessions were made by the developing countries. It is a fact that every effort was made and that we finally achieved a consensus constituting an element of the "package deal". Hence, it shows a lack of good will even to talk about a possible re-opening of negotiations on these provisions. Moreover, any attempt by a State or small group of States to circumvent the provisions of Part XI or other parts of the Convention would without any doubt run counter to the will of the overwhelming majority of the international community and with the provisions of the Convention itself, which are accepted by this majority as a basis for all issues related to the law of the sea. Furthermore, circumventing the provisions of the Convention would have no legal validity capable of commanding international recognition.

103. The Libyan Arab Jamahiriya will stand in solidarity with the developing countries and all peace-loving peoples and States in confronting any such attempt and will support any peaceful effort to preserve what has so far been achieved.

104. One of the most important elements of the Convention is that it accords Namibia, represented by the United Nations Council for Namibia, the right to sign the Convention. It also allows the national liberation movements to sign the Final Act and to be represented in the relevant organs with observer status. Although that represents less than what we have advocated, we consider it to be a positive step in the development of international law and support for the principles of freedom, equality and justice.

105. One of the speakers yesterday referred to non-recognition of the Palestine Liberation Organization (PLO). What he said does not change reality in the slightest, because the PLO enjoys wide international recognition and has no need to be recognized by the régime to which that speaker belongs. Moreover, what that speaker said in no way affects the contents of resolution IV of the Final Act.

106. The Convention includes numerous positive elements; but, at the same time, it has shortcomings in some aspects and ambiguities in others, thus representing less than what we had aspired to. Nevertheless, in the last session we stood by the developing countries and others in supporting and voting for the Convention, since it was a "package deal", in the hope that in future we would be able to remedy those shortcomings, clarify the ambiguities and develop the Convention's provisions in the interests of all.

107. The Libyan Arab Jamahiriya will sign the Final Act tomorrow. We would have wished to sign the Convention as well, but certain necessary domestic procedures have not yet been completed. Even though the Libyan Arab Jamahiriya will not participate in the signing of the Convention tomorrow, it hopes to join the signatories in the near future.

108. I would not wish to conclude without expressing thanks to the Government and the people of Jamaica for their warm welcome and generous hospitality. Also, I should like to thank you, Mr. President, and say how much we appreciate your notable contribution and that of your predecessor, Hamilton Shirley Amerasinghe, the praiseworthy initiative of Mr. Pardo, as well as the arduous efforts of the Chairmen of the main Committees, the other members of the Bureau and the staff of the Conference secretariat. Here I want to refer in particular to the work done by Mr. Zuleta, the personnel of the translation and interpretation services and all those unknown soldiers who contributed to this creative endeavour.

109. Mr. PRADHAM (Bhutan): This gathering here in this beautiful city of Montego Bay, Jamaica, marks the culmination of nearly a decade of negotiations by the international community to bring about a law of the sea. This long-drawn process involved nations from every part of the globe—nations with varying backgrounds, differing interests and at times complex problems. All their views were fully heard during the course of numerous meetings and, although it was not possible to meet all the demands of each and every participant, compromises or consensus formulas were invariably worked out. The Governments of many countries relinquished several of their initial proposals in order to serve the interests of mankind as a whole. The entire process that led to what we have now arrived at was arduous and difficult, but the end result is truly historic.

110. The delegation of the Kingdom of Bhutan had always hoped that the United Nations Convention on the Law of the Sea would receive the seal of approval from all nations of the world. Unfortunately, however, some countries, especially some of the big Powers, have not seen fit to give their consent at this stage.

111. As I mentioned earlier, the final text was definitely not able completely to satisfy each and every country. For instance, the land-locked countries, of which my own country, Bhutan, is one, have had to be satisfied with very little. Like many others, my delegation had earlier expressed some concerns, particularly at the resumed ninth session in 1980, and those concerns remain today. My delegation is not fully satisfied with the provisions relating to the rights of land-locked countries.

112. We also regret that better and more equitable resource-sharing criteria with regard to the continental shelf and the exclusive economic zones could not be provided in the Convention. However, it is our hope that in the very near future the problems of the land-locked countries will become better understood and that steps will be initiated, especially by the transit States concerned, to alleviate their specific difficulties.

113. In spite of what I have just stated, my delegation has noted the many positive aspects of the Convention. We have realized the importance and significance of concluding a law of the sea as a matter of urgency. The absence of such a law would create a host of difficulties for the countries of the world in utilizing the seas and its resources in a civilized and orderly manner. Without proper regulations, many disputes could arise in this context and quite easily have serious implications for international peace and security.

114. The sea and its resources beyond the limits of national jurisdiction are the common heritage of mankind. The Convention most appropriately includes this concept of the common heritage of mankind, a concept in which Bhutan has strongly placed its belief. The resources derived from the international area, under proper supervision and control, must benefit all mankind and all nations, big or small, coastal or land-locked.

115. The control of pollution and the preservation of marine life and the marine environment will become increasingly difficult if nations lack information and guidelines for activities pertaining to the seas. We cannot take this aspect lightly, for without proper control pollution of the marine environment could adversely affect all life on our planet.

116. For the reasons, among others, that I have just given, and above all for international peace and security, my Government has decided to sign the Convention.

117. At this stage I should like to express the appreciation of my delegation to the Government of Jamaica for having offered to act as host to this final session of the Conference. We are equally grateful for the warmth and hospitality that we have enjoyed since our arrival in this very beautiful city of Montego Bay.

118. I should also like to take this opportunity to thank and remember all those who contributed to making this laudable venture of ours a success. Mr. Arvid Pardo gave birth to the Conference and promoted the principle of the common heritage of mankind. Our earlier President, the late Ambassador Hamilton Shirley Amerasinghe, guided us skilfully through a maze of problems. The Special Representative of the Secretary-General, Mr. Bernardo Zuleta, the secretariat and the members of the Collegium have left their indelible mark on our work.

119. Finally, Mr. President, we appreciate your own most admirable contribution to the success of this Conference. Had it not been for your untiring efforts, dedication and diplomatic skills it would have been difficult to reach this goal. I should like to conclude therefore by warmly congratulating you.

120. Mr. MARTINA (Netherlands Antilles): Mr. President, it is a great honour for me and my country to be able to attend this final session of the Third United Nations Conference on the Law of the Sea for the purpose of signing the Final Act and opening the Convention for signature.

121. The Netherlands Antilles attaches great importance to the Third United Nations Conference on the Law of the Sea and has, pursuant to General Assembly resolution 3334 (XXIX), adopted on 17 December 1974, attended the sessions of the Conference in its capacity of observer. It is in that capacity that we are present here today to sign the Final Act of the Conference, an act which guarantees our future participation in the Preparatory Commission and the International Sea-Bed Authority.

122. Being comprised of six islands, the Netherlands Antilles finds great support in the article on the régime of islands, which stresses the fact that islands and other land territories should be treated as equals when determining their respective territorial sea, contiguous zone, exclusive economic zone and continental shelf.

123. The same can be said with regard to resolution III, on the rights and interests of Territories which have not attained independence or self-government. That resolution safeguards our rights to and interests in the resources of our Territories recognized by the Convention and emphasizes the fact that these rights and interests should be exercised for the benefit of our people.

124. Equally supportive are the articles on archipelagic States. The Government of the Netherlands Antilles has for quite some time already endorsed the principle of archipelagic States.

125. Anticipating the coming into existence of these articles, the Government, during the bilateral negotiations on maritime boundaries with the Republic of Venezuela which have resulted in a treaty with that country, took as its point of departure the principle laid down in these articles.

126. My Government also attaches great importance to the articles on global and regional co-operation. Ocean management and resources of the sea are playing an ever-increasing role in national development strategy and in the changing structure of international economic relations. At the same time, ocean management adds a new dimension to development strategy, while it requires the establishment of new institutional and legal infrastructures and new forms of national and international, intergovernmental and non-governmental organization and co-operation. It is important that we of the third world join in this new phase of economic development from the beginning by promoting international and regional co-operation for the protection and preservation of the marine environment and marine scientific research for peaceful purposes, as well as in the development and transfer of marine technology.

127. We are well aware of the tireless efforts which have been made towards the conclusion of a legal régime of the seas that is workable in the present-day world. It is our sincere hope that the industrialized countries will give all the necessary support so that this régime will be acceptable to all in the end. We have now come a long way by producing this final text which stresses the need for effective international co-operation and organization in the development and management of the seas as a shared resource of all countries. It might be said that the United Nations Convention on the Law of the Sea is like a global constitutional bill of rights for all countries, in which the exploitation of fish, mineral and energy potential is regulated.

128. We are truly honoured that a country in the Caribbean region, Jamaica, has been chosen as the seat of the Interna-

tional Sea-Bed Authority and we hope that this will be a contribution to the beginning of a new international economic order for the Caribbean region in which all countries will have the opportunity to participate and share in the common heritage of mankind.

129. Mr. President, I should like to express our gratitude to you, the Chairman of the Main Committees and all those who, in one way or another, have contributed to the successful conclusion of the Conference and the adoption of the new Convention.

130. In conclusion, I should like, on behalf of the Government and the people of the Netherlands Antilles, to say how grateful we are to the Government and the people of Jamaica for acting as host to this most historic event for mankind and how much we appreciate the warm reception and hospitality, which, we can say with pride, is characteristic of the Caribbean people.

131. Mr. PAPOULIAS (Greece) (*interpretation from French*): First of all, my delegation wishes to express sincere thanks to the Government and the people of Jamaica for their warm welcome to the representatives to the final session of the Conference and for the entirely satisfactory services they have provided.

132. On this solemn occasion of the conclusion of the work of the Third United Nations Conference on the Law of the Sea, I should like to congratulate you, Mr. President, for having brought to a successful conclusion the long and difficult negotiations that led to the conclusion of the new Convention which has been adopted by the Conference. You have certainly performed your lofty duties successfully, showing remarkable skill and a thorough knowledge of the highly difficult and complex subjects involved.

133. I consider it a duty also to express my gratitude to the Special Representative of the Secretary-General of the United Nations, Mr. Zuleta, as well as to the secretariat for their valuable contribution to the work of the Conference and their dedication to the cause of the law of the sea.

134. I should like to take this opportunity to pay a tribute to the memory of the first President of the Conference, the late Hamilton Shirley Amerasinghe of Sri Lanka, who made an immense contribution to the progress of the work of the Conference for many long years.

135. The Third United Nations Conference on the Law of the Sea is generally considered as a historic international meeting, mainly because of the active participation of the largest number of countries that have ever participated in any international conference. As a result, many new States, as well as liberation movements, have had an opportunity to play an active role in the negotiations, thus making a notable contribution to the establishment of international rules governing the law of the sea and the exploitation of the resources of the sea-bed, which, in 1967, were declared unanimously to be the common heritage of mankind.

136. This Conference has been of paramount importance, for it has had to carry out the difficult task of settling particularly thorny and complex problems, some of which were being raised for the first time within the international community. Thus its work was difficult because of its very nature and also because the task involved finding solutions capable of reconciling to the greatest possible extent opposing interests with regard to interrelated problems. From the outset, the Conference had set itself the goal of seeking solutions acceptable to all, if possible, and had declared that the problems were indivisible and should be considered and accepted as a whole. Hence the Conference expressed the wish to have the Convention adopted only after ensuring the broadest possible support and, preferably, by consensus. It is truly regrettable that it was not possible to achieve a consensus.

137. It can be said that, taken as a package, the text of the Convention, and in particular the parts dealing with questions falling within the competence of the Second and Third Committees, is as balanced as possible. However, I must add that my country does not find all the provisions of these parts satisfactory; there are even some points on which we do not agree. Nevertheless, taking all the solutions arrived at as a whole, we have accepted this text. These provisions regulate problems of the greatest importance, such as territorial waters, maritime spaces under national jurisdiction and the rights relating thereto, freedom of navigation, the resources of the sea, pollution and the conservation of the marine environment. As is generally recognized, these provisions are applicable as a whole and to all the seas without distinction.

138. Any attempt to give preferential application to certain parts of the Convention, to the exclusion of others, or any claim aimed at preventing the application of the provisions of the Convention to certain areas, must be absolutely rejected, for that would be completely contrary to the letter and spirit of the new Convention.

139. Similarly, it should be stressed at this time that all the clauses have been accepted by near-consensus, since almost all the countries that abstained in the vote when the Convention was adopted stated that they accepted all the parts of the Convention, with the exception of Part XI, on the sea-bed. If I am not mistaken, the same is true for the four countries that voted against it. Given this fact, and also the practice of States, it is clear that these provisions can be, and practically speaking are, considered to be already part of customary international law. Such is the case, for example, of the provision fixing the maximum breadth of the territorial sea at 12 miles, a provision which is already being applied by a substantial majority of States Members of the United Nations. That also goes for the articles referring to freedom of navigation and the régime with respect to islands, and other articles.

140. With regard to Part XI of the Convention, Greece regrets that its articles are not entirely satisfactory and could not win general approval. Nevertheless, we hope that, within the framework of the application of the Convention, the outstanding difficulties will be smoothed away, making it possible for a number of countries concerned to sign the Convention.

141. Finally, my delegation would like to recall that Greece is a member of the European Economic Community and that it has transferred competence to the Community in certain matters governed by the Convention. Detailed declarations on the nature and extent of such competence will be made in due course, in accordance with the provisions of annex IX of the Convention.

142. In conclusion, I should like to confirm that Greece will sign the Final Act and the United Nations Convention on the Law of the Sea. I would add that Greece also intends to submit, at the proper time, an interpretative declaration, in accordance with article 310, concerning articles 36, 38, 41 and 42. The aim of this interpretative declaration will be to facilitate the just and effective application of the provisions concerning transit passage through straits used by international shipping.

143. I should like to take this opportunity to express the wish that the greatest possible number of countries throughout the world will sign the Convention, for it is without question an important factor in the evolution of international law towards progress and development.

144. Mr. BOEL (Denmark): I wish to start by making a statement on behalf of the European Economic Community and its 10 member States.

145. As will be commonly known by now, the member States of the European Economic Community have transferred competence to that Community in various and important fields, including matters falling within the scope of the United Nations Convention on the Law of the Sea. By

way of example I shall just mention those concerning conservation and management of sea fisheries. Provisions allowing for participation by international organizations like the European Economic Community are therefore a matter of importance not only for the Community and its member States but also for other States.

146. Against this background we congratulate you, Mr. President, on your efforts during the negotiations on the clauses concerning participation in the Convention by international organizations. Thanks to your constructive and imaginative leadership and to the contributions of the whole Conference a solution has been reached which all delegations find generally satisfactory. Indeed, the provisions of article 1, paragraph 2, and article 305, together with those of annex IX, allow for the participation of the European Economic Community in the Convention. This complex set of rules constitutes a compromise, as is so often the case in the Convention—a compromise which, even if it falls short of what we have proposed, is acceptable to us.

147. We also welcome the fact that, as a consequence, the European Economic Community has been expressly admitted as a signatory to the Final Act.

148. The Final Act, which will be signed shortly by the European Economic Community, marks the milestone of more than nine years of arduous work by the Conference.

149. From the Community's point of view, many of the results obtained in matters within Community competence are generally satisfactory, particularly with regard to fisheries and the marine environment. The Community believes that in this respect the Convention on the Law of the Sea constitutes a major contribution to the progressive development of international law.

150. That concludes my statement on behalf of the European Economic Community and its 10 member States.

151. Speaking now for the Danish delegation, I wish through you, Mr. President, to thank the Government of Jamaica for serving as host of the final session of the United Nations Conference on the Law of the Sea.

152. This is a unique event in the history of international law. The Convention on the Law of the Sea is the most comprehensive treaty ever drafted. It is a modern constitution for the uses of the ocean. It deals with all conceivable peaceful human activities in an area larger than 70 per cent of the surface of our globe. It has been worked out by the largest Conference in the history of the United Nations. The result embodied in the 320 articles and related annexes and resolutions reflects a willingness to co-operate and to accept compromise solutions, expressed in two basic concepts: the consensus principle and the "package deal" principle.

153. My country attached and still attaches great importance to the achievement of a universally acceptable convention text. That was why Denmark, together with other like-minded countries in the group of 12—the so-called Friends of the Conference or, as some people called them, the good Samaritans—tried so hard to reach a compromise which could bridge the remaining gap between certain industrialized countries and the Group of 77. While consensus eluded us in the last resort, we continue to hope that the Convention will in due course be universally accepted. It is in the nature of things that no international agreement of this scope can be entirely satisfactory to all countries. This applies to Denmark too. Our understanding of certain specific points of particular interest to my country was made clear in our statement made on 31 March 1982.[4] In that spirit, my delegation appreciated the outcome of the Conference and voted for it. On that basis the Danish Government subsequently evaluated the Convention.

154. As a coastal State with a multitude of islands, Denmark has vital interests in the resources of the sea, the sea-bed and its subsoil, as well as in the preservation and protection of the marine environment. Greenland and the Faroe Islands are regions whose populations are almost entirely dependent on fisheries; and Denmark is a seafaring nation. Recognizing—as stated in the so-called gentlemen's agreement—"that the problems of ocean space are closely interrelated and need to be considered as a whole", my Government arrived at the conclusion that, on balance, the Convention is in the national interest.

155. It was also important to the Danish Government that the Convention, by placing particular emphasis on the interests of the developing countries, would constitute a major progressive step in the development of North-South relations. Furthermore, support of the Convention would be a sign of confidence in the United Nations as the appropriate forum for such negotiations.

156. Last but not least, by dispelling any uncertainties concerning the state of the law of the sea, the Convention constitutes an essential contribution to international stability and world order. Conversely, a breakdown of efforts to define universally accepted legal rules in this field would increase the areas of potential international conflicts and confrontations that we seek to reduce.

157. For all those reasons, the Danish Government has decided to sign not only the Final Act but also the Convention at this final session. I recall, in this connection, that my country is a member of the European Economic Community—for which I spoke only a moment ago—and that it has transferred competence to the Community in certain matters governed by the Convention. Detailed declarations on the nature and extent of such competence will be made in due course, in accordance with the provisions of annex IX of the Convention.

158. Let me emphasize now that in the Danish view there is no satisfactory alternative to the set of rules laid down in this Convention. That is why Denmark, together with other like-minded countries, sponsored the recent General Assembly resolution 37/66 of 3 December 1982, calling upon all States to consider signing and ratifying the Convention at the earliest possible date and also appealing to the Governments of all States to refrain from taking any action directed at undermining the Convention or defeating its object and purpose.

159. That same resolution constitutes a bridge between this Conference, which is now coming to an end, and the next phase of our work. At this juncture the Convention is, if I may say so, like a hermit crab leaving its first shell and looking for a new home. During that interval, we all know, the hermit crab is very vulnerable. So we shall have to protect the Convention and we shall have to construct a new house for it. It will be up to the Preparatory Commission to lay the foundation of this new house. It should be sufficiently large and solid to hold all nations and sufficiently attractive to convince all nations in due course that it is worth while living together with the Convention.

160. When contributing to the work of the Preparatory Commission, my country will wish to facilitate the earliest possible ratification of the Convention. We hope that others will adopt the same attitude. We are conscious of the fact that the rules, regulations and procedures which the Commission is going to work out will constitute important elements of the future international sea-bed mining code. That code must ensure that decisions will not be arbitrary but that they will be based on objective rules and on fairness, equity and normal business practice taking account of the interests of those who

[4] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI, 163rd plenary meeting.

have already signed or acceded to the Convention and of those who may later do so.

161. In order to achieve this, to allay concerns with regard to Part XI and to reinforce general confidence in the Convention, it is vitally important that as many countries as possible participate in the work of the Preparatory Commission in a spirit of compromise and consensus. I shall therefore conclude by expressing the hope of my delegation that we shall all of us meet again in the Preparatory Commission, including colleagues from countries which do not feel in a position to sign the Convention at this stage.

162. Mr. KHAN (Bangladesh): The Bangladesh delegation considers it both an honour and a pleasure to participate in the final session of the Third United Nations Conference on the Law of the Sea amidst the breath-taking and exquisite surroundings of Montego Bay. We should like to express our sincere gratitude to the Government and the people of Jamaica for their friendly hospitality and the excellent arrangements they have provided for this Conference.

163. Bangladesh, a populous Asian country, takes pride and satisfaction in the fact that the long and arduous negotiations that have led to the present historic session were presided over by two distinguished sons of Asia from two sister island-Republics close neighbours of Bangladesh. My delegation would like to pay a tribute to the memory of Mr. Amerasinghe, whose contribution to the work of this Conference is only too well known. We wish also to express our deep gratitude to you, Mr. President, for the effective and fair manner in which you steered the Conference to a successful conclusion. You have brought to the work of this Conference eminent Asian virtues of patience, forethought and rigorous discipline of mind and spirit, without which its success would not have been achieved. Through you, Sir, we express our gratitude to Mr. Zuleta and all the other members of the secretariat of the Conference for their co-operation.

164. We should like also to acknowledge the inspiration and impetus given to our work by Mr. Pardo of Malta.

165. The genesis and the duration of the Third United Nations Conference on the Law of the Sea span almost exactly our own history as a free and independent nation. Bangladesh participated in the Caracas session of the Conference barely two years after its independence. Indeed, that participation was one of the first major diplomatic exercises undertaken. That is why the Government and the people of Bangladesh attach special significance to the monumental work achieved in elaborating a universal régime for the seas covering a vast range of interests and activities for the orderly and regulated use of the oceans and its resources.

166. The task of formulating a comprehensive Convention on the Law of the Sea has not been easy. We are mindful that this great international legislative enterprise is the first in which developing countries have been able to participate as equal partners. Their interests and their aspirations have influenced the final outcome. Nevertheless, Bangladesh feels that the full potential of the present Convention can be realized only through universal participation. We therefore join many previous speakers in appealing to those countries that have yet to make up their minds to join in this Convention in the interest of a universal legal order for the seas and oceans.

167. We hope that some nations, great as they are, appreciate the immediate significance of a correct legal relationship with the Convention. This Convention establishes the means by which the coastal nations extend their sovereignty over adjacent marine resources and enjoy immediate tangible benefits with regard to fishing and navigational rights—a just and equitable framework to protect and conserve the resources of the world's oceans for the benefit of the entire world community.

168. The people of Bangladesh have historically been a seafaring people. The limited land resources available to us and the disparity between those resources and the subsistence needs of the 90-million-strong population of Bangladesh make it imperative to recognize the potential of the oceans as a tangible promise for the future.

169. We have to acknowledge that not all our hopes have been realized in this Convention. We believe that the unique geographical circumstances of our coastline and the peculiar conditions associated therewith warrant adequate treatment. It is also impossible not to agree with the assessment by some representatives that the scheme of the Convention gives too much to some and too little to many others. Yet the Convention, with all its imperfections, offers a viable package deal which must be taken as a whole in the spirit of mutual co-operation and friendship.

170. We believe that the activities of no State, however powerful or technically advanced, should acquire legitimacy through unilateral exploration and exploitation of what is the common heritage of mankind. We also believe that the Convention will give an impetus to the establishment of regional arrangements for exploration and exploitation of sea resources that in the view of my delegation will be mutually beneficial to the countries of the region.

171. We sincerely believe that if nations are truly guided by a spirit of mutual understanding and co-operation and by an objective assessment of the Convention, the hopes of mankind will materialize through this Convention. Bangladesh feels happy and satisfied that this Convention provides adequate and equitable scope for the resolving of differences among States in the spirit of friendship and co-operation.

172. We are also happy that the Convention will be open for signature by Namibia, represented by the United Nations Council for Namibia, with which Bangladesh is closely associated. At the same time, the signing of the Final Act of the Convention by the Palestine Liberation Organization is welcomed by my delegation.

173. We also believe that the Convention offers developing countries such as Bangladesh the opportunity to participate in the activities of the various organs set up under the Convention and that such participation is bound to stimulate domestic development of technical infrastructures in relation to exploration and exploitation of the resources of the ocean. We are also pleased that the Convention provides for distribution of the oceans' wealth between developed and developing nations.

174. The Convention before us contains many inadequacies but, in the spirit of our commitment to international law, peace and good order and solidarity with the people of the developing world and of the non-aligned and the Islamic countries, I have been entrusted by my Government to sign the Convention. However, at the appropriate time Bangladesh will avail itself of the provisions of article 310 to make a declaration on matters of our vital national interests.

175. In conclusion, Bangladesh joins all States in hoping that the final session, based on the principles and objectives of the United Nations, will be a memorable chapter of fruitful co-operation and understanding and sharing of the benefits of the greater part of the globe for the good of mankind.

176. Mr. TANNIS (Saint Vincent and the Grenadines): Mr. President, it is a profound pleasure for my delegation to be at this final session of the Third United Nations Conference on the Law of the Sea and to see you presiding over it. I should like to express my gratitude for the extraordinary guidance you have given us since your appointment to this high office and in bringing this work to a successful conclusion.

177. The Government and the people of Saint Vincent and the Grenadines, as members of the Caribbean Community, to

which Jamaica belongs, are particularly delighted that these historic ceremonies are taking place in this our sister Caribbean Community State. We are further delighted because we believe it represents a profound sense of accomplishment for the Jamaican Government and people. I wish to express my delegation's gratitude to the Government of Jamaica for its hospitality to us and for the excellent arrangements made for this meeting. This fact helps to demonstrate the involved commitment of both the Government and the people to this Conference as well as to subsequent related events.

178. I wish to pay a tribute to the late Hamilton Shirley Amerasinghe, our past President, who dedicated 12 years of his life to these negotiations. I believe that because of the concern he showed he has found time to be with us here in spirit. We are also grateful to the Special Representative of the Secretary-General and to the Executive Secretary and the secretariat, the Rapporteur-General and the Collegium of the Conference for the leadership provided and the dedication shown in order to bring this Conference to its closing stage.

179. It is with a sense of great satisfaction and pride that my country will tomorrow sign both the Final Act of the Conference and the Convention itself.

180. Saint Vincent and the Grenadines voted in favour of the Convention on 30 April 1982,[5] even though the Convention does not adequately address all the problems that could arise. The Convention, however, represents a very significant advance over the early principles established by Grotius and clearly enunciates several new principles which must now guide the conduct of nations in maritime matters. In my Government's view this Convention represents the best guarantee of the rights of small States. However, no convention so ambiguous in scope can be expected to meet all the conflicting needs and interests within the international community or solve the problems of all States within the framework of its provisions. It is a package of compromises and should be understood by all to be so; such compromise must not be viewed as though each exists in isolation. No State, therefore, can expect to accept certain parts and reject others. Nor can any State expect to enjoy prescribed rights without assuming prescribed responsibilities.

181. It is my delegation's view that this Montego Bay Convention must be accepted as a package, in its entirety, and must not be sectionalized. It is to be hoped that whatever differences exist today will soon disappear and that the signing of this Convention will bring ultimate harmony of ideas and unanimity of views within the international community.

182. The Convention represents for the first time a truly universal law in which the rules governing title to and uses of all living and non-living resources of the sea, sea-bed and ocean floor are defined.

183. It has established an international régime and machinery for exploring and exploiting the resources of the international sea-bed area, which are accepted to be the common heritage of all mankind. It is gratifying, for reasons already stated, that Jamaica was selected by the international community to be the permanent home of the International Sea-Bed Authority. My Government looks forward to the Preparatory Commission's beginning its work at the earliest date and working expeditiously to enable the Authority to function effectively as soon as the Convention enters into force.

184. By clearly spelling out rights, the Convention in many respects provides the basis for reducing conflicts, thereby ensuring greater peace and greater security. Because of this collective agreement established under the Convention, we now clearly know what is our entitlement with regard to territorial jurisdiction, contiguous zone and exclusive economic zone. We know our entitlement to the resources of the seas and oceans. We also know our obligations under the Convention. Since we are armed with such knowledge, the path towards good-neighbourliness and better working relationships between nations ought to be clear. Therefore, Saint Vincent and the Grenadines says: Tomorrow we shall sign not only a Convention on the Law of the Sea but also an instrument for peace, harmony and security between nations.

185. Mr. ELFAKI (Sudan) (*interpretation from Arabic*): On behalf of the people and the Government of the Sudan, it is a great honour for me to address the Conference and say how happy we are that it has been convened to sign the United Nations Convention on the Law of the Sea and the Final Act of the Third United Nations Conference on the Law of the Sea.

186. We are gratified that, after years of continued and strenuous efforts, the international community has now succeeded in achieving the first comprehensive convention of its kind in the history of mankind, defining and codifying the uses of the sea and the exploitation of its various resources in the interest of all peoples and nations. We are also delighted that, among others that have been given the right to do so under article 305, Namibia, represented by the United Nations Council for Namibia, will sign the Convention and that the national liberation movements that participated in the Conference are also entitled to sign the Final Act, as observers, in accordance with resolution IV. It had been our hope that the entire international community would adopt this pioneering Convention by consensus and would sign it tomorrow. It is regrettable that some States have failed to join us. We sincerely hope that those States will have an opportunity to review their positions in such a way as to enable them to accede to the Convention at a subsequent date, especially since, after its entry into force, it will constitute the basic guiding principle for international relations in the area of the sea. In this connection I would think that no State in the world could do without the Convention if it observes and respects international legitimacy and international law in the uses of the sea and the exploitation of its resources.

187. We have already mentioned on several occasions during past sessions of the Conference that the Convention, the preparation of which took a decade, is founded on basic facts and new characteristics of relations among peoples and nations today, foremost among which is the convergence and interdependence of interests in a small world in which every region is affected by events and developments in the most remote region on all levels—political, economic and social. These facts and characteristics demonstrate the vast difference between contemporary international relations and those of the past, which, for the most part, were marked by rivalry, divergence and diversity of interests and attempts at achieving gains at the expense of others. Hence this new Convention will, of necessity, not fully meet all our individual aspirations and wishes as sovereign peoples and nations having varied, albeit interdependent, interests; but it is the result of a compromise which all of us can live with and accept, because it envisages our common good. From that point of view, the new Convention could establish a practical and genuine nucleus for relations and co-operation among States in various fields of life in the service of the peoples and the common interests of all nations.

188. With this understanding of the character and quality of the Convention, and in the context of the principle of consensus and convergence of interests which we chose as the basis for our work from the outset, the Democratic Republic of the Sudan will sign tomorrow, 10 December 1982, both the Convention and the Final Act, in spite of our prior conviction that many of the Convention's provisions fall short of our

[5] *Ibid.*, 182nd plenary meeting.

aspirations and wishes and fail to meet fully our individual desires and interests. In accordance with article 310 of the Convention, the Government of the Sudan will make the declarations and statements it deems necessary to clarify its positions on the content of some of the articles. In this brief statement, I shall confine myself to emphasizing the importance of some basic issues which will play a fundamental role in ensuring the implementation of the Convention, foremost among which is full commitment to its future implementation, including the annexes, in all earnestness, sincerity and good faith, on the basis of the principle of consensus and mutual consent which we have already accepted in a gentlemen's agreement and which is incorporated in the declaration adopted by the United Nations General Assembly[6] at its twenty-eighth session, and included in the rules of procedure of the Conference adopted at its second session, in 1974.[7]

189. Moreover, in the implementation of the Convention, we have to bear in mind constantly that it is based on, and is inspired by, the established general principles of international law and is not at variance with them, and that it also respects the full right of all nations and peoples to maintain their independence, sovereignty and territorial integrity and to protect their national security and to ensure no interference in their internal affairs in any form whatsoever.

190. As indicated in paragraph 5 of its preamble the Convention is designed to establish

> ". . . a legal order for the seas and oceans which will facilitate international communication and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of the living resources and the study, protection and preservation of the marine environment".

191. Hence this Convention—which we shall sign tomorrow, God willing—is but a positive beginning for opening a new chapter of co-operation among developed and developing countries which will play a major role in preserving the rights of the developing countries in general and of the land-locked, geographically disadvantaged countries and the developing countries producers of minerals in particular, in keeping with equity, justice and equality, in the faithful implementation of the principle of the common heritage of mankind, the protection of the interests of all peoples and nations, and the continuous endeavour to establish a firm basis for the New International Economic Order.

192. It gives us pleasure to note that for the first time this Convention has managed to establish within the framework of international law a régime for the protection and preservation of the marine environment. Our understanding of the principles of freedom of navigation, innocent passage and transit passage is in harmony with those established general principles. In this regard, we should like to confirm the President's statement in the 176th plenary meeting of the Third United Nations Conference on the Law of the Sea, on 26 April 1982,[8] on article 21, concerning the régime of the coastal State relating to innocent passage—namely, that the withdrawal of the amendment submitted by a number of States was without prejudice to the right of the coastal State to adopt procedures necessary to protect its security in accordance with article 19, on the meaning of innocent passage, and article 25, on the rights of protection of the coastal State.

193. We should also like to state that our understanding of the definition in paragraph 2 of article 70 of the term "geographically disadvantaged States" applies to all parts of the Convention where that term is used.

194. We should also like to affirm that our signing this Convention and the Final Act of the Conference in no way implies recognition of any State which we do not recognize or accept to deal with.

195. The importance of the Convention—which we shall sign at this session—and its annexes and the four resolutions that supplement it and define all arrangements necessary for its implementation and the establishment of the organs provided for therein, is that it is the culmination of a major, strenuous endeavour by all the countries of the world, Members and non-Members of the United Nations, self-governing Territories, Associated States, recognized national liberation movements with observer status at international organizations and bodies as well as the culmination of the strenuous efforts made for many years by the United Nations Secretariat at all levels. This is a monumental and historic achievement, a true victory for the will of the peoples and their sincere desire to achieve freedom, justice and peaceful coexistence.

196. On this occasion we should like to extend thanks and appreciation to all those who have contributed their intellect, efforts and initiatives to this monumental accomplishment. Foremost among them is the late Hamilton Shirley Amerasinghe, former President of this Conference, and the much-lamented Mr. Mustapha Yasseen, the co-ordinator of the Arabic language group in the Drafting Committee.

197. Mr. President, your major personal role in this historic endeavour needs no comment. It suffices to say that today we have a complete Convention on the Law of the Sea, covering all aspects, ready for signature and supported by the overwhelming majority of the peoples and nations of the world. We express our thanks and appreciation to you, Sir, and to the Chairmen of the main Committees and the regional groups who have worked with you and made an invaluable contribution to this important Convention.

198. We also extend thanks to all those unknown soldiers in the United Nations Secretariat, under the leadership of Mr. Bernardo Zuleta, the Special Representative of the Secretary-General, for their assistance and efforts which have enabled the international community to achieve its objective.

199. Finally, on behalf of the delegation of Sudan, I should like to express thanks, appreciation and gratitude to the Government and people of friendly Jamaica for the warm welcome and generous hospitality and the efforts and arrangements made for the signing of this important international instrument on time in their beautiful country.

200. Mr. BASSOLE (Upper Volta) (*interpretation from French*): At a time when the countdown has begun for the signing of the United Nations Convention on the Law of the Sea, I should like, on behalf of my country, to pay a well-deserved tribute to all those who have for so long kept their shoulders to the wheel to make possible the successful climax of our negotiations.

201. Upper Volta is grateful to everyone involved for having done such useful work, all the more so since the noble ambition which has motivated us all was—and at the price of countless difficult concessions and great efforts—to make the sea a supplier of sustenance for the entire international community.

202. This was a great undertaking and the long years that separate us today from the first meeting of the United Nations devoted to the law of the sea give sufficient proof of the complexity of this undertaking. That complexity is doubtless due to the difficulty of reconciling interests that were very often contradictory, but also to the trouble we have had shedding the habits of daily practice which had made some of us feel that "everything was for the best in the best of worlds".

[6] See *Official Records of the General Assembly, Twenty-eighth Session, Plenary Meetings*, 2169th meeting.

[7] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I, 19th plenary meeting.

[8] *Ibid.*, vol. XVI.

203. It would take far too long to undertake another exhaustive analysis of this collective work. For, like any other human undertaking, it has many imperfections.

204. My delegation feels that perhaps more was bitten off than could be chewed. Indeed, in this great work the share for the legitimate interests of the land-locked and geographically disadvantaged countries has not always been obvious.

205. Nevertheless, we are among those who feel that the Convention submitted to us for signature is a compromise—the compromise most acceptable to the international community. For, in a sincere, deep desire to make the oceans a true common heritage of mankind, it has tried to draft provisions covering all the questions dealing with the seas.

206. My delegation feels that this is an extremely important legal document, one capable of contributing—if it is properly used—to the strengthening of international peace, security and co-operation.

207. This great contribution to international law could, if its objectives were applied, serve as a stimulus to the establishment of this more just new international economic order which the international community has been attempting—so far unsuccessfully—to bring into being.

208. We feel that this document can help to bring about the realization of the noble ideals of the United Nations Charter, and my country will therefore sign tomorrow the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

209. But, in the meantime, my delegation takes this opportunity to express from this rostrum to the people of Jamaica and their Government our deep gratitude not only for the great quality and warmth of the welcome we have received here at Montego Bay but also, and in particular, for having made it possible for this long-awaited child—which will become tomorrow the bearer of our hopes—to be born on the banks of this beautiful Caribbean Sea.

210. Mr. HOUNTON (Benin) (*interpretation from French*): From Caracas to Montego Bay, the road has been long, exhausting and full of hurdles, but we have arrived.

211. The brevity of my statement will be an expression of our gratitude to you, Mr. President, for your tireless efforts and our gratitude for the efforts of your collaborators and predecessors in achieving this victory to be celebrated tomorrow. We associate ourselves with previous speakers in paying this tribute.

212. We should also like to thank, on behalf of the people and Government of Benin and on behalf of our delegation, the people and Government of Jamaica for the generous hospitality they have extended to us in this jewel of the Caribbean.

213. Caracas and Montego Bay are two names that will remain in history and in the hearts of peoples that truly cherish peace and justice. For if the Convention that we are to sign here does not satisfy all our concerns, it does at least constitute an important step towards the restoration of more just and more equitable relations. It provides a more acceptable legal basis for the exploitation of the ocean resources and for the peaceful use of the seas and oceans. We hope that in its implementation the principles and purposes of the United Nations Charter will not be neglected.

214. The documents before us for signature contain clear achievements, and the speakers who have preceded me have described them well: confirmation of the sovereignty of States over the continental shelf; standardization of the breadth of the territorial sea; solutions to the problems of pollution and the environment; prospects for more fruitful co-operation among all States; and, above all, the fact that in its article 136 this Convention establishes the area as the common heritage of mankind. In so doing, the Convention brings about a more equitable distribution of the resources of our planet among all countries—coastal, geographically disadvantaged or land-locked—and among all peoples, oppressed or sovereign.

215. The sea belongs to all and must benefit all, rich and poor alike.

216. It is regrettable that so simple a truth should be difficult to understand for some who, nevertheless, easily grasp the nature of article 17, which requires that at the price of our security and sovereignty we accept free passage of their warships.

217. By co-sponsoring the amendment contained in document A/CONF.62/L.77, my country indicated its disapproval of such a provision, which was not, indeed, the only shortcoming militating against the developing countries. However, in the interests of mankind, we voted for the adoption of the Convention. The lacunae to which some have pointed cannot justify their reluctance—as if they are completely unaware of the merits of the compromise embodied in the Convention.

218. We do not believe that merely to gain their support it is necessary to add a single minute to the 88 weeks that have already been devoted to this gigantic task which has been pursued since 1973. The framework of the Convention cannot satisfy all the interests at stake, but it does preserve the essentials.

219. We have arrived at a historic stage and the Convention provides a basis, we are certain, for helping to usher in a real North-South dialogue. It is by its acceptance and implementation that we will be able to judge the true will that exists for the establishment of a new economic order, the true desire to eradicate hunger and poverty from our world. The hesitations and rejections that have been expressed cannot halt this irreversible process, for we must move forward. However, the door will remain open.

220. In short, this Conference may be assured that the people of Benin will discharge its moral duty to mankind.

221. The People's Republic of Benin, a member of the Group of 77 and of the African Group, voted in favour of the Convention last April, and we shall sign it.

222. Mr. MINKO MI-ENDAMNE (Gabon) (*interpretation from French*): My delegation is very pleased to be attending the solemn ceremony of the last session of the Third United Nations Conference on the Law of the Sea.

223. At the outset I should like, on behalf of the people and Government of Gabon, to extend our deep gratitude to our Jamaican friends and brothers and their Government for their generous hospitality and praiseworthy efforts in acting as host to the final session of the Conference on the Law of the Sea here at Montego Bay.

224. I wish to pay a sincere tribute, on behalf of my delegation, to the late Mr. Hamilton Shirley Amerasinghe, the first President of the Conference, for his important contribution to the achievement of a new codification of the law of the sea.

225. I take this opportunity also to congratulate you, Mr. President, on your unceasing efforts, along with the Collegium, and on your great skills as a diplomat, without which our Conference might not have achieved the positive result embodied in the final adoption, on 30 April in New York, of the United Nations Convention on the Law of the Sea.[5]

226. Our thanks go as well to all those who, by their goodwill, have contributed to the adoption of the universal Convention on the Law of the Sea.

227. In response to your appeal, Sir, I shall be brief. I shall be brief even at the risk of being unable to say everything I had intended to say. Fortunately for me, many of my ideas have already been expressed by the very able speakers who have preceded me to the rostrum.

228. There is no need to recall once again here the many attempts of the international community over the past 20 years to achieve a codification of an international legal régime of the sea. Unfortunately, all tended to promote an unjust international order for the sea and consecrate the supremacy of the great maritime nations at the expense of the weak nations and new States acceding to international sovereignty.

229. The declaration of principles governing the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, adopted by the General Assembly in resolution 2749 (XXV), which proclaimed the new concept of the common heritage of mankind, laid the first true foundations for a new international legal régime of the sea and genuine co-operation among nations.

230. There have been 10 long years of arduous and delicate negotiations costly to the poor countries in human and material efforts, and the Government and the people of Gabon are pleased that they have successfully concluded with the adoption of a universal Convention establishing new and most just legal norms.

231. Nevertheless, we recognize that this instrument suffers from serious inadequacies and shortcomings which many States find difficult to accept and which, furthermore, my delegation constantly pointed out throughout the negotiations of the Conference. In particular, these deal with the right of innocent passage of warships in the territorial waters of coastal States; limitation of production; and the definition of a system of compensation adequately protecting developing countries producers of the same minerals as those to be exploited in the sea-bed.

232. However, my delegation, like many others, in a spirit of compromise gave up its legitimate claims and, since April 1982, we have considered the new Convention as the sole instrument, within the framework of the United Nations system, guaranteeing the legitimate interests of all nations on the basis of mutual respect. Hence the Government and the people of Gabon firmly support the ideals expressed in the provisions of the new Convention and will contribute as best they can to their realization. Accordingly, Gabon will, without reservations, be a party to the new Convention and will participate with due attention in the work of the Preparatory Commission.

233. Finally, my delegation urges all those who have participated in the drafting of this great, historic work for mankind but who may still have some doubts about it to join us, on 10 December, in signing our universal common work, a true bulwark of peace, security, international co-operation and development.

234. Mr. POMPEE (Haiti) (*interpretation from French*): Mr. President, I should like to join preceding speakers and congratulate you, on behalf of my delegation, on the impeccable way in which this Conference is being held. These congratulations go as well to the Government of Jamaica, which has done everything possible to make our stay here a pleasant one.

235. No one can dispute that the objectives of North-South dialogue constitute an essential condition for the international community to achieve once again a more just balance and a less dangerous situation.

236. While the avalanche of rhetoric on this subject may already have reached the saturation point, the present session offers both the North and the South the prospects of a future with fishing resources, petroleum resources, manganese nodules—and much more. So, since we are dealing with matters relating to the sea, we can easily understand why Montego Bay, with its natural beauty, was chosen as the site for this session by the representatives during the session at Geneva.

237. The Convention to be opened for signature is the culmination of lengthy efforts for the benefit of all, since those who are already rich may become even richer and those who are poor may become less poor, in view of the extensive resources of the sea-bed: immense fishing resources and considerable petroleum resources, the proven reserves of which, according to estimates prepared for the United Nations, may reach 170 billion barrels for oil and 2 to 3 trillion barrels for exploitable marine resources.

238. As for polymetallic nodules, which are generally made up of manganese, nickel, copper and cobalt, the sea-bed is covered with them.

239. The basic principle that industrialized countries could adopt would be an open-door policy in the area of transfer of technology, because the use of the sea involves interactions, interpenetrations and mutual ties.

240. Those who are hesitating should recall that sea-bed resources are destined to play an important role in human survival and the quality of human life and that North and South must share life on this earth.

241. Tomorrow my country will sign both the Final Act and the Convention without any reservations.

The meeting rose at 1.05 p.m.

192nd meeting

Thursday, 9 December 1982, at 3 p.m.

President: Mr. T. T. B. KOH (Singapore)

Statements by delegations (*concluded*)

1. Mr. CLINGAN (United States of America): I wish first to express my delegation's gratitude for the generous hospitality of the Government of Jamaica, for its invitation to serve as host for these proceedings in this beautiful environment, and for the excellent arrangements it has provided. I should also like to express our appreciation to you, Mr. President, to the other officers of the Conference and to the members of the secretariat, all of whom have laboured in these negotiations over many years.

2. I am here to sign, on behalf of the United States, the Final Act of the Conference. It had been our hope that we would be here for another purpose as well. The United States approached the work of the Conference early this year with renewed dedication and hope. As the President of the United States said on 29 January 1982, the United States remained committed to the multilateral process for seeking agreement on the law of the sea. With that in mind, the United States delegation participated fully in the eleventh session and sought a final result that would command global consensus. Unfortunately, the Conference did not achieve that result.

3. The United States recognizes that certain aspects of the Convention represent positive accomplishments. Indeed, those parts of the Convention dealing with navigation and

overflight and most other provisions of the Convention serve the interests of the international community. These texts reflect prevailing international practice. They also demonstrate that the Conference believed that it was articulating rules in most areas that reflect the existing state of affairs—a state of affairs that we wished to preserve by enshrining these beneficial and desirable principles in treaty language.

4. Unfortunately, despite these accomplishments, the deep sea-bed mining régime that would be established by the Convention is unacceptable and would not serve the interests of the international community.

5. The Conference undertook, for the first time in history, to create novel institutional arrangements for the regulation of sea-bed mining beyond the limits of national jurisdiction. It attempted to construct new and complex institutions to regulate the exploitation of these resources in a field requiring high technology that has not yet been fully developed, and massive investments. We had all hoped that these institutions would encourage the development of sea-bed resources which, if left undeveloped, would benefit no one. A régime which would promote sea-bed mining to the advantage of all was the objective towards which we laboured.

6. We regret that that objective was not achieved. Our major concerns with the sea-bed mining texts have been set forth in the records of this Conference and I shall not use this occasion to repeat them. Suffice it to say that along the road some lost sight of what it was the world community had charged us to do. They forgot that in the process of political interchange the political and economic costs can become too high for some participants to bear. They forgot that to achieve the global consensus we all sought, no nation should be asked to sacrifice fundamental national interests.

7. The result is that consensus eluded us on deep sea-bed mining. Each nation must now evaluate how it must act to protect its national interests in the years to come.

8. We need not fear the future. In particular, those elements which promote the general community interests with respect to navigation and the conservation and utilization of resources within national jurisdiction reflect long-standing practice. The expectations of the international community in these areas can and should be realized, because we recognize that certain practices are beneficial to the community as a whole. For example, the Convention has recognized the sovereign rights of the coastal State over the resources of the exclusive economic zone, jurisdiction over artificial islands, and jurisdiction over installations and structures used for economic purposes therein, while retaining the international status of the zone in which all States enjoy the freedoms of navigation, overflight, the laying of submarine cables and pipelines and other internationally lawful uses of the sea, including military operations, exercises and activities. In addition, the Conference record supports the traditional United States position concerning innocent passage in the territorial sea. The rules reflect the hopes of the international community; they are very wise and obviously meant to last.

9. Institutions, however, that do not command consensus and that are not beneficial to the community as a whole raise serious problems. In these circumstances, alternative ways of preserving national access to deep sea-bed resources are necessary, just and permitted by international law.

10. As we begin the journey before us, we should face the future without rancour or recrimination, ready to meet the challenges that lie ahead. The United States faces the future in that spirit. In the pursuit of its own legitimate and vital interests, my country will act with responsibility and with awareness of the interests of others. This very pursuit is necessary to the development of the resources from which we can all benefit. Although States will take different roads from here, I believe they share a common goal—peace and the rule of law in the uses of the world's oceans.

11. My delegation wishes to join the many previous speakers who paid a tribute to the memory of the late Hamilton Shirley Amerasinghe of Sri Lanka, who laboured diligently as your predecessor, Mr. President, in the earlier stages of this Conference. None who knew him will forget his warm and outgoing personality, his wit or his many significant contributions to the work of the Conference.

12. In conclusion, on a personal note, I should like to express my gratitude to you, Mr. President, and through you to all concerned, for the friendship and co-operation I have enjoyed through the many years of this Conference.

13. Mr. GHAZALI SHAFIE (Malaysia): On this historic occasion I should like at the outset to say how happy I am to be on this beautiful island, Jamaica, a country with which my country enjoys extremely friendly relations. On behalf of the Malaysian delegation I wish to express our sincere appreciation to our gracious host, the Government of Jamaica, for the excellent arrangements and facilities for this occasion. It is fitting that the signing of the Final Act of the Third United Nations Conference on the Law of the Sea should take place in a developing country, one which is an active member of the Group of 77. Indeed, it is largely due to the perseverance and commitment of the Group of 77 that we are able to witness here today the beginning of a new international order and co-operation on the law of the sea.

14. I should also like to take this opportunity to pay a tribute to all participants who have contributed to the work of the Third United Nations Conference on the Law of the Sea and in particular to you, Sir, for the very outstanding manner in which you have presided over the last two sessions of the Conference since your election to the presidency in 1981. Through your wisdom, dedication and qualities of leadership you have adroitly guided the Conference to its successful conclusion.

15. We are gathered here in Montego Bay to sign the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea. They represent the culmination of years of difficult and protracted negotiations and painstaking efforts. Changing international situations and rapid advancement in marine technology demand a new international order and co-operation concerning the sea, capable of promoting international peace besides providing for a more equitable sharing of the resources of the sea amongst nations. Existing conventions and norms have proved inadequate if not obsolete in meeting the present requirements of the international community.

16. We all know that the ocean occupies 70 per cent of the world's surface and man increasingly is turning to the ocean for his economic well-being. If future generations are to inherit a marine environment that is a source of life and not a cause of dispute or conflict, it is imperative that a new global order should be adopted.

17. The adoption of the Convention is without doubt an outstanding achievement of the United Nations and testimony to the ability and willingness of Member States to submerge partisan interests for the benefit of all. The task has not been easy. The vital and often conflicting interests and concerns of some 150 nations both large and small, developed and developing, had to be accommodated. The Convention was the result of compromises and concessions which were accepted, after much soul-searching, in the interest of helping to secure an orderly legal régime on the sea as well as to promote the equitable sharing of the resources of the world's ocean. Some may fault the Convention for having failed to satisfy their specific concerns. But which international legal instrument could meet the demands of all? So long as it reconciles to the greatest extent possible the basic interests

and concerns of the members of the international community and is capable of commanding universal adherence, we should give it our full support and commitment.

18. The Convention is a comprehensive text regulating all aspects of the uses of the ocean and its resources. Embodied in its provisions are existing rules of international law as well as new concepts and rules whose application should facilitate international communication and regulate both peaceful uses of the sea and ocean and the equitable and efficient utilization of their resources, which could benefit the whole of mankind. One of its most innovative concepts is the principle that the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction are the common heritage of mankind. The system of exploitation of resources in the Area has been so designed in order that all States may enjoy fair and rightful benefits from the sea.

19. The Convention represents a delicate balance of interests among nations confronted with different problems. The importance of the Convention to particular groups of countries, especially developing small island States, cannot be overemphasized. Their fragile economies are dependent to a large extent on the certainty and abundance of harvests from an unpolluted marine environment. It should be a cause of satisfaction to all that the Convention, through its provisions on the various maritime zones, protects their interests and concerns. Furthermore, the concept of the common heritage of mankind ensures the island States an equitable sharing of the mineral resources of the Area. The ignoring of the legitimate interests of those States by a refusal to accept the Convention will in the long term imperil, I think, world peace and stability. On the other hand, its early implementation will enhance the security and economic well-being of island States which, in turn, will be in a position to contribute positively to peace and stability in the world.

20. Malaysia welcomes the conclusion and adoption of the Convention and will also sign it, immediately following the signing of the Final Act. We would strongly urge all other countries to do so, as we believe it is through international law, universally adhered to, that world peace and security can be safeguarded.

21. In this connection we deeply regret the decision of certain countries—one of which we have just now heard—not to be parties to the Convention, and I urge them to reconsider their decision. To those countries which oppose the Convention solely because they find the provisions on the exploitation of deep sea-bed mining objectionable, I would appeal to show realism, wisdom and less recalcitrance towards the Convention. They should view the Convention in its totality and not from the narrow perspective of a single issue. In today's world, gone are the days of grandfather rights, gone are the days of frontier claims and unregulated freedom in the exploitation of resources. These anachronistic practices of the past are unacceptable to the international community, since they benefit only the technologically advanced countries. In any case, in the interest of ensuring universal acceptance of the Convention, the so-called rights and claims of a few technologically advanced countries in deep sea-bed mining have been accommodated. These States should therefore not insist on having their way on this issue. In this regard, I hope that the United States and those other States which are reluctant to be parties to the Convention will realize that they have much more to gain from the Convention than by pursuing other arrangements such as a mini-treaty with like-minded nations. We believe, in particular, that United States participation in the Convention will enhance its national interests, both in global terms and in the long term, while its non-participation and thus its isolation may turn out to be costly.

22. Malaysia, being a coastal State, is happy that the Convention clearly establishes the rights and obligations of both the coastal and the maritime States in the various maritime zones, to mutual advantage. For the first time, an international convention has given recognition to the concept of archipelagic States. At the same time, the Convention also ensures that if the archipelagic waters of an archipelagic State lie between two parts of an immediately adjacent neighbouring State the existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue to be respected. In regard to the Indonesian archipelagic State, we are indeed most gratified to mention that Malaysia and Indonesia, reflecting the very close co-operation and co-ordination between the two countries, concluded a treaty in February 1982 which provides for the continuance of Malaysia's rights and legitimate interests.

23. The Convention incorporates also a new concept in relation to straits used for international navigation, namely, the concept of transit passage. Lying, as we do, on one side of the narrow and shallow Straits of Malacca, which is one of the most important and busiest navigational waterways in the world as well as an important source of livelihood for our people, Malaysia particularly welcomes those provisions in the Convention which seek to ensure the safety of navigation as well as the protection of the marine environment. In this respect, together with Indonesia and Singapore, our neighbours sharing the Straits of Malacca, we have reached a common understanding with major user States of the Straits on measures that coastal States may adopt in accordance with the relevant provisions of the Convention.

24. The successful conclusion of the negotiations relating to the United Nations Convention on the Law of the Sea is eloquent testimony to the determination of the international community to achieve the common good where wisdom and good will have prevailed. It is time now to focus our attention on another area of common interest—which my Prime Minister mentioned in his address at the current session of the General Assembly in New York. I refer to Antarctica, where immense potentialities exist for the benefit of all mankind.

25. Mr. AGUILAR (Venezuela) (*interpretation from Spanish*): It is certainly with a sense of nostalgia and regret that I am speaking at this final part of the Third United Nations Conference on the Law of the Sea. As the representative of Venezuela at this Conference, at its preparatory stage and at all its sessions, I have been able to appreciate the extraordinary effort made to carry out successfully the mandate received from the General Assembly in resolution 2750 C (XXV) of 17 December 1970. Under, first, the skilful guidance of Hamilton Shirley Amerasinghe and then, following his very sad death, under your leadership, Mr. President, and with the very efficient co-operation of the secretariat, headed during the first two sessions by the experienced jurist and diplomat Constantin Stavropoulos, and since that time by the equally qualified jurist and diplomat Bernardo Zuleta, delegations made tireless efforts during 12 years to achieve by consensus a broad and comprehensive convention on the law of the sea, a convention adapted to the needs of our times.

26. Venezuela, which with very few reservations signed and ratified the four conventions initially adopted by the United Nations on the law of the sea, participated very intensively in the difficult and complex negotiations during these years, convinced that it was necessary to bring the law of the sea up to date, taking account of the progress of science and technology and bearing very much in mind the new composition and orientations of the international community. In solidarity with the developing countries which make up the Group of 77, we worked very hard to achieve a new convention that would be the result of a truly democratic exercise and reflect the interests and aspirations of all peoples and respond to their legitimate desire to establish a new international economic and legal order.

27. The Convention which was adopted in New York on 30 April this year and is to be opened up for signature tomorrow in this beautiful and hospitable city in Jamaica, our American brother-nation, while satisfying all the basic aspirations of the developing countries and even though it certainly has many positive aspects, does present difficulties for my delegation and some others. Constrained by time as we are, it is not possible to point out and analyse all these positive aspects, but on this occasion I could not fail to mention the establishment of the new institution of the exclusive economic zone and the elaboration of the legal régime of the Area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, which expressly, in accordance with the Convention, constitutes the common heritage of mankind.

28. The declaration that this Area and its resources are the common heritage of mankind and the norms that make up the régime for the area do not, of course, respond fully to all the aspirations of the developing countries, because they are the result of a compromise that has made them acceptable to all of us in our attempts to achieve a consensus. In any event, they do constitute a very positive step towards the progressive development of an international law of the sea.

29. Venezuela would like to take this opportunity to reiterate its solidarity and support for the position taken by the Group of 77 in this and other spheres of common interest.

30. Unfortunately, for reasons set forth in the statement I made as head of the Venezuelan delegation when explaining our vote at the 182nd plenary meeting of 30 April 1982,[1] we were forced, in spite of our agreement with the great majority of the provisions of the Convention and its annexes, to cast a negative vote. Since reservations could not be entered with regard to articles 15, 74 and 83 and paragraph 3 of article 121, suffice it to say that to the extent that these apply to maritime and submarine areas of opposite and adjacent States, we were forced to register our objection to those articles and to state that had there been a separate vote we would not have voted in favour of them. We reiterate that position at this time.

31. With that understanding, Venezuela will sign the Final Act, which faithfully reflects the work of the Conference and does not contain, as is appropriate for documents of this nature, any value judgement on the results of that work. Venezuela cannot, however, sign the Convention itself.

32. I should not like to conclude without once again paying a personal tribute to the memory of Hamilton Shirley Amerasinghe, that outstanding statesman who, together with you, Mr. President, skilfully conducted this Conference, with such firmness, tact and a sense of humour. I shall always have a fond memory of our work together and of the friendship that both of you extended to me. Nor can I at this final stage of the Conference fail to mention the work accomplished by our colleagues on the Bureau: Paul Bamela Engo, Chairman of the First Committee; Alexander Yankov, Chairman of the Third Committee; Alan Beesley, Chairman of the Drafting Committee; and Ken Rattray, the Rapporteur General, whose friendship too I greatly value.

33. I should like to express my particular gratitude for the co-operation and friendship of all those who worked with us in the Second Committee—the vice-chairmen, the rapporteur and the chairmen of the various working groups established over the years—as well as to the secretariat staff who assisted us on that Committee.

34. I should also like to thank all those who at this final session or on earlier occasions have made generous reference to my work in the Conference. That has made the labour and problems of these long years very, very worthwhile. I should particularly like to express my gratitude for the applause I received upon coming to this rostrum.

35. In conclusion, on behalf of my Government and my delegation and on my own personal behalf, I should like to thank the Government and people of Jamaica not only for the facilities they have made available for the holding of this session but for their warm and fraternal welcome.

36. Mr. AHMED (Pakistan): I should like to express first of all the pleasure of the delegation of Pakistan at seeing you, Mr. President, preside over this historic final session of the Third United Nations Conference on the Law of the Sea. The successful culmination of the Conference is in no small measure due to your qualities of impartiality and wisdom, the leadership that you provided to the Conference at critical moments and your unrelenting efforts to find acceptable solutions and compromises.

37. As we add a most important chapter to the history of international treaty-making we cannot fail to recall the bold initiative taken by Mr. Pardo and the momentum provided to the Conference by the late Hamilton Shirley Amerasinghe in giving concrete shape to the principles propounded by Mr. Pardo.

38. Our thanks are also owed to the members of the Collegium and other officers of the Conference who assisted you in conducting negotiations on issues of vital importance to the Conference. We should also like to pay a tribute to the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and to his able and hard-working associates for the excellent contribution they made to the work of the Conference as well as for the efficient organization of the sessions and the intersessional meetings. Their devotion to the cause of the Conference has been exemplary. We are confident that their energies and abilities will continue to be utilized during the forthcoming preparations for the entry into force of the Convention.

39. We recall with particular satisfaction the fact that the negotiations for the drawing up of the Convention, which lasted for nearly a decade, were conducted in a frank and friendly atmosphere notwithstanding the complexity of the issues and vital national interests involved. All States, large or small, developed or developing and with differing national interests, were provided ample opportunity to give expression to and seek solutions for the problems peculiar to them. During our deliberations, participating States and their representatives demonstrated unfailing courtesy and understanding in order to arrive at a universally acceptable Convention.

40. Finally, I should also like to express our gratitude and appreciation to the Government and people of Jamaica for having made, at such short notice, excellent arrangements for the Conference in the beautiful surroundings of Montego Bay. We are deeply touched by their generosity and warmth, which are in evidence all around us.

41. We fully appreciate the difficulties faced by many States with regard to some of the provisions of the Convention which might not be entirely in consonance with their paramount national interests, since my own country also faces problems with and has apprehensions about the application of a number of provisions of the Convention. Some of our difficulties pertain to the articles on the areas within national jurisdiction. While the provisions of the Convention relating to the territorial sea and the exclusive economic zone are generally compatible with the fundamental aims and objectives that inspired legislation in Pakistan concerning its sovereignty and jurisdiction over the sea adjacent to its coast up to the limit of 200 miles, we believe that the sections relating to innocent passage could have been clarified further on the lines suggested by a number of delegations, including my own, at the last session of the Conference.

[1] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

42. Another area that causes us concern is the possible interpretation of the question of access to the sea, which we believe is only a notional right and will be governed by bilateral agreements regarding transit.

43. My delegation, believing firmly in and committed to the concept of the common heritage of mankind with regard to the resources beyond the limits of national jurisdiction, is of the view that the Convention does not adequately reflect that concept in the mechanisms, machinery and system of exploitation adopted by the Conference. It is our apprehension that in practical terms the major beneficiaries of the parallel system as adopted will be a few industrialized countries. The system is not likely to lead to a balance in the exploitation between States or private companies, on the one hand, and the Enterprise, on the other; and despite determined efforts during the negotiations by the developing countries to protect their legitimate and just interests and aspirations, it is heavily tilted in favour of the industrialized world.

44. Despite our misgivings, we are keenly aware that a convention of this nature—an ambitious, comprehensive and complex venture to draft rules and regulations for the governance of an area which covers almost three quarters of the earth's surface—can hardly be expected to satisfy all States in its entirety. The Convention represents a compressive package and, in our view, the advantages to individual States and the international community as a whole far outweigh any elements that may not fully satisfy individual members.

45. Our delegation had hoped that the Convention, finalized after painstaking and protracted negotiations, would be adopted by consensus. We were disappointed therefore when that did not prove to be possible. However, we are greatly encouraged by the fact that an overwhelming majority of States voted in favour of the Convention. We are also gratified that many of those States which abstained during the vote have signified their intention to sign the Convention, demonstrating their firm desire to promote a régime of international law to govern the uses of the oceans. We believe that any effort by any State or group of States to accept or apply the Convention on a selective basis, or to adopt measures aimed at undermining the Convention through the adoption of alternative régimes for exploiting the resources of the seabed which have been declared to be the common heritage of mankind, would be futile, illegal and shortsighted. We sincerely hope that States which do not find it possible to sign the Convention at this stage will reappraise their policies and join the international community in its march forward towards justice and equity in international relations in all their aspects.

46. With that hope, with the desire that the Convention should be universally adhered to as a demonstration of our solidarity with the third world and the international community of nations, as a token of our respect for international law and despite the difficulties we face with some provisions of the Convention, Pakistan has decided to sign the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

47. The signing of the Convention in Montego Bay marks the beginning of a new era. The international community must strive to ensure that this legal instrument, in its implementation, will promote peace, justice and progress for all nations and peoples.

48. Mr. BLANCO (Uruguay) (*interpretation from Spanish*): Uruguay is especially pleased to take part in this final session of the Third United Nations Conference on the Law of the Sea and will sign the historic Convention which is the fruit of so many collective efforts of the international community.

49. As this Conference comes to the end of its work, my delegation wishes to give due recognition to those who with patience and wisdom have contributed to the Convention: to you, Mr. President, for your guidance, capability and dedication; to your distinguished predecessor, Mr. Hamilton Shirley Amerasinghe; to the Conference officials and to all the delegations which have participated in this hard and lengthy process.

50. This is a memorable occasion for Uruguay. My country, throughout its history and as part of its national character, has nurtured adherence to peace and development and the existence of international law. Thus, it has made an active contribution to all regional and international efforts to organize on the basis of law relations amongst States in the most varied fields.

51. It is therefore easy to understand that a convention covering an extremely broad gamut of subjects in a vital area would be considered by my country as a highly significant step in the struggle for law. It establishes precise norms pertaining to maritime spaces; it creates the legal framework for the peaceful, rational and just exploitation of the wealth it contains; it opens up ways for co-operation and creates noble institutional formulas to organize it; it eliminates factors of conflict and tension and provides additional means for the peaceful settlement of any conflicts which might arise; and it consolidates at the international level the rights of States which are set forth in custom, in national legislation and in bilateral agreements.

52. We should like to note the admirable and praiseworthy efforts at conciliation and balance made to attain those results in the midst of varying opinions and contradictory interests. The consensus which typified a great part of the Conference's work was a tangible expression of that spirit and at the same time proved to be an example as a method of work among sovereign and equal nations. We hope that in the not-too-distant future the signing of or accession to the Convention by other States will re-establish consensus, once the difficulties of the moment have been overcome. My Government, fully respecting the sovereign decisions of each State, desires to express that sincere wish.

53. The Preparatory Commission, the specific functions of which include precisely one of those areas that have presented difficulties for some States, could play an important role in removing those difficulties through the wise and well-balanced exercise of its statutory powers.

54. Uruguay, which, together with other sister nations of Latin America, took part more than 15 years ago in the crusade for the recognition of the rights of coastal States over maritime areas adjacent to their coasts, cannot but feel that this session is the climax of a long effort in regard to a principle that originally seemed chimerical.

55. Today guardianship by this international Convention and recognition by so many nations consolidate those rights which were formally declared by my country in the exercise of its sovereign decisions; at the same time, these are now tangible rights in international law. In that connection, the provisions of the Convention on maritime areas adjacent to coasts are compatible with the purposes and essential bases which inspire Uruguayan legislation relating to sovereignty and jurisdiction over those areas.

56. In particular, the juridical nature of the exclusive economic zone leaves no room for doubt that it is a *sui generis* area of national jurisdiction that is not a part of the high seas. By the same token, and with reference to the Area, the following concepts, *inter alia*, are compatible with the international text: the rights and residual competence of the coastal State; the exclusion of non-peaceful uses by third States; the exclusion of installations and structures of third States.

57. When we look at the road we have travelled, the success of this effort that was undertaken and fulfilled within the

United Nations, whose role in the process of the development of international law must be highlighted and expanded, is apparent.

58. It is encouraging to note that, by means of the method of consensus, and with creativity and a will to negotiate on the part of the parties, it has been possible to draft just and well-balanced formulas, largely acceptable to the international community. We should now like the United Nations, in a similar spirit and using a similar method, to approach matters other than the law of the sea, thus continuing in other fields the task of developing a legal framework for human activity.

59. When we assess the results obtained in the Convention it is also gratifying to note the contribution made by the Special Representative of the Secretary-General, Mr. Bernardo Zuleta; by the Executive Secretary of the Conference, Mr. David Hall; and by the Conference secretariat as a whole. We hope that this excellent team will also be involved in the delicate task that lies ahead of preparing the instruments provided for in the Convention in this vast field of law.

60. My Government expresses thanks for the generous hospitality of the Government and the people of Jamaica in serving as host to this historic session and also for the forthcoming session of the Preparatory Commission. It is a pleasure to note that this is taking place in Jamaica, a country that is linked to important events for Latin America and that represents the firm expression of the will and effort towards development.

61. Mr. VARVESI (Italy) (*interpretation from French*): Mr. President, at the outset I should like to thank the Government of Jamaica for the exquisite hospitality it has offered us during this final session of the Conference.

62. The signing of the Final Act of the Third United Nations Conference on the Law of the Sea is in fact the high point in a process that has been taking place for many years. Italy, a country with an age-old maritime tradition, with flourishing activity in the merchant-shipping field, a country whose national security has to be ensured largely on the seas and which is already engaged in sea-bed exploration, could not fail to participate actively in all the sessions of the Conference.

63. The signing of the Final Act is also the most fitting moment to take stock of this lengthy negotiation. From the standpoint of the Italian Government, that requires making certain distinctions, although the Convention is considered to be an indivisible whole. Throughout the Conference the Italian delegation has expressed its approval of the codification of certain fundamental aspects of the law of the sea, referring in particular to the territorial sea, to innocent passage, to navigation in general and to the conservation of living resources, the preservation of the marine environment and scientific research.

64. Italy believes that the Conference has resolved those aspects of the law of the sea which we could term traditional in a satisfactory manner on the whole, even if some of these provisions can be considered to be part of customary law already.

65. With regard to the rules governing the exclusive economic zone and the freedoms recognized for all States in it, we believe they constitute a well-balanced compromise solution between the aspirations of coastal States and the requirements of maritime States.

66. The provisions on the settlement of disputes doubtless represent a step forward in comparison with more recent codification conventions and an important guarantee for all States.

67. Furthermore, Italy has constantly voiced its reservations concerning Part XI of the Convention, referring to the exploitation of the sea-bed. While recognizing the fundamental principles behind that part of the Convention, Italy fears that the institutions it provides, by their number and their complexity, will be able only with great difficulty to ensure a viable system for the exploitation of the sea-bed. In the view of my Government, the establishment of organs which might not guarantee profitable exploitation of the resources could become a heavy burden for the international community, including the developing countries.

68. A more thorough and lengthy examination of this matter, particularly at the last few sessions, would probably have enabled us to attain more satisfactory formulas. The Italian Government, in view of its decisions with regard to the Convention, would like the work of the Preparatory Commission to proceed on the basis of a pragmatic approach, allowing for the smoothing out of certain difficulties we have in regard to the régime and machinery for the exploitation of the international area.

69. Italy is a member of the European Economic Community and, by reason of that membership, has transferred competence to the Community in certain matters governed by the Convention. It wishes to take this opportunity to express its satisfaction with the role which the Conference has recognized for the Community, which is now invited to sign the Final Act. In that connection, the Italian delegation recalls the statement by the Danish delegation on behalf of the Community and its member States.

70. It is therefore on the basis of the overall assessment I have just made, which takes into account the various aspects of the Convention, that Italy is ready to sign the Final Act of the Conference, whose result constitutes in any event a major contribution to the codification and the progressive development of international law.

71. In conclusion, I wish to join all those delegations which have spoken before me in expressing heartfelt appreciation for the tireless and devoted efforts made by you, Mr. President, by the Special Representative of the Secretary-General and by the Secretariat.

72. Mr. REGENVANU (Vanuatu): First of all I should like to join delegations that have already spoken and extend my delegation's sincere gratitude to the Government and people of Jamaica for their warm hospitality and for successfully acting as host to this historic and important final session of the Conference on the Law of the Sea in this beautiful city of Montego Bay. I would also express our thanks and praise to the members of the United Nations Secretariat, to the many committees involved in the long process of formulating the Convention over the years, to the Secretary-General's Special Representative and to you, Mr. President, and your distinguished predecessor, now departed from us, for the collective concern and hard work that have culminated in the United Nations Convention on the Law of the Sea that we now have before us.

73. Vanuatu is a newly independent island State situated in the South West Pacific. Vanuatu is a newcomer to the international community, and this is the first session of the Third United Nations Conference on the Law of the Sea that it has attended. Because of this my delegation, on behalf of my Government, wishes to express its gratitude to those delegations present here, especially those from island States like Vanuatu, which have continually presented the case of island States to ensure that the Convention reflects and safeguards the vital interests of these small island States. Similarly, we express fraternal appreciation to the Group of 77 for their honourable work in speaking out and ensuring that the wishes of developing countries were respected and included in the Convention.

74. Although newly independent, Vanuatu has already anticipated the Convention in small ways by successfully passing and enforcing its Marine Spaces Act and its Fisheries Act—

laws which closely and faithfully reflect the principles embodied in the Convention which we are about to sign. As a country with few land-based resources and one that is slowly developing in a fast expanding world, Vanuatu looks to its exclusive economic zone as a potential resource area for future exploitation and development.

75. As emphasized by other delegations, this United Nations Convention on the Law of the Sea is truly a legal monument in the development of international law and an outstanding landmark in human history. Such a landmark is important to all newly independent countries, because so far international law still suffers from the stigma of having been formulated and determined by the larger, richer and militarily more powerful countries of our planet.

76. Although island States in the South Pacific are comparatively small in size, we have set up regional bodies through which we can work together for different purposes. I am glad to say that the Forum Fisheries Agency, which is an agency of our regional organization, the South Pacific Forum, has been able successfully to initiate programmes relating to fisheries and related resources. This success has come about despite adverse attitudes on the part of certain foreign States concerning the migratory species of the tuna fish. As island States in the South Pacific region, we maintain good co-operation in the interest of all, and in this respect Vanuatu looks forward to holding in the near future delimitation talks, consistent with the Convention, concerning common maritime boundaries with its neighbours.

77. I now take the liberty to tell this session about two things which my Government has maintained from the days when our country was still colonized by foreign States. The first is that my Government supports the right of all peoples to attain self-determination and to be free from illegitimate or colonial rule. This issue is important in the Pacific region in the context of the Convention about to be signed. Unless the several countries colonized in the Pacific region become independent, the fact remains that their sea and air, no less than their land, areas and resources will continue to be exploited by the present colonizing nations, using the Convention as a convenient tool of exploitation. In the Pacific region this would extend to the exploitation of marine resources, sea-bed resources and air space, as well as the use of those areas for transporting nuclear weapons and materials or testing nuclear and other weapons. Some of these things are already happening.

78. My Government's second policy which affects and is affected by the Convention before us concerns the introduction of vessels carrying nuclear weapons and materials into Vanuatu's territorial waters. My Government is one of those in the Pacific region that is supportive of a nuclear-free Pacific zone. This ideal is the dream of many people and Governments in the region where we come from and a dream that is difficult, and now probably impossible, to achieve because of the right of freedom of the high seas and the right of innocent passage conferred respectively by articles 87 and 17 of the Convention. Nevertheless, my Government has declared Vanuatu and its territorial waters to be a nuclear-free zone. This policy, although not a domestic law created by Parliament, is an Executive declaration which accords it domestic legal status as far as foreign vessels are concerned. My Government has taken this position since Vanuatu became an independent State in July 1980. It is therefore with great regret that we note the provisions of article 17 and related articles permitting the right of innocent passage of foreign ships across territorial waters. Nevertheless the Convention is an epic, and all nations could probably point to some part of it that is not completely compatible with their domestic or regional ideals.

79. Despite what I have said, as the head of my delegation I shall sign the Final Act and the Convention tomorrow, 10 December 1982, on behalf of the Government of the Republic of Vanuatu, and I shall sign those two documents with the humility of a small island State and with the pride of a nation sharing and co-operating with the family of nations. As the Minister of Land and Natural Resources and the Minister responsible for the environment and its conservation, I am glad to note the comprehensive provisions contained in Part XII of the Convention about the marine environment, conservation of living resources and anti-pollution measures. My Government attaches great importance to environmental issues aimed at maximizing production and minimizing destruction, for the benefit of future generations. I can only remind myself and all of us here that it is often very easy to forget about conservation of the marine environment and resources in the name of development and foreign-exchange earnings.

80. In conclusion, it is sad to see that, after years of serious negotiations by all concerned, some countries have decided not to join with us in signing the Convention. In Vanuatu we have a saying that goes: "Before we get on the field to play football, we must know the rules and we must accept them". For nations to use and exploit the sea and water areas of this planet without a single, supreme guiding law amounts to a lawless planet. We hope that those countries that will not be signing this Convention on Friday, 10 December, will review their positions and abandon any plans for a mini-convention. After all, there are many countries which became independent after the adoption of the 1958 Convention and to which that Convention was unfair and, in many cases, of no use. Just as the developing countries have had to endure the often one-sided nature of traditional and customary international law, so in the spirit of give-and-take the larger countries should now take it upon themselves to endure the reality of this Convention, to sign it, to ratify it and to work with all in its implementation.

81. Mr. SAEMALA (Solomon Islands): On behalf of the Government and people of Solomon Islands I extend to you, Mr. President, and to everyone at this Conference our greetings of friendship. To our friendly hosts the Government and people of Jamaica go our very special thanks for the hospitality they have so graciously accorded all of us here at Montego Bay. And to all who have made a contribution in one way or another, great or small, to the fine achievement of the Convention we now have before us, we would express our sincere gratitude. In this respect, Solomon Islands associates itself with the special and respectful tributes to the late Hamilton Shirley Amerasinghe and to you, Sir, for your outstanding contributions to this historic Convention.

82. We have been lured here this week from all corners of the world, whether out of conviction, respect or sympathy, or for any other reason, to participate in and witness the successful conclusion of the nine-year voyage of this Conference. The canoe and the sails and the paddles for this long voyage—that is, the details of the Convention—have been described in various ways with many different words by so many eloquent speakers that I need not do so myself. Yet its destiny is the betterment of mankind. The breadth of the representation here in Montego Bay signifies the importance we respectively attach to the Convention, whether we be land-locked, coastal, archipelagic or island States. In the view of Solomon Islands, the Convention confirms and clarifies our rights to our best advantage.

83. Solomon Islands therefore welcomes the Convention with the understanding that it may and can be improved. Thus, Solomon Islands, out of conviction and with confidence, will sign the Final Act and the Convention. As an archipelagic State in the Pacific Ocean, and like our neighbours in our region, we appreciate only too well the economic potential with which we are blessed in the seas that surround our islands, and we are confident that this Convention will assist us as a legislative framework for our national legislation for

the development of our sea resources and for the protection and preservation of our marine environment. In this endeavour, we shall turn to the United Nations for help.

84. Solomon Islands endorses the disappointment and regret expressed at the fact that not all of the original participants are able to sign the Convention tomorrow. The attitude of those countries that will not sign takes away that touch of the family unity of our international community with which this Convention should be identified. At this stage we can only express the hope that those countries will one day find it in their interest to become signatories for the sake of humanity and of international order and co-operation. We urge those same countries to honour the Convention and the wishes of its signatories in the course of their maritime activities, especially in areas where there was consensus during the negotiation process of the Convention.

85. I should like now to congratulate participating members, especially those who will sign tomorrow, for this splendid accomplishment, given the complexity of the issues involved and the often difficult circumstances in which negotiations were held. At a time when we tend to despair at the state of our world and its many problems, this display of international co-operation is indeed heartwarming, especially for us small island nations. Let us salute it as a classic example, and may it remain one area in which we may continue this co-operation in the interest of a progressive world for mankind.

86. Mr. MIZZI (Malta): I wish first of all to thank the Government and people of Jamaica for serving as hosts to the signing session of the Third United Nations Conference on the Law of the Sea, for their very warm hospitality and for the excellent arrangements they have made to make sure not only that the proceedings go on smoothly but also that the representatives' stay is a comfortable one. There is no doubt that they have succeeded.

87. Secondly, I should like to renew my congratulations to Jamaica for having been chosen by the Conference to serve as host to the future International Sea-Bed Authority. I also bring the wishes of my Government to the Government of Jamaica and to all the Governments here represented in the hope that what was achieved with so much tenacity and hard work will be brought to fruition in the near future. We believe that tomorrow's opening of the Convention for signature will take us a significant step forward towards that goal.

88. The road to Montego Bay was long and fraught with pitfalls, but the Conference has given a new meaning and new hopes to multilateral diplomacy. Even though, rather unexpectedly, a dark shadow was cast over it in the last stages of the negotiations—a shadow which has not yet been lifted and does not show signs that it will be in the near future—the Convention represents an unprecedented achievement in international law-making; and it would be a serious mistake to think that its influence upon the behaviour of States will be the less simply because some of them, however important they are, find objection to one part of it. Agreement has been reached by practically all participants on the other issues relating to the uses of the seas and oceans, and one cannot but expect that that agreement will be honoured. We would be turning the clock back if we were to act differently from what the Convention provides for in such matters, for instance, as the exclusive economic zone or the extent of the territorial waters.

89. On the other hand, that agreement was possible only because the participants were prepared to compromise; and, considering the magnitude of the Convention, it is difficult to conceive how it could have been achieved otherwise. But that is why we have always referred to it as a package, and that deal cannot be disturbed.

90. At this point, I wish to say a few words about two matters in which the interests of my country were most closely involved. The first was the question of the delimitation of the continental shelf and of the exclusive economic zone. On this issue, the negotiations were protracted and laborious, and the final outcome is as much the result of the political maturity and sense of responsibility of the negotiators as it is of the unstinted and repeated efforts by Mr. Manner of Finland and of the final intervention by you, Sir, as President of the Conference.

91. As regards the other matter, namely, the innocent passage of warships through territorial waters, again for the sake of general agreement we went along with a compromise contained in a statement by the President of the Conference on 26 April 1982,[2] duly recorded in the annals of the Conference.

92. However, on the eve of the signing of the Convention, we feel that we ought to reaffirm our conviction that it recognizes the right of coastal States to adopt measures to safeguard their security, including the requirement of prior authorization or notice for the innocent passage of warships through territorial waters. My country therefore reserves the right, if it deems it necessary, to submit a declaration in this respect at the appropriate time in accordance with article 310.

93. The new Convention has brought to the fore as never before the issue of regional co-operation. Indeed, in our view, the Convention imposes such co-operation. In the Mediterranean Sea, the area I come from, not one single State can utilize the full extent of the 200 miles as the limit of the exclusive economic zone. Thus, by the simple fact that the Convention recognizes that limit, it has imposed on all the littoral States of the Mediterranean common frontiers which have yet to be drawn up by common agreement and co-operation. States that for millennia have regarded themselves as separate now, because of the Convention, find that their front gardens, as it were, have common borders. It is true that in the final analysis States have to agree bilaterally on the delimitation of these borders and it will remain solely within their sovereign competence to arrive at such agreements, but the area is too small not to have overlapping interests which can best be solved in a spirit of regional co-operation. Boundaries could be established. But will that, by itself, solve the difficulties that might arise in fishing, navigation, preservation of the marine environment, pollution and scientific research, and other uses of the seas?

94. We firmly believe that the best approach to all these problems is a regional one, and we look forward to working and co-operating with all Mediterranean States so that the Convention we are about to sign will become a catalytic instrument in transforming the Mediterranean Sea—environmentally one of the most endangered seas—into a healthier environment.

95. Fifteen long years ago the delegation of Malta introduced at the United Nations the concept that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as well as their resources, were the common heritage of mankind and that they should be so declared by the General Assembly. In 1970 the General Assembly adopted such a declaration, and preparations for the Third United Nations Conference on the Law of the Sea began. The result is the present Convention. With all its faults and merits, it is an instrument which seeks to balance myriads of interests; indeed, it is in that balance that its strength lies.

96. It was our hope, as well as that of many others, that the Convention would be adopted by consensus. Regrettably, that was not to be, and my delegation can only look with a heavy heart at the fact that the consensus was shattered solely because of different perspectives on how to deal in practice with the principle of the common heritage, a principle universally accepted as far back as 1970. But we are not to lose heart. For our part, we shall not only sign the Final Act and the Conven-

[2] *Ibid.*, 176th plenary meeting.

tion but shall also do our best to ratify the Convention without undue delay, thus contributing not only to the establishment of a new sea-bed régime and of the Authority which will administer it but, in a far wider aspect, to a new régime in ocean space.

97. In conclusion, I wish to pay a tribute to the late President Amerasinghe. That he led the Conference in a masterly fashion is known to one and all; but, for us of the delegation of Malta, he occupies a special place in our hearts, since we always found him very understanding of our own special concerns. The void left by his death was difficult to fill, but it was the destiny of this Conference to be led by men of highest competence. Your contribution, Sir, to the success of this Conference, both before and certainly much more upon becoming its President, is for all to attest. We wish to thank you for your leadership. We also wish to thank the Special Representative of the Secretary-General and his staff for their competence and unselfishness in servicing the Conference. Finally, I should like to thank you, Mr. President, and all those speakers who found it opportune to refer to Malta's pioneering role in 1967, which led after a long, and sometimes tortuous, road to the ceremony we shall be holding tomorrow and will, we earnestly hope, lead us to further and more tangible achievements.

98. Mr. KIM HYONG U (Democratic People's Republic of Korea):[3] The delegation of the Democratic People's Republic of Korea wishes first of all to express its thanks to you, Sir, the President of the United Nations Conference on the Law of the Sea, and to the authorities of the Government of Jamaica, the venue of the Conference, for having rendered every service to the representatives participating in it. My delegation extends thanks to Mr. Edward Seaga, Prime Minister of Jamaica, for the wonderful speech he delivered congratulating the Conference. My delegation also takes this opportunity to offer cordial greetings of friendship to the Jamaican people.

99. The current session of the Conference, convened for the signing of the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, will make a significant contribution to the establishment of a new international economic order. This is because on this occasion the Conference is going to sign the United Nations Convention on the Law of the Sea which was adopted at the end of April, thanks to the sincere efforts made by the peace-loving countries of the world, including the third-world countries, for the establishment of a new international economic order befitting the demands of the present time.

100. The Democratic People's Republic of Korea, as a developing third-world country and a dignified member of the Movement of Non-Aligned Countries, has done its utmost in the past for the establishment of the law of the sea, and therefore our delegation has now come here to participate in the signing of the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, the outcome of difficult deliberations.

101. The United Nations Convention on the Law of the Sea that is to be signed at this time streamlines, as a reflection of the demand of the independent era, the concept of the new international law on the 200-mile exclusive economic zone and the concept of the new international law whereby the sea-bed areas beyond the limits of national jurisdiction and their resources belong to the common heritage of mankind. That clearly manifests the progressive nature of the Convention.

102. Of course, the Convention has shortcomings and limitations in some aspects. However, the overwhelming majority of countries of the world voted in favour of its adoption because of what I have just termed its progressive nature.

103. The adoption of this Convention is one of the important successes attained by the third-world and other peace-loving countries of the world in their struggle for the establishment of a new international economic order.

104. Although the Convention has been adopted, aggression on the sea and all manner of threats against and plunder of marine resources by the imperialist Powers persist today. The delegation of the Democratic People's Republic of Korea strongly demands the unconditional termination of such an abnormal situation.

105. In spite of the adoption of the Convention, there are still attempts to monopolize the international sea-bed Area and its resources. The delegation of the Democratic People's Republic of Korea reaffirms its position of resolute opposition to any one-sided steps or agreements aimed at infringement of the international sea-bed Area and its resources, the common heritage of mankind, outside the framework of the United Nations Convention on the Law of the Sea.

106. The United Nations Convention on the Law of the Sea as a whole is a universal treaty acceptable to everyone. Unfortunately, the Convention does not fully define several problems, including that of innocent passage through the territorial sea. The delegation of the Democratic People's Republic of Korea reaffirms the right of coastal States to adopt measures to safeguard their security interests, including the right to require prior notification or consent in regard to passage of foreign warships through their territorial sea.

107. My delegation, having seriously considered the Convention, reserves its right to make a declaration or statement within the limits of the permission granted under the relevant articles.

108. The delegation of the Democratic People's Republic of Korea wishes to make it clear that, proceeding from its ideal of independence, friendship and peace, my Government will sign the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, which was adopted by the affirmative votes of the overwhelming majority of countries.

109. The delegation of the Democratic People's Republic of Korea hopes that all countries will actively and sincerely take part in the work of the Preparatory Commission for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea and that all the issues debated in the Commission will be settled in conformity with the desire and understanding of the people of the world. My delegation confirms its readiness to do everything to that end in the future.

110. Mr. WOLF (Austria): Ever since November 1967, when Mr. Arvid Pardo of Malta delivered his historic address[4] to the United Nations, Austria has been following with keen interest the emergence of the new law of the sea, and our successive delegations have actively and loyally participated in the development of this work of momentous importance. Though a small land-locked country in the heart of Europe, Austria has nevertheless seen from the very first days the unique potential of this undertaking for global development. Our aim has been, and still is, the establishment of a new order for the oceans which should, in the first place, make an essential contribution to world peace; secondly, offer new ways to bridge the gap between rich and poor countries; and, thirdly, give all nations—I repeat: all nations—the possibility of participating in the exploration and exploitation of the wealth of the oceans, in scientific as well as in economic terms.

[3] Mr. Kim Hyong U spoke in Korean. The English version of his statement was supplied by the delegation.

[4] *Official Records of the General Assembly, Twenty-second Session, First Committee*, vol. I, 1516th meeting.

111. Austria has enthusiastically accepted the philosophy of the oceans as the common heritage of mankind, a philosophy which we always wanted to be as extensive as possible for the benefit of mankind as a whole.

112. Now, some 15 years later, the great work has been completed or, at least, a fundamentally important phase of this work has been concluded. As always and inevitably happens, the gap between our hopes and dreams and the reality as it finally emerges from our labours is considerable. This is of course particularly true with regard to the land-locked and geographically disadvantaged States.

113. In spite of this, however, Austria will sign the Final Act of the Third United Nations Conference on the Law of the Sea as well as the United Nations Convention on the Law of the Sea. We will do so with the expectation that the interpretation of the Convention and its bona fide application will allow land-locked countries also, in spite of their disadvantaged geographical position, to participate in marine activities such as the exploitation of ocean resources, shipping and navigation and marine scientific research, which is fundamentally important for the economic as well as the cultural life of even a land-locked country.

114. One of the most positive aspects of the Convention in the Austrian view is its comprehensive dispute-settlement system. We are confident that an instrument of international law providing for such a system will contribute to a reduction of conflicts and a lowering of tensions. In this sense the Convention may make an essential contribution to world peace.

115. World peace must be founded on economic justice and the closing, or at least the reduction, of the gap between North and South. And although the Convention in some ways—especially in Parts I through X—increases inequality among States and therefore tends to serve the interests of the richer nations, other parts of the Convention are clearly designed with the needs of the poorer nations in mind. But there is a danger. If not applied in the foreseeable future, Part XI of the Convention will run the risk of being overtaken by scientific and technological changes. Still, Part XI does provide a unique opportunity for the creation of new forms of scientific-industrial co-operation between North and South. The Preparatory Commission will have the challenging task of utilizing the text of the Convention in such a way as to reduce the growing gap between the ideas and ideals, and also the phobias, of the seventies and the economic and technological realities of the eighties and nineties. If the Commission is successful in this task it will assure the universal acceptance of the Convention, even by those who today do not see it to be in their interest to sign. At the same time it will be a first building block or, more than that, a cornerstone of a truly new international economic order based on the principle of the common heritage of mankind.

116. Austria upholds the view that co-operation between nations and a new international economic order can be maintained and enhanced only if no country interprets the Convention as an authorization for further unilateral claims and gains on the basis of an already geographically advantaged position and to the detriment of other States, especially the land-locked and geographically disadvantaged States among them. Austria cannot imagine a separation of rights and duties within the framework of the Convention.

117. Our task is not completed by our signing of the Convention. Only with a Convention in force, with universal application, shall we have reached our common goal.

118. Much will depend on the work of the Preparatory Commission, the only instrument that remains, and on its faithfulness to the principles of consensus and comprehensiveness of approach. The Preparatory Commission is not a reincarnation of the Special Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. The recognition that all problems of the oceans are closely interrelated and must be considered as a whole—which, as Mr. Koh reminded us in his statement, was the second great contribution of Ambassador Pardo to this Conference—must not be lost sight of by the Preparatory Commission, whose activities must be harmonized with those of the other United Nations institutions engaged in marine activities and the protection of the marine environment, which in turn will also have to be further developed and strengthened. We have barely begun to pay attention to these problems. A great task has been completed. Clearly another great task lies ahead of us.

119. In this awareness, Austria pledges its support for the continuation of our work. Austria fully intends to contribute its modest share until we have fulfilled our common great task—the establishment of a new order in the oceans based on the universal application of the United Nations Convention on the Law of the Sea.

120. In conclusion, I should like to associate myself with all the previous speakers who have expressed our common gratitude and deep appreciation to you, Mr. President, to all the other officers of the Conference and to the Special Representative of the Secretary-General and his staff, and to the Government and people of Jamaica for their splendid hospitality.

121. Mr. OTUNNU (Uganda): I cannot help feeling the powerful sense of history and the exciting atmosphere of celebration that so freely permeates this hall today. We are on the eve of a momentous and historic development. Tomorrow we shall gather in this very hall to sign the Final Act of the Third United Nations Conference on the Law of the Sea and open for signature the United Nations Convention on the Law of the Sea.

122. Why should the advent of the Montego Bay Convention, negotiations for which spanned a period of nine years and 11 sessions, evoke in us such an aura of history and celebration? There are many reasons, but I should like to stress four in particular.

123. First, the Montego Bay Convention is the most important symbol to date of a new era, a democratic era, in the development of international law. This Convention is the outcome of negotiations in which all States—great and small, old and new, so-called developed and so-called developing—have participated and made contributions. This process stands in sharp contrast to the practice of the previous era, in which a few powerful States determined the content and the course of international law, based largely on their own interests, and imposed that parochial order on the rest of the world. It is our hope that the new era, marked by rational discussion and democratic practice, will inspire other positive developments in the field of international law.

124. The second significance of the Montego Bay Convention lies in the fact that, in place of unilateral, unco-ordinated and often conflicting measures, we now have a universal legal régime to govern all activities in the oceans and seas of the world and in the sea-bed and its subsoil. We must all resist any attempts to undermine the universal character and spirit of the new régime. In this context we must reject moves to establish a parallel régime or a mini-treaty.

125. The third significance of the Montego Bay Convention is to be found in the principle that the area of the sea-bed and its subsoil beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, to be explored and exploited for the common benefit of mankind as a whole. The recognition of this principle constitutes a proud landmark in our civilization. In our view the principle of the common heritage of mankind should be promoted and developed for the common good in other fields of international endeavour.

126. Fourthly, the Montego Bay Convention provides the most visible and concrete example of what the United Nations in particular and the international community in general can achieve through the process of careful and patient negotiations. The Secretary-General, Mr. Pérez de Cuéllar, expressed this point so well in the eighth part of his celebrated report of 7 September 1982 when he stated:

> "We have seen, in the case of the law of the sea . . . what remarkable results can be achieved in well-organized negotiations within the United Nations framework, even on the most complex of issues."[5]

127. If we could bring forth this monument of a document, why can we not deploy the same will, determination and experience to tackle the other pressing and outstanding issues on the agenda of international co-operation and development?

128. In spite of its historic significance, to the various aspects of which I have just referred, the Convention is not without some serious flaws. It could not be otherwise, since the Convention was of necessity born of the give-and-take of compromises and concessions—perhaps too many compromises and concessions. It is clear to my delegation that those who have ended up with the short end of the stick in the process of negotiations are mainly developing countries, especially the land-locked and geographically disadvantaged developing countries. In this regard I must state clearly here that Uganda is not satisfied with the provisions of the Convention relating to the interests of land-locked countries and land-based producers of minerals. We hope that there may yet develop a better appreciation of the difficulties facing the land-locked countries.

129. In spite of the misgivings to which I have just referred, Uganda voted in favour of the draft Convention on 30 April 1982. We did so in a spirit of compromise and co-operation and because of our commitment to the rule of law. Similarly, Uganda will tomorrow, in the same spirit, sign the Final Act and the Convention.

130. Is it not ironic that it is precisely some of the countries that obtained the most concessions during the negotiations that are now hesitating to sign the Convention? We hope that after due reflection those countries will join the vast majority of the international community in signing and ratifying the Convention.

131. The Third United Nations Conference on the Law of the Sea has, throughout its long duration, been blessed with an especially inspired leadership. This deserves special tribute. A very special tribute must be given to your illustrious predecessor, Sir, the late Hamilton Shirley Amerasinghe of Sri Lanka, whose determination, wisdom and good humour placed the Conference on a sound course. Mr. Amerasinghe's contribution left an indelible mark on the Conference and its final outcome.

132. To you, Mr. President, we owe a great debt of gratitude. You have led the Conference with rare brilliance, courage, tenacity and charm.

133. Mr. Arvid Pardo of Malta, whose vision opened the way for the recognition of the principle of the common heritage of mankind, will forever have a very special place in our hearts and an equally special place in the history of the law of the sea. I am delighted that Mr. Pardo could join us here today.

134. To the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and the hard-working and efficient men and women of the secretariat, we express deep appreciation and respect.

135. Finally, we wish to express our gratitude to the Government and people of Jamaica for their wonderful hospitality and, if I may say so, for their agreeable climate. Jamaica's contribution to the world is well known, but I must make mention in particular of Jamaica's contribution to the Movement of Non-Aligned Countries, to the Group of 77 and to the musical culture of the world. It is most appropriate, therefore, that this historic occasion should take place in this beautiful land of beautiful people.

136. Mr. MALLET (Saint Lucia): Mr. President, I should like at the outset to express my Government's congratulations on your assumption of the arduous task of steering this Conference to a successful conclusion. In the same spirit, I wish to join the many others who have preceded me in paying a tribute to the late Hamilton Shirley Amerasinghe for his yeoman service and to the many others who have been associated with this Conference over nearly a decade.

137. I am particularly pleased that this historic event is taking place on the sister island of Jamaica, which shares with my own island, Saint Lucia, the strongest of bonds and the deepest of relations. We are confident that the decision taken by the Conference to make Jamaica the site of the Sea-Bed Authority will prove to have been a wise one.

138. I am empowered by my Government to sign the Final Act and the Convention. We shall sign not because we find all parts of the Convention entirely acceptable, since it is not expected that all the provisions of an international agreement of this scope will be entirely acceptable to all participating countries, but because we believe that, in the spirit of compromise, it is the best that could be achieved at this time. And, just as international law has at times been looked at in a progressive manner, we are hopeful that the dynamic nature of this Convention will prevail over any static interpretation that may be placed upon it.

139. For example, my Government is of the opinion that the vagueness in section 3 of Part II of the Convention, with respect to innocent passage in the territorial sea, results from the compromise that was necessary. It can be interpreted to mean that passage in the territorial sea by foreign warships is deemed not innocent unless proven to be so. Of course, the converse also holds. It all depends on who is interpreting. My Government regrets the ambiguity inherent in those articles and will from time to time express its concern.

140. Having said that, we must acknowledge a very basic principle which the Convention seeks to establish, that is, the common heritage of mankind in respect of the sharing of the resources of the sea-bed and the subsoil thereof. This principle far outweighs in benefits the difficulties of my Government in respect of specific items of the Convention to which I have alluded.

141. We are also pleased that specific responsibility is placed on all States for the preservation of marine resources, both living and non-living. It helps to ensure that at least adequate resources will be available in respect of fisheries and other useful marine organisms on a global level for the continued survival of mankind.

142. The history of man's relationship with the sea cannot be denied, and in some quarters it is even believed that life originated from the sea. Whether or not that is true, we have an obligation to preserve the seas and oceans and, whether or not we believe it, they are important not just for one's well-being but for our very survival on this planet.

143. Lastly, that so many States worked so assiduously and for so long deserves the just reward of a Convention which puts some order and predictability in States' relations in respect of activities in the greater portion of the planet—a Convention that will hold a special place in the history of international law. It cannot be perfect because it was based on compromise. It cannot satisfy everyone's desires since it had

[5] *Ibid., Thirty-seventh Session, Supplement No. 1* (A/37/1).

to take all points of view into consideration. What it can do and, I submit, has already done is to provide and concretize some general principles of law which will serve as a basis for relations between States in respect of the sea. My country is committed to the rule of law in international affairs.

144. The rule of law is a strong weapon on the side of small States like my own. This Convention, whatever may be its deficiencies, provides the corpus or framework of law.

145. We have therefore agreed to sign it, hoping that States that are stronger than we are, and have more resources, may in time find it possible to come under this umbrella and thus make it a truly universal Convention excluding no one country and therefore an instrument for peace, understanding and goodwill amongst all countries of the world.

146. Sir, in keeping with your request that we be as brief as possible, I shall now conclude by expressing our thanks to the Chairmen of the Committees, the Bureau, the secretariat and the representatives who have worked so diligently and tirelessly over so many years.

147. Finally, to the Government and the people of Jamaica, I wish to express my gratitude and appreciation for their having acted as hosts to this Conference and for the warm hospitality for which Jamaica is so well known.

148. Mr. ROBLEH (Somalia): First of all, my delegation wishes to join other delegations in thanking the Government and the people of Jamaica for serving as hosts to this historic gathering of the Third United Nations Conference on the Law of the Sea. Since we have set foot on Jamaican soil, we have been overwhelmed by the unbounded hospitality and friendship of the Jamaican people. We feel truly at home.

149. Secondly, my delegation wishes to associate itself with the tributes that have been paid to the late President of the Conference, Ambassador Hamilton Shirley Amerasinghe, for his monumental contribution to the work of the Conference.

150. Mr. President, you have been a worthy successor to the late Mr. Amerasinghe, and my delegation highly appreciates your skill, finesse and herculean efforts in steering these Byzantine negotiations to a successful finale.

151. The marathon multilateral negotiations on the many and complex issues on the law of the sea are about to be wound up in this beautiful Jamaican city of Montego Bay on Friday. Already signs of relief tinged with a sense of pride can be seen on the faces of all participants. The document that has resulted from many years of diplomatic haggling and political infighting does not reflect the original positions of developing countries. Indeed, one recurring feature of the negotiating process within the Third United Nations Conference on the Law of the Sea has been the unending stream of concessions made by developing countries in relation to many important provisions of the Convention. Those concessions were made by that group of States in their desire to ensure the successful conclusion of the Third United Nations Conference on the Law of the Sea.

152. The new Convention is undoubtedly a significant contribution to the progressive development of international law and constitutes a conspicuous milestone in the universal quest for the fashioning of an equitable new international economic order. Indeed, if faithfully applied, the new Convention will usher in an era of peace, justice and tranquillity in the seas and ocean space in place of might, chaos and confrontation.

153. For the aforementioned reasons the Somali Democratic Republic will sign both the Final Act and the Convention tomorrow.

154. However, my Government has instructed us to spell out Somalia's serious misgivings about certain provisions of the Convention and to set out our understanding of certain key provisions of the Convention.

155. The Somali Democratic Republic has had on its statute books since 1972 Law No. 37, which decreed a territorial sea of 200 nautical miles. In our view, Somalia has acquired rights under that law, in accordance with customary international law, and these rights are not subject to question by any other States. However, in fulfilling the obligations we have assumed under the various provisions of the Convention, Somalia will endeavour to the greatest possible extent to harmonize the 1972 law on the territorial sea with our obligations under the Convention.

156. Furthermore, my Government wishes to put on record our understanding that article 21 of the Convention must be read in the context of the interpretative statement made by the President at the 176th plenary meeting, on 26 April 1982,[1] to the effect that:

> "Although the co-sponsors of the amendment contained in document A/CONF. 62/L.117 had proposed the amendment with a view to clarifying the text of the Convention, in response to the President's appeal they have agreed not to press it to a vote . . . They would, however, like to reaffirm that this is without prejudice to the right of coastal States to adopt measures to safeguard their security interests in accordance with articles 19 and 25 of the draft Convention."

157. My Government has over the years lent its unswerving support to the novel concept of the exclusive economic zone now enshrined in Part V of the new Convention. The exclusive economic zone is a *sui generis* zone which is neither a portion of the territorial sea nor an integral part of the high seas. My Government is adamantly opposed to efforts by certain States to internationalize this *sui generis* zone by distorting certain provisions of the Convention.

158. In our view, paragraph 2 of article 63 imposes an obligation on the States concerned to seek to agree on measures necessary for the conservation of stocks found within the exclusive economic zone and in areas adjacent to it.

159. With regard to the important question, contained in articles 74 and 83, of delimitation of maritime boundaries, Somalia's understanding of these key provisions is that the goal or objective in all adjudications relating to delimitation shall be to secure an equitable solution. It follows that equity can never be achieved in such situations without having due regard to all relevant circumstances.

160. The Somali Government is of the view that one serious lacuna in this important Convention is the failure to incorporate a clear-cut provision on the right of national liberation movements such as the Palestine Liberation Organization to become full-fledged parties to the Convention. Further, our signing of the Final Act and the Convention in no way signifies implicit recognition of States or entities which Somalia does not recognize.

161. With regard to article 287, pertaining to the choice of a procedure for the settlement of disputes concerning the interpretation or application of this Convention, my Government will spell out its choice in a written declaration at an appropriate time in the future. Equally, we shall indicate our position on article 298 in the future.

162. This historic Conference would never have been convened had it not been for the imagination and inspiration of Mr. Arvid Pardo of Malta, who gave us the concept of the common heritage of mankind in relation to the area beyond national jurisdiction. Hence it is fitting to register our great debt to this great man.

163. The legal status of the area beyond national jurisdiction is abundantly set out in the various provisions contained in Part XI. Under those provisions no State can claim or exercise sovereignty over any part of the Area nor appropriate any part thereof. In view of this my Government regards any unilateral attempt to exploit the Area as entirely illegal.

164. For the concept of the common heritage of mankind to become a reality it is imperative that the International Sea-Bed Authority we envisage under Part XI of the Convention must be endowed with all the necessary powers to enable it effectively to discharge its duties.

165. The new Convention we are about to sign will stand out in history as a shining example of the collective will of mankind to reconcile widely divergent interests through negotiations rather than through the sword.

166. My delegation cannot conclude this statement without expressing our debt and gratitude to the United Nations Conference secretariat, led by the Special Representative of the Secretary-General. Without the unstinting service of these dedicated individuals the Conference would never have progressed thus far. Our gratitude also goes to the Rapporteur-General of the Conference, the Ambassador of Jamaica; the Executive Secretary; and the chairmen of the various committees of the Conference, who gave so much of their energy and time to ensure the successful conclusion of our collective effort.

167. Mr. KEMISHANGA (Zaire) (*interpretation from French*): Mr. President, I should like, before I start my substantive statement, to express here my delegation's gratitude to that outstanding diplomat and expert in questions relating to the law of the sea, your predecessor, the late Mr. Hamilton Shirley Amerasinghe, for the noteworthy services he rendered to the Conference while exercising his heavy and delicate responsibilities as its President.

168. At the same time, I should like to address to you, Mr. President, a well-deserved tribute for the tremendous efforts you have made throughout the Conference in guiding the difficult negotiations. My delegation has been very conscious of your wisdom, intelligence and common sense, and you have aroused our admiration. The results of our work are due in large part to your exceptional qualities as a diplomat. I must mention too all the other members of the Collegium, to whom, through you, I should like to convey my delegation's gratitude for the constant, tireless efforts they have made throughout our negotiations with a view to achieving a generally acceptable agreement.

169. My delegation is also grateful to the Conference secretariat for the services it has rendered us under the watchful eye of its head, Mr. Zuleta, the Special Representative of the Secretary-General. I request these worthy co-workers to accept my delegation's gratitude.

170. In meeting between 6 and 10 December 1982 in Montego Bay, a splendid little city in Jamaica, to mark the culmination of a long process, the worthy participants in the Third United Nations Conference on the Law of the Sea have responded to the call of history and to the appeal made to them by the international community through its relevant resolutions, including General Assembly resolution 3067 (XXVIII) of 16 November 1973, whereby the Conference was given the task of adopting a convention dealing with all matters relating to the law of the sea which the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction had formally approved. In this context the Conference was asked to bear in mind that the problems of ocean space were closely interrelated and therefore had to be considered as a whole. This message reflected the international community's intention to make the future instrument on the law of the sea an indivisible whole, the acceptability or unacceptability of which could not be the subject of any partial agreement and, still less, of a policy of half measures. That is why my delegation is not prepared to accept the view that the Convention on the Law of the Sea is merely a general guideline for the purpose, at most, of helping countries to harmonize their national policies and legislation. That view, my delegation feels, is an extremely dangerous interpretation that could uselessly call into question the achievements of the Conference and deal a blow to the efforts and sacrifices of the international community. To sum up, we must regard the Convention as a fact and must accept it or reject it. And if it is accepted, it must be accepted as a whole. The importance of that position of ours is related to the scope of the questions covered by the new legal régime which is to govern activities carried out in the seas and oceans beyond the limits of national jurisdiction and their respective national and international consequences.

171. By its universal scope and the aim, complexity and breadth of the questions with which it deals, as well as the general machinery it establishes, the United Nations Convention on the Law of the Sea is a monument in the very wide range of United Nations achievements, second only to the Charter in its importance. In addition to contributing to the work of the codification and progressive development of international law and the implementation of the New International Economic Order, as well as the recasting in its original context of what many believed to be Utopian—namely, the principle of the sovereign equality of States—the United Nations Convention on the Law of the Sea appears to be one of the most appropriate instruments that has ever been before the United Nations for the methodical attainment of the objectives of the Charter and the promotion of international peace and security. Although it did not obtain the general consensus so ardently sought, the results arrived at by the Conference cover a very broad area of agreement and reflect, although imperfectly, the deep aspirations of almost all the nations in the world, large and small alike, whose concerns are, to be sure, divergent but legitimate.

172. Among other issues the Convention deals with, I would mention freedom of navigation in the interest of all, utilization and preservation of the resources of the seas, protection of the maritime environment, marine scientific research and, finally, the machinery for the peaceful settlement of disputes. New concepts in international law have been introduced, in particular the concept of the common heritage of mankind, which constitutes the cornerstone for the interpretation of the relevant provisions of the Convention.

173. Having said that, I should like to bring out, as have many preceding speakers, the fact that the United Nations Convention on the Law of the Sea is far from what we can consider to be an ideal model. The delegation of Zaire is one of those which have participated actively in the Conference—from Caracas to Montego Bay, and in the intermediary stages in New York and Geneva. As a result, it is perfectly aware of the shortcomings and imperfections in the text of this Convention, with respect both to the organization of the ideas in the Convention and to its impact on the real situation of every country. On many important questions such as access of all States of the region to the resources of the exclusive economic zone, the system for the exploitation of the mineral resources of the Area dealt with in Part XI, the mechanism for compensation for losses suffered by the land-based producers of minerals to be extracted in this Area, there was no compromise acceptable to all, in particular to my country, Zaire, whose main source of revenue is the exporting of these minerals, especially cobalt, of which Zaire is the world's chief producer and exporter. The whole formula for limitation of production is completely based on nickel, despite the broad and varied range of proposals presented by my delegation, jointly with other delegations concerned, and that can only result in the eviction of the land-based producers of this metal from the market. This eviction, which is more than probable, is the result of the gap between article 151, concerning the limitation of production, and the principle of equity reflected in article 15 (*h*), which states that:

> "Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster

healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the overall development of all countries, especially developing States, and with a view to ensuring:

"...

"(*h*) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral".

174. That is, basically—without going into the excessively dilatory compensation mechanism—one of the flagrant weaknesses of the Convention.

175. Nevertheless the Republic of Zaire, faithful to its policy of peaceful coexistence with all States—large or small and with various economic, social and political systems—and in a spirit of active solidarity, has bowed to the will of the overwhelming majority of States, thus rejecting isolation and contempt for a changing world. That is why on 30 April last Zaire voted in favour of the adoption of the United Nations Convention on the Law of the Sea and, through me, today states that it will sign the Final Act tomorrow and the Convention as soon as possible.

176. When it signs the Convention, my Government will make clear its position on some provisions that cause it difficulties. We venture to express the hope that in its wisdom the International Sea-Bed Authority will take this situation into account and close the gaps in the text.

177. Thus the delegation of Zaire repeats its appeal to those States which are still having difficulties with one or another part of the Convention to serve the cause of international solidarity, by joining the majority, following the example of many other States which, like Zaire, have felt it to be a duty to give a positive response to the voice of reason despite their difficulties. For we believe that the signing of the Convention is not an end in itself; rather, it opens the way to new forms of negotiation, through which Zaire plans to defend its vital interests in the future.

178. I cannot conclude my statement without warmly thanking the brotherly people and Government of Jamaica for their warm welcome.

179. Mr. DEROBURT (Nauru): My delegation and I have come to Montego Bay, Jamaica, from distant Nauru, our island home in the Central Pacific, to witness, along with other countries great and small here assembled, a very great event for the world and to participate with them—the developing and the developed countries, the land-locked countries and the coastal States—in the signing of the United Nations Convention on the Law of the Sea, an achievement for which we are indebted to many.

180. I feel very privileged and honoured to have been given the time to address this assembly and, with other representatives, to sign the Convention and the Final Act tomorrow. I shall do so with great pleasure on behalf on my country.

181. I believe that we have been well and very adequately reminded of the historic and unique importance of the event that is unfolding before our eyes, and I seek the Conference's indulgence if, despite my intentions to the contrary, I happen to traverse ground similar to that which other participants have covered more eloquently and more competently.

182. The significance of a world body's adoption of the best régime it can devise to regulate the exploitation of a newly discovered source of wealth in the seas and oceans around us and on the sea-bed, in order that such exploitation be orderly, equitable and fair, is very real to my country, Nauru. In my country the past exploitation of newly found wealth was neither so orderly nor so equitable and fair, and today, although continued exploitation of that wealth has, in my view, become orderly, fair and equitable, the country is steadily losing its physical substance because of the mining and exporting of its soil to oversea markets for necessary economic reasons.

183. Even though this is being done for the nation's economic survival, it is, we think, ironic that when there is no more phosphate—which is the very soil of Nauru—to export, and this will occur a decade from now, according to official estimates, we will then be confronted with the need to find—although we should have already done so by that time—new sources of revenue. Officially, we regard ourselves as already so confronted. We have reached the conclusion that, as a small nation and a small island, we should look more and more to the sea and what it has to offer for our means of livelihood and survival as a viable nation, however small.

184. That is why we will always be grateful to the United Nations for having made it possible, through such a body as this, for us to legislate for a tract of the sea around our island that will be internationally recognized to a defined extent and to claim as our own and to exploit and fish that area for the economic well-being of our people. That opportunity has in turn given rise to aspirations on our part to embark upon the creation of a fishing industry, to fish that zone we have delineated by law—as we think other, neighbouring countries have done or are doing.

185. Although the fishing industry to which I refer has not so far done well, owing to lack of managerial expertise, there is no doubt in our minds that it is a step in the right direction, and we expect eventually to make it a success. However, the important point is that the United Nations has given us good grounds for hope and to aspire to help ourselves, making use of the means that are available or being made available to us. Thus, we highly appreciate and welcome the efforts of the international community that have culminated in what is happening here in Jamaica.

186. Although Nauru is not a Member of the United Nations, principally because it cannot on its own afford the cost of such membership, we are very much a part—however small—of the world in which we all live and of which we pray we all share the responsible ownership, albeit in varying degrees of magnitude.

187. We salute and congratulate the United Nations for a monumental achievement here, and we are proud to be associated with all of you in it in some small way, as well as in the common endeavours to improve the quality of our lives and of the lives of our people and to enhance the means of existence for humanity in our world. We thank you all for having given us—and small island communities like us—hope, hope for a brighter and more promising future for our children, their children and their children's children unto the end of time.

188. We fully support the efforts of the Conference in arriving at a new régime which will, we believe, launch a new world order that will govern how the wealth of the sea and the sea-bed may be equitably rationed and how it should be exploited in the interests and for the well-being of mankind. Along with others, I trust that, once signed, the Convention will be binding on all of us permanently, or until such a time as man's ingenuity and fortitude, under God's guidance, may again find for us a new and better order.

189. Before leaving this rostrum, I should like to join colleagues in thanking, on behalf of my delegation and on my own behalf, the Government and the friendly people of Jamaica for the warmth of their hospitality and the many courtesies they have extended to us from the moment of our arrival in this, their delightful country. I thank Jamaica.

190. I should like to thank you too, Mr. President, and all those other, unseen, persons who must have worked very hard to bring this Conference to this successful conclusion.

191. Mr. YACOUBA (Niger) (*interpretation from French*): As we are nearing the end of the long and arduous Third

United Nations Conference on the Law of the Sea, whose last session is now being held here, it is my privilege to address this distinguished gathering to express some of our thoughts at this historic moment.

192. My country has taken part in all the stages of the negotiations which led to the birth of the Convention now before us today in its final form because we believed it capable of introducing a new era in inter-State relations. Indeed, we were of the opinion that the proliferation of specific rules and unilateral decisions governing the maritime activities of coastal States was provoking all kinds of disputes threatening international peace and, hence, that order had to be introduced in that area.

193. We have just attained that objective, with the advent of the United Nations Convention on the Law of the Sea, and my delegation can only be justly proud to have made its modest contribution.

194. Niger, a land-locked country which is one of the least developed countries of the world, places much hope in the possibilities opened to it by our Convention to be in a better position to deal with the constraints of its geographically disadvantaged location and pursue its development in a more propitious climate.

195. In this connection we wish to mention in particular two principles of the Convention which, for a country like mine, are undoubtedly gains. The right of access to the sea by land-locked countries, on the one hand, and the embodiment of the principle that the resources of the sea-bed beyond the limits of national jurisdiction belong to mankind as a whole, on the other, are no doubt decisive steps towards the establishment of a more just new international order where the rights of the "have-nots" will be recognized and, we hope, respected.

196. That is why I should like to join preceding speakers in urging those States which do not appear to wish to join us today to review their position and come to this rendezvous with history.

197. In proclaiming my country's decision to sign the Final Act and the Convention at this time, I am firmly convinced that this is the most handsome gesture we can offer mankind as this year comes to a close.

198. In conclusion, I should like to pay a tribute to you, Mr. President, the late Ambassador Amerasinghe, the members of the United Nations Secretariat and all the others who in one way or another contributed to the success of our Conference, and to express my delegation's gratitude.

199. I would ask the people and the Government of Jamaica to accept our sincere thanks for their warm welcome and the special attention they have bestowed on us since our arrival here in this beautiful country, this island in the sun.

200. Mr. TULL (Barbados): It is with great pleasure that I express the satisfaction of the Government of Barbados that the work of this Conference is culminating in the sister Caribbean island of Jamaica.

201. Since the days of Caracas, my delegation has been eagerly looking forward to the signing of the Final Act of the Conference and the United Nations Convention on the Law of the Sea.

202. The Government of Barbados has always attached great significance to the Third United Nations Conference on the Law of the Sea. My Government recognized that the objectives of the Conference sought to establish a framework which would ensure the peaceful uses and the orderly development of the ocean.

203. The Conference has been in session for some eight years. At times there have been grave doubts as to whether this event would become a reality. But that was to be expected, since the Convention sought not only to codify the classical and conventional laws of the sea but also to provide for a system of exploration and exploitation of the deep sea-bed to give meaning to the declaration that the deep sea-bed was the common heritage of mankind. Moreover, there was the prerequisite that all agreements should be by consensus.

204. After the procedural difficulties were overcome, during the first substantive session, negotiations and discussions proceeded quite smoothly until the seventh session, in Geneva in 1978. It was there that certain subjects were identified and categorized as hard-core subjects. Negotiations and discussions on these issues were intensive in an effort to reach consensus. That consensus was reached was in no small measure due to the will of representatives to reach acceptable solutions.

205. The Government of Barbados recognizes that a small country like Barbados cannot hope successfully to promote and protect its interests in the absence of a universally accepted convention in which the jurisdictions and sovereignty of countries large and small are recognized in relation to territorial waters, resources and the right to protect and preserve the marine environment; nor can Barbados, in the absence of an international treaty, hope to share in the benefits which will be derived from the exploitation of the area of the deep sea-bed and ocean floor, which is deemed to be the common heritage of mankind.

206. Barbados welcomes the provisions of the Convention regulating the exploitation and management of fisheries resources. A source of great satisfaction to us are the provisions on maritime pollution and maritime scientific research. The Caribbean is a major sea lane where super-tankers ply their trade. This poses a constant threat to marine life and environment. The beaches of the Caribbean are important resources in the economic life of these islands, since tourism is a vital industry.

207. From the inception of the Conference, the Government of Barbados has lent its support to the provisions establishing a 12-mile territorial sea and a 200-mile exclusive economic zone, and we are happy to see that they have been incorporated in the Convention.

208. Barbados supported the provisions on compulsory settlement of disputes of a binding nature. Although we are not completely happy with the provisions of a less binding nature in some cases, we accept them in the spirit of compromise that characterized the negotiations.

209. A matter of great interest to Barbados was a provision requiring foreign warships to seek permission from the coastal State to pass through its territorial waters. That this was not approved by the Conference is a matter of concern to us, especially as our domestic legislation contains a similar provision.

210. Barbados had envisaged that this event would have been possible long before today. The adoption of the Convention at the eleventh session was a source of satisfaction to my Government, but there was also a corresponding source of regret in that only two of the major industrialized countries voted in favour of its adoption.

211. My delegation feels constrained to mention the stated intention of certain countries not to sign the Convention. Some of those countries are pioneers in the field of deep-sea-mining technology. It is the view of my delegation that the participation of the industrialized countries would facilitate the implementation of the provisions relating to deep sea-bed mining. We hope that by the time the Convention enters into force they will see fit to participate.

212. The rule of law must be applicable to international law no less than to municipal law. This implies clear and defined jurisdictions, certainty and equal and universal application. For States to opt out of the Convention and to pursue bilateral arrangements is to affect the integrity of the new régime,

and this could mean a threat to international order, peace and security.

213. The eighteenth century failed to establish clear and defined land boundaries and jurisdictions, and the result is troublesome boundary disputes in many areas of the world today. We shall have learned nothing from that experience and, indeed, we shall be failing succeeding generations, if we do not ensure that what happened with regard to land does not happen with regard to the sea.

214. The Convention is a superb achievement for international co-operation, and its importance lies in the fact not only that it has introduced a new comprehensive régime for the orderly management of the oceans but that it will serve also as a useful precedent for future international negotiations.

215. Finally, I join preceding speakers who have paid a tribute to those who have made outstanding contributions to the success of this Conference. We stand on the threshold of a new era. It is our wish that after the signature of the Final Act there will be the greatest participation by States to usher in this new era of ocean regulation. Barbados will sign tomorrow both the Final Act and the Convention.

216. Mr. KOROMA (Sierra Leone): First of all, I bring greetings from my Government to the Government and people of Jamaica and congratulate them on the excellent arrangements they have made for the signing ceremony in regard to the United Nations Convention on the Law of the Sea.

217. At the commencement of the negotiations on the law of the sea back in 1974, Sierra Leone, with its 200-mile territorial sea limit, declared that it would nevertheless be prepared to review its position should an acceptable compromise be reached. True to our word, when the charter for the world's oceans was adopted on 30 April this year Sierra Leone was found in the ranks of the majority which had made painful concessions in order to achieve a universal convention through consensus. Indeed, Sierra Leone, like many other African States, made those painful concessions in the interests of achieving peace and harmony in the oceans. We even sacrificed the common heritage principle and the equitable distribution of resources—all in the name of consensus.

218. In reality, the United Nations Convention on the Law of the Sea represents another Treaty of Tordesillas or even another Berlin treaty for African States. In real terms, the African States have benefited very little from this Convention. I say in real terms, not in esoteric terms. I should like to furnish a few statistics to prove the point.

219. First of all, a careful perusal of the Convention will disclose that two fifths of the oceans has been partitioned among the countries with the longest coastlines as exclusive economic zones for their industrial use. Now 85 per cent of the maritime oil and gas reserves and fishing grounds are found in those economic zones, and hardly any African State is included among the first 15 of the States which stand to benefit from the present Convention. Thus, by such partitioning, one of the fundamental objectives of the Convention has been sacrificed—namely, that the resources of the oceans belong to mankind as a whole. Other fundamental objectives that have been sacrificed relate to rights guaranteed to the maritime Powers, such as free passage, free navigation, overflight, the passage of commercial and military vessels and aircraft in and over all seas and so forth.

220. Thus, the Convention does not provide for the equitable distribution of resources that would have been beneficial to the developing countries, African countries among them. In return for the considerable quantum of rights granted the maritime countries, they have not gained much in real terms.

221. I turn now to the international sea-bed Area, where sea-bed mining of polymetallic nodules is to take place. The Convention provides for a parallel system of exploration and exploitation by private consortia and the Enterprise, the commercial arm of the International Sea-Bed Authority. The benefit of that compromise outcome may again prove illusory to African States. In the first place, the Group of 77 of which the African States are a component part had agreed to a unilateral system of exploitation of mineral nodules, but that was resisted and rejected by the industrialized countries, which offered instead a parallel system of development of the nodules in exchange for financing the Enterprise to commence production, the transfer of technology to the Enterprise and a review conference after 20 years.

222. What finally emerged from the package and is written into the Convention is that the financing of the first mine site for the Enterprise—now estimated to cost between $800 million and $1.2 billion—will have to be funded by contributions from all States parties and by borrowing. Under this scheme the poorest African States will be expected to pay approximately $1 million each to become members of the International Sea-Bed Authority, with no guarantee that such investment will yield dividends. In terms of our gross national product, that is not an inconsiderable membership fee. On the other hand, when production starts, several African mineral-producing countries which now produce the same commodities as would be produced from sea-bed mining will find themselves competing with sea-bed mines and may even go out of business, with all the consequences that that may involve, while at the same time the industrialized countries will become self-sufficient even in raw materials and mineral resources.

223. The major innovation of the last session was a scheme to protect preparatory investments in the sea-bed Area. That feature had been requested by the industrialized countries, which wanted to ensure that the consortia that invested money and technology in sea-bed prospecting would be sure of being able to mine the sites when sea-bed mining became commercially feasible. What emerged as resolution II in one of the annexes to the Final Act was a scheme to permit up to eight potential mine sites to be explored, evaluated and exploited by States and international consortia. Although no commercial production can take place until the Convention comes into force, it assures the pioneers authorization to mine their sites when the Convention comes into force. Thus the Authority is reduced to a licensing organ and, given the production ceiling, the parallel system will be put on hold. Whereas private consortia would be allowed to mine sites, the Enterprise, which is representative of all nations, would be authorized to mine only two. No African country will be in a position to become a pioneer investor by the cut-off date of 1 January 1985 and thus be able to benefit from this scheme.

224. My effort so far has been to demonstrate that if any group of nations should entertain serious reservations about this Convention, it is the African nations. While it is true that the Convention incorporates what could be considered to be elements of the New International Economic Order, it is untenable that the Convention itself represents the establishment of the New International Economic Order through the back door. It is undeniable that the Convention itself constitutes a milestone—an important one at that—in treaty-making and that it could bring peace to the oceans and could even make the United Nations itself truly universal and not just terrestrial. The esoteric value of the Convention, even for African States, cannot be seriously challenged. It is mainly for those reasons, and because all African States have for the first time taken an active part in the drawing up of an international régime for the oceans, that the Convention should be signed by African States. I have been mandated by my Government to explain to this Conference that, for the reasons which I have just explained, Sierra Leone, notwithstanding the imperfections of the Convention, will sign both the Final Act and the Convention itself.

225. I hope that at an appropriate stage the Sierra Leone delegation will be able to submit a more lengthy statement on its views on the Convention.

226. Mr. NAKAYAMA (Trust Territory of the Pacific Islands): When the General Assembly in December 1974 extended an invitation to the Trust Territory of the Pacific Islands to be a separate observer delegation, it was done on the grounds that the Trust Territory's interests in the law of the sea were in some respects different from those of its Administering Authority. Since 1974 our observer delegation has attended each session of the Conference and has acted and spoken only for itself. It continues to do so today.

227. In 1974 the constitutional development of the governmental entities within the Trust Territory of the Pacific Islands had only just commenced. Since that time three separate constitutional Governments have evolved in the Trust Territory, their Constitutions have become effective and they now enjoy and exercise full constitutional self-government. They are the Republic of Palau, the Republic of the Marshall Islands and the Federated States of Micronesia. Each has since 1977 declared a 200-mile zone; each has since 1977 regulated its own 200-mile zone; and each has concluded international treaties relating to the law of the sea and to other matters within the Convention.

228. We support the United Nations Convention on the Law of the Sea. We wish to state today that we shall sign the Final Act on Friday, and, at an appropriate time in the near future, in accordance with our constitutional processes, we expect to become parties to, and to ratify, the United Nations Convention on the Law of the Sea.

229. Lastly, like other delegations that have already spoken, my delegation expresses its gratitude to and admiration of you, Mr. President, and your colleagues; we honour the memory of your predecessor; and we thank the Government and the people of Jamaica for their most generous hospitality.

230. The PRESIDENT: Reflecting the sentiments which all representatives have expressed in their statements, I have taken the liberty of preparing a draft resolution in order to convey our collective appreciation to the Government and the people of Jamaica. May I ask whether representatives would agree to adopt that draft resolution by acclamation?

The draft resolution was adopted.

231. The PRESIDENT: I shall instruct the secretariat to annex this resolution to the Final Act.

The meeting rose at 6.10 p.m.

193rd meeting*

Friday, 10 December 1982, at 9 a.m.

President: Mr. T. T. B. KOH (Singapore)

Report of the Credentials Committee

1. The PRESIDENT: I invite representatives to turn to paragraph 10 of the report of the Credentials Committee, which is contained in document A/CONF.62/123 of 9 December 1982. In that paragraph the Credentials Committee, taking into account the views expressed during its debate,

> "Accepts the formal credentials of the representatives that have been received;"

and

> "Accepts, as an exceptional measure and subject to later validation, the communications referred to in paragraphs 5 and 6 [of the report] in lieu of formal credentials."

2. May I take it that the Conference is prepared to accept the report of the Credentials Committee by consensus?

It was so decided.

Signature of the Final Act and opening of the Convention for signature

3. The PRESIDENT: I now declare that the Final Act of the Third United Nations Conference on the Law of the Sea and the United Nations Convention on the Law of the Sea, having been adopted by the Conference, are open for signature. In accordance with the provisions of the Final Act, it will be signed first by the President of the Conference, the Special Representative of the Secretary-General and the Executive Secretary of the Conference.

*The Conference proceeded to the signature ceremony.***

4. The PRESIDENT: I should like to announce that so far there have been 119 signatures of the Convention. We have also received the first instrument of ratification, from the Government of Fiji.

5. I shall now request the Special Representative of the Secretary-General, Mr. Bernardo Zuleta, and the Legal Counsel, Mr. Erik Suy, to hand over a copy of the United Nations Convention on the Law of the Sea to the Permanent Secretary of the Ministry for Foreign Affairs of Jamaica, Mr. Frank Francis.

6. Ambassador Francis having now received a copy of the Convention, I shall suspend the meeting until 4 p.m., when the closing ceremony will be held.

The meeting was suspended at 11.45 a.m. and resumed at 4.10 p.m.

Tribute to the memory of Mr. H. S. Amerasinghe, former President of the Conference, and to the memory of Mr. M. Yasseen and other former participants in the Conference

7. The PRESIDENT: I ask participants in the Conference to stand and observe a minute's silence in tribute to the memory of the late President Hamilton Shirley Amerasinghe, and to

*On 17 February 1983, an addendum to this meeting (A/CONF.62/PV.193/Add.1) was issued reading as follows:

"Pursuant to the announcement made by the President of the Conference at the 185th plenary meeting on 6 December 1982, the statements of representatives and observers who were unable to take the floor or who had delivered an abridged version of their text will appear in a document of the Conference (A/CONF.62/WS/36). Statements made in the exercise of the right of reply will appear in another document of the Conference (A/CONF.62/WS/37)."

**During the signature ceremony, the following Vice-Presidents took the Chair: at 9.20 a.m., Mr. Ul-Haque (Pakistan); at 9.50 a.m., Mr. Sahnoun (Algeria); at 10.15 a.m., Mr. Arias Schreiber (Peru); at 10.40 a.m., Mr. Ballah (Trinidad and Tobago); and at 10.50 a.m., Mr. Evensen (Norway). At 11.15 a.m., the President returned to the Chair.

the memory of Mr. Yasseen and other colleagues who have departed from us.

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

Statement by the Deputy Prime Minister and Minister for Foreign Affairs and Foreign Trade of Jamaica

8. The PRESIDENT: It is with great pleasure that I invite the Deputy Prime Minister and Minister for Foreign Affairs and Foreign Trade of Jamaica, Mr. Hugh Shearer, to address us.

9. Mr. SHEARER (Jamaica): We have at last come to the end of a process which began in 1967 with the momentous statement by the Permanent Representative of Malta, Mr. Arvid Pardo,[1] on the need to proclaim the sea-bed and ocean floor beyond national jurisdiction the common heritage of mankind. Little did we anticipate that the seminal ideas then expressed would take such a long time to bear fruit in the Convention which has just been signed today in Montego Bay.

10. Now the concept of the sea-bed and ocean floor beyond national jurisdiction as the common heritage of mankind has become part of the conscience of the international community. It is here to stay. The interrelation of all aspects of ocean space, requiring that they be treated integrally, is now unquestioned.

11. After nine years of negotiations, during which there have been 193 plenary meetings and innumerable less formal meetings involving some 165 States and territories, 8 liberation movements, 12 specialized agencies and other organizations, 19 intergovernmental organizations and 57 non-governmental organizations, a Convention of 320 articles, nine annexes, together with four associated resolutions and annexes, has been adopted almost entirely on a basis of consensus.

12. The work we have performed during these many years, culminating in this Convention, represents the most important and ambitious attempt at managing the greater portion of the surface of the earth for the benefit of all peoples. The Convention is without a doubt the most far-reaching international document negotiated since the United Nations Charter.

13. It establishes a legal régime for the territorial sea and exclusive economic zone, the continental shelf, transit passage through straits, pollution, marine scientific research, conservation and the optimum use of the living resources of the seas, exploitation of the resources of the area beyond national jurisdiction and revenue-sharing of the proceeds of that exploitation, and procedures for the peaceful settlement of disputes.

14. As universality of participation was characteristic of the Conference, so must universality of observance be essential for the integrity of the régime. It admits of no partial or conveniently selective implementation. We recall the words of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, which was adopted without dissent by the United Nations General Assembly on 17 December 1970:

> "No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area and its resources incompatible with the international régime to be established and the principles of this Declaration" [*resolution 2749 (XXV), para. 3*].

15. Today 119 States have signed the Convention; 150 States, territories and liberation movements have signed the Final Act. What is the significance of these signatures? With respect to the Final Act they are an acknowledgement that the proceedings leading up to the events of today took place. The signatures on the Convention mean considerably more. First, they represent a commitment to bring into force a new integrated legal régime for the ocean space; secondly, they trigger the establishment of the Preparatory Commission, which will have important work to do pending the formal entry into force of the Convention.

16. We note the caution which has prevented some Governments from signing the Convention now. However, it is expected that in time they will be more attracted to its virtues than dissuaded by their disappointments. There can be none among them that is not convinced of the need for a legal régime for the oceans, and that what has been signed today defines that régime.

17. However, the task has not ended. There is still the need to get the requisite ratifications to bring the Convention into force. Meanwhile the Preparatory Commission, which is required to be convened within 90 days, will begin its deliberations in Jamaica in March 1983 with the exception that as early as possible there will be sufficient ratifications to enable the International Sea-Bed Authority to be established. We must always bear in mind that although we have come a long way we still have a long way to go.

18. We must pursue the implementation of this historic treaty with the same dedication and commitment with which we pursued its elaboration. In so doing we must inspire the confidence and goodwill of all peoples, so that those who fail to avail themselves of joining today in this noble endeavour will be convinced of the wisdom and justice of our common cause and join the rest of us soon.

19. As we come to the end of this stage, Jamaica wishes to pay the highest tribute to Mr. Arvid Pardo, whose vision, eloquence and persistence started it all; to the late Mr. Hamilton Shirley Amerasinghe, the first President of the Conference, whose urbane dynamism kept things going through some difficult periods; to Mr. Tommy Koh, our current President, who has skilfully brought us where we are; and to Mr. Bernardo Zuleta, the Special Representative of the Secretary-General. They were not alone of course: we pay a tribute to the Committee Chairmen, the Chairman of the Drafting Committee, the Rapporteur-General and the staff, who were all essential parts of the unique negotiating experience known as UNCLOS-III.

20. As we bring these truly historic proceedings to a close, let us remind ourselves that this is really only the end of one process and the beginning of another—the beginning of a new relationship among the community of nations, a new relationship inspired by the consciousness that in the ocean space, in the sea-bed area, the common heritage of mankind, there is room enough and wealth enough to be equitably shared among the peoples of the world. The consensus of mankind as reflected in the negotiating process of the Montego Bay Convention has been confirmed by the overwhelming inscription of the community of nations to the Convention and the Final Act. These 119 signatures of the Convention bear eloquent testimony to the special legal character of the Convention. The voice of mankind has been heard with thunderous applause.

21. As we extol the significance of this history-making signing session, let us also acknowledge that the occasion of this Conference in Montego Bay gave us an opportunity to strengthen old friendships and forge new relationships. I express the hope that everyone here will return again and again in the cause of international brotherhood and co-operation as the Preparatory Commission starts its work in Jamaica. In due course we shall meet in a new edifice—the permanent headquarters of the International Sea-Bed Authority—somewhere in Jamaica; this will symbolize the practical implementation of the concept of the common heritage of mankind.

[1] *Official Records of the General Assembly, Twenty-second Session, First Committee*, vol. I, 1516th meeting.

22. On behalf of the Government and people of Jamaica, I acknowledge with humility the expression of appreciation by the Conference for the arrangements for this historic session, as recorded yesterday in the resolution of the Conference.

23. As you leave our shores, I wish, on behalf of the Government and people of Jamaica, to express our profound appreciation for the honour bestowed upon us by your visit and to assure you that the bonds of friendship and fraternity that unite us will continue to be far stronger than the oceans and seas that separate us. We will for ever cherish with fond recollection this historic occasion. As you journey home, I wish you Godspeed.

24. The PRESIDENT: On behalf of the Conference, I thank the Deputy Prime Minister and Foreign Minister of Jamaica, the Right Honourable Mr. Hugh Shearer, for his important statement.

Statement by the Secretary-General

25. The PRESIDENT: It is now my privilege to call on our beloved Secretary-General, Mr. Javier Pérez de Cuéllar.

26. The SECRETARY-GENERAL: I consider it a great honour to be able to participate in my capacity as Secretary-General of the Third United Nations Conference on the Law of the Sea in this occasion of the Conference's successful conclusion of its work. It is a cause for deep gratification for the Organization to have sponsored this Conference, as it is also for me to be present in the country in which the headquarters of the International Sea-Bed Authority is to be situated. The place selected for this closing ceremony is of truly exceptional beauty. The close proximity of the sea is a pleasant reminder to us of the reason for our meeting. We must thank the Government and people of Jamaica most sincerely for their generous gesture of hospitality in inviting us to assemble here. This gesture bodes very well for the future.

[*The speaker continued in Spanish.*]

27. With the signing of the Final Act of the Third United Nations Conference on the Law of the Sea, and with the opening for signature of the United Nations Convention on the Law of the Sea, the efforts begun almost 14 years ago to establish a new legal order for ocean space are now reaching their culmination. In order to affirm that international law is now irrevocably transformed, so far as the seas are concerned, we need not wait for the process of ratification of the Convention to begin.

28. Many of those present today in this hall participated in the initial stages of the lengthy negotiations which are ending today. They will remember that there were some who reacted with scepticism when the possibility of embarking upon a fundamental revision of sometimes age-old institutions was first suggested. There were also some who reacted with open hostility to the prospect of going even further in certain fields by establishing completely new legal institutions. The earlier efforts of the United Nations in connection with the law of the sea, the merits of which it is not for us to judge today, provided little encouragement for this new undertaking, since the international community which decided to convene this Third Conference was, in quantitative terms, much larger than the community which drew up the 1958 Conventions, and the kaleidoscopic diversity of its members made it, in qualitative terms, a new and different entity.

29. The six years of work done by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction encompassed negotiations of a scope that constituted a challenge for some and a Utopia for others. It is easy to understand the state of mind which prevailed when the Conference opened almost nine years ago. It oscillated between hope and fear, between the concern to agree on new ways of peaceful coexistence and the constraints imposed by national interests, by ideological and economic differences, and in some cases by undue attachment to traditional principles and concepts. In convening this Conference, the General Assembly recognized that all the problems concerning ocean space were closely interrelated and that they should therefore be considered and solved together.

30. The Conference complied rigorously with this premise of its mandate. It departed from traditional procedures and sought new working methods which, through patient effort, would gradually lead first to informal texts that brought consensus increasingly closer and finally to the adoption of a draft convention on which all States could decide officially. The rules of procedure of the Conference, which often appeared to be a strait-jacket, turned out in practice to be a helpful factor in the search for consensus on individual parts of the Convention and on the Convention as a whole. These methods were devised in recognition of the indivisibility of the single whole which the law of the sea must constitute; this was the only way of reconciling divergent interests and promoting compromise, thereby ensuring as full participation as possible in the final agreement.

31. However, the innovative method adopted by the Conference would not in itself have advanced the negotiations had not the various regions of the world been determined vigorously to pursue ways of reconciling interests and harmonizing different legal and political systems.

32. The convening of the Conference set in motion not only a complex negotiating process at several levels but at the same time an accelerated process of change in the conduct of States vis-à-vis the uses of the sea. The orderly process of change in the legal order of the oceans that took place through the United Nations responded in fact to an urgent need, felt in every region of the world, which manifested itself in a multiplicity of international declarations and agreements bearing the names of the cities of various continents in which they were adopted, thereby testifying to the universal character of this evolutionary process. Every one of those documents represents a new contribution, an attempt at rapprochement and, above all else, an expression of the determination of States to find formulae of collective agreement designed to bring about the peaceful uses of the seas and their resources.

33. The new law of the sea thus created is not simply the result of a process of action and reaction among the most powerful countries, but the product of the will of an overwhelming majority of nations from all parts of the world, at different levels of development and having diverse geographical characteristics in relation to the oceans, which combined to make a wind of change blow at the universal level.

34. I should like to refer briefly to the nature of the results of the Conference, because it seems to me that such an analysis can provide important lessons for the multilateral negotiating system in general and for treaty-making in particular.

35. The novel process for the drawing up of this important multilateral treaty met with frequent criticism for being prolonged, slow and cumbersome. However, the fact that 119 countries have signed the Convention today, the very day of its opening for signature, is the most convincing response to such criticism. Never in the history of international relations have such a large number of countries immediately signed the result of their deliberations, thereby committing themselves to act in accordance with their obligations. This is a particularly important lesson to emerge from this Conference.

36. The Conference has produced agreements which are essentially non-denominational, devoid of partisan doctrine. Its decisions derive in the final analysis from a pragmatic reconciliation of interests rather than from comparisons of doctrines. This work necessarily has had to go beyond declared positions, although these at times appeared to be

carved in stone; to venture outside Plato's cavernous spaces in order to endeavour to grapple with and satisfy the basic needs underlying national ideas and at times national laws—which are, after all, made by man.

37. It is my hope that States, when contemplating in their sovereign capacity the signature and ratification of this Convention, will be guided by this approach of the Conference and will thus disregard all myths in their own decision-making.

38. The Convention, which was opened for signature today, contains generally acceptable solutions with respect to the maritime spaces under the sovereignty and jurisdiction of States, the rational utilization of living and non-living resources, the rights of land-locked States, the promotion of marine scientific research as an instrument for the economic and social development of all peoples, the conservation of the marine environment, respect for the freedoms which have traditionally been observed in so far as the community as a whole is concerned and the settlement by peaceful means of disputes concerning ocean space. The effectiveness of these principles, which constitute a balanced and harmonious whole, will be enhanced if States can co-ordinate their action, compare their experience and make the new legal régime an incentive for new forms of international co-operation. This requires equally co-ordinated action by the United Nations and the specialized agencies, an objective which as Secretary-General I shall henceforth promote as part of my functions under the United Nations Charter and the Convention itself.

39. I must make reference to the very special challenge represented by the inauguration of the régime and machinery that the Convention has established for the administration of the sea-bed and ocean floor beyond national jurisdiction, which constitute the common heritage of mankind. By a happy coincidence this innovative concept, designed to serve mankind, which must be the beneficiary of the law, and embodied in the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction adopted by the General Assembly in 1970, comes to a legal fruition on Human Rights Day.

40. At the same time as it adopted the Convention the Conference decided to establish a Preparatory Commission, empowered to grant certain rights to persons who have made preparatory investments compatible with the new legal régime, with a view to subsequent exploitation of the resources of the sea-bed, and to take the necessary measures to ensure the entry into operation of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea as soon as the Convention enters into force. This fact alone creates a situation without precedent in the history of international law. The Preparatory Commission now has the opportunity to produce rules and procedures that will remove uncertainties regarding the rights and obligations of all parties concerned and thus facilitate the decision-making process that will promote universal acceptance of the new legal régime.

41. Since more than 100 signatures have today been affixed to the Convention, I am gratified to announce here and now, in accordance with the provisions of the resolution establishing the Preparatory Commission for the International Sea-Bed Authority and the International Tribunal for the Law of the Sea, that within the next 15 days the Commission will be officially brought into being and will meet at Kingston beginning on 15 March 1983.

42. The international community owes a debt of deep gratitude to you, Mr. President, and to your illustrious predecessor, whose memory is with us on this historic afternoon, to the Chairmen of the three main Committees, to the Chairman of the Drafting Committee, to the Rapporteur-General and to all the representatives who have worked together in the difficult negotiations and whose names are recorded on the Final Act. You and all of them, together with the secretariat headed by my Special Representative, have set an example of perseverance, of devotion to a cause in which they believe with profound conviction, and of objectivity in the search for solutions acceptable to all. Today one phase is successfully concluded and a new one, equally demanding and difficult, begins. This Convention is like a breath of fresh air at a time of serious crisis in international co-operation and of decline in the use of international machinery for the solution of world problems. Let us hope that this breath of fresh air presages a warm breeze from North to South, South to North, East to West and West to East, for this will make clear whether the international community is prepared to reaffirm its determination to find, through the United Nations, more satisfactory solutions to the serious problems of a world in which the common denominator is interdependence.

43. The PRESIDENT: On behalf of the Conference I thank our Secretary-General, Mr. Pérez de Cuéllar, for his important address.

Closing statement by the President

44. The PRESIDENT: Today we have created a new record in juridical history. Never in the annals of international law has a Convention been signed by 119 countries on the very first day on which it is opened for signature. Not only is the number of signatories a remarkable fact: just as important is the fact that the Convention has been signed by States from every region of the world—from the North and from the South, from the East and from the West, by coastal States as well as by land-locked and geographically disadvantaged States. I believe that the overwhelming support for this Convention is a vindication of the consensus procedure by which this Conference has worked. I am happy to inform the Conference that Fiji has ratified the Convention, the first State to have done so. I urge all the other signatories to ratify the Convention as soon as possible so that we shall have the required 60 ratifications within two years. I must also urge the States which will become parties to this Convention to ensure that their domestic laws are brought into compliance with the Convention.

45. During the last four days I have sat here and listened attentively to the statements made by 121 delegations. I should like to highlight the major themes which I have found in those statements.

46. First, delegations said that the Convention does not fully satisfy the interests and objectives of any State. Nevertheless they were of the view that it represents a monumental achievement of the international community second only to the adoption of the United Nations Charter in San Francisco in 1945. The Convention is the first comprehensive treaty dealing with practically every aspect of the uses and resources of the seas and the oceans. It has successfully accommodated the competing interests of all nations.

47. The second theme which has emerged from the statements is that the provisions of the Convention are closely interrelated and form an integral package. Thus it is not possible for a State to pick what it likes and to disregard what it does not like. It was also said that rights and obligations go hand in hand and it is not permissible to claim rights under the Convention without being willing to shoulder the corresponding obligations.

48. The third theme I have heard is that this Convention is not a codification convention. The argument that, except for Part XI, the Convention codifies customary law or reflects existing international practice is factually incorrect and legally insupportable. The régime of transit passage through straits used for international navigation and the régime of archipelagic sea lanes passage are only two examples of the many

new concepts in the Convention. Even in the case of article 76, on the continental shelf, the article contains new law in that it has expanded the concept of the continental shelf to include the continental slope and the continental rise. This concession to the broad-margin States was in return for their agreement to revenue-sharing on the continental shelf beyond 200 miles. It is therefore my view that a State which is not a party to this Convention cannot invoke the benefits of article 76.

49. The fourth theme relates to the lawfulness of any attempt to mine the resources of the international area of the sea-bed and ocean floor. Speakers from every regional and interest group expressed the view that the doctrine of the freedom of the high seas can provide no legal basis for the grant by any State of exclusive title to a specific mine site in the international area of the sea-bed. Many are of the view that article 137 of the Convention has become as much a part of customary international law as the freedom of navigation. Any attempt by any State to mine the resources of the deep sea-bed outside the Convention will therefore earn the universal condemnation of the international community and will incur grave political and legal consequences. All speakers have addressed an earnest appeal to the United States to reconsider its position. The United States is a country which has throughout its history supported the progressive development of international law and has fought for the rule of law in relations between States. The present position of the United States Government towards this Convention is therefore inexplicable in the light of its history, in the light of its specific law-of-the-sea interests and in the light of the leading role which it has played in negotiating the many compromises that have made this Convention possible.

50. A final theme which has emerged from the statements concerns the Preparatory Commission. Now that the required number of States have signed the Convention, the Preparatory Commission for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea will begin its work in March of next year. Many speakers have attached importance to the work of the Commission. The Commission will have to adopt the rules and procedures for the implementation of resolution II of the Conference, relating to pioneer investors. It will, *inter alia*, draft the detailed rules, regulations and procedures for the mining of the deep sea-bed. If the Commission carries out its work in an efficient, objective and business-like manner, we will have a viable system for the mining of the deep sea-bed. This will induce those who are standing on the sidelines to come in and support the Convention. If, on the other hand, the Preparatory Commission does not carry out its tasks in an efficient, objective and practical manner, then all our efforts in the last 14 years will have been in vain. In carrying out its work the Commission should pay strict regard to economy, to the avoidance of waste and to efficiency. In order to enable the Commission to get off to an early start, I shall request the Secretary-General and his staff to assist the Commission by undertaking the necessary preparatory work.

51. Dear colleagues, today is a day for celebration. We celebrate the successful conclusion of our collective endeavour. We have strengthened the United Nations by proving that with political will nations can use the Organization as a centre to harmonize their actions. We have shown that with good leadership and management the United Nations can be an efficient negotiating forum on even the most complex of issues. We celebrate today the victory of the rule of law and the principle of the peaceful settlement of disputes. Finally, we celebrate human solidarity and the reality of interdependence between nations, which is symbolized by the United Nations Convention on the Law of the Sea.

52. As a matter of human interest, it may be relevant for me to mention that there are among us today a few colleagues who attended the first and the Second United Nations Conferences on the Law of the Sea, in 1958 and in 1960. They have requested me to announce that immediately following the close of this meeting they would like to gather for a group photograph for sentimental reasons.

53. I have also met a few colleagues from land-locked countries who, prior to their coming to Montego Bay, had never swum in the sea. I hope that their stay in Montego Bay has made them acquire an appetite for seafood as well, and that they will make full use of the provisions of the Convention giving land-locked countries access to the living resources of the economic zones of their neighbouring States.

54. I would also like to mention as a matter of human interest that we have another colleague among us, Minister Gouzhenko of the Soviet Union, who has actually led a scientific expedition to the North Pole. Indeed he told me that he has set foot on the North Pole.

55. I cannot conclude without expressing once again, on behalf of the entire Conference, our gratitude to the Government and the people of Jamaica for the warm hospitality they have extended to us during our memorable stay in Montego Bay. I am sure that I speak for all my colleagues when I say that we look forward with great relish and expectation to returning to Jamaica in March next year to begin a new phase of our work.

Conclusion of the Conference

56. The PRESIDENT: I now declare the Third United Nations Conference on the Law of the Sea closed.

The meeting rose at 4.55 p.m.

DOCUMENTS ISSUED DURING THE RESUMED ELEVENTH SESSION AND THE FINAL PART OF THE ELEVENTH SESSION

DOCUMENTS OF THE CONFERENCE

DOCUMENT A/CONF.62/121*

Final Act of the Third United Nations Conference on the Law of the Sea

[*Original: English*]
[*27 October 1982*]

INTRODUCTION

1. The General Assembly of the United Nations, on 17 December 1970, adopted resolution 2749 (XXV) containing the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction and resolution 2750 C (XXV) on the same date, wherein it decided to convene, in 1973, a Conference on the Law of the Sea, which would deal with the establishment of an equitable international régime—including an international machinery—for the area and the resources of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, with a precise definition of that area and with a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research.

2. Prior to the adoption of these resolutions, the General Assembly had considered the item introduced in 1967[1] on the initiative of the Government of Malta and had subsequently adopted the following resolutions on the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind:

Resolution 2340 (XXII) on 18 December 1967,
Resolutions 2467 A, B, C and D (XXIII) on 21 December 1968, and
Resolutions 2574 A, B, C and D (XXIV) on 15 December 1969.

3. The General Assembly, by resolution 2340 (XXII), established an *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and, having considered its report,[2] established by resolution 2467 A (XXIII) the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. The General Assembly, by resolution 2750 C (XXV), enlarged that Committee and requested it to prepare draft treaty articles relevant to an international régime, and a comprehensive list of items and matters for the Conference on the Law of the Sea. The Committee as thus constituted held six sessions, and a number of additional meetings, between 1971 and 1973 at United Nations Headquarters in New York and at the Office of the United Nations in Geneva. Having considered its report,[3] the General Assembly requested the Secretary-General by resolution 2574 A (XXIV) to ascertain the views of Member States on the desirability of convening, at an early date, a Conference on the Law of the Sea.

4. Subsequent to the adoption of resolutions 2749 (XXV) and 2750 A, B and C (XXV), the General Assembly, having considered the relevant reports of the Committee,[4] adopted the following resolutions on the same question:

Resolution 2881 (XXVI) on 21 December 1971,
Resolutions 3029 A, B and C (XXVII) on 18 December 1972, and
Resolution 3067 (XXVIII) on 16 November 1973.

5. By resolution 3029 A (XXVII) the General Assembly requested the Secretary-General to convene the first and second sessions of the Third United Nations Conference on the Law of the Sea. The Secretary-General was authorized, in consultation with the Chairman of the Committee, to make such arrangements as might be necessary for the efficient organization and administration of the Conference and the Committee, and to provide the assistance that might be required in legal, economic, technical and scientific matters. The specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations were invited to co-operate fully with the Secretary-General in the preparations for the Conference and to send observers to the Conference.[5] The Secretary-General was requested, subject to approval by the Conference, to invite interested non-governmental organizations having consultative status with the Economic and Social Council to send observers to the Conference.

6. By resolution 3067 (XXVIII) the General Assembly decided that the mandate of the Conference was the adoption of a convention dealing with all matters relating to the law of the sea, taking into account the subject-matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea formally approved by the Committee, and bearing in mind that the problems of ocean space were closely interrelated and needed to be considered as a whole. By the same

* Incorporating documents A/CONF.62/121/Corr.3, 7 and 8 of 6 December 1982 and A/CONF.62/121/Corr.8 of 9 December 1982.

[1] *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 92, document A/6695.

[2] *Ibid., Twenty-third Session*, agenda item 26, document A/7230.

[3] *Ibid., Twenty-fourth Session, Supplement Nos. 22 and 22A.*

[4] *Ibid., Twenty-sixth Session, Supplement No. 21; ibid., Twenty-seventh Session, Supplement No. 21; ibid., Twenty-eighth Session, Supplement No. 21*, vols. I-VI.

[5] In addition, it may be noted that the Conference was attended and assisted by observers from the United Nations programmes and conferences.

resolution, the General Assembly also decided to convene the first session of the Conference in New York from 3 to 14 December 1973 for the purpose of dealing with organizational matters, including the election of officers, the adoption of the agenda and rules of procedure of the Conference, the establishment of subsidiary organs and the allocation of work to these organs, and any other purpose within its mandate. The second session would be held in Caracas, at the invitation of the Government of Venezuela, from 20 June to 29 August 1974 to deal with the substantive work of the Conference, and, if necessary, any subsequent session, or sessions, were to be convened as might be decided upon by the Conference and approved by the Assembly.

I. Sessions

7. In accordance with that decision and subsequently either on the recommendation of the Conference as approved by the General Assembly, or in accordance with decisions of the Conferences, the sessions of the Third United Nations Conference on the Law of the Sea were held as follows:

- —First session held at United Nations Headquarters in New York, 3 to 15 December 1973;
- —Second session held at Parque Central, Caracas, 20 June to 29 August 1974;
- —Third session held at the Office of the United Nations in Geneva, 17 March to 9 May 1975;[6]
- —Fourth session held at United Nations Headquarters in New York, 15 March to 7 May 1976;[7]
- —Fifth session held at United Nations Headquarters in New York, 2 August to 17 September 1976;[8]
- —Sixth session held at United Nations Headquarters in New York, 23 May to 15 July 1977;[9]
- —Seventh session held at the Office of the United Nations in Geneva, 28 March to 19 May 1978;[10]
- —Resumed seventh session held at United Nations Headquarters in New York, 21 August to 15 September 1978;[11]
- —Eighth session held at the Office of the United Nations in Geneva, 19 March to 27 April 1979;[12]
- —Resumed eighth session held at United Nations Headquarters in New York, 19 July to 24 August 1979;[13]
- —Ninth session held at United Nations Headquarters in New York, 3 March to 4 April 1980;[14]
- —Resumed ninth session held at the Office of the United Nations in Geneva, 28 July to 29 August 1980;[14]
- —Tenth session, held at United Nations Headquarters in New York, 9 March to 16 April 1981;[15]
- —Resumed tenth session held at the Office of the United Nations in Geneva, 3 to 28 August 1981;[16]
- —Eleventh session held at United Nations Headquarters in New York, 8 March to 30 April 1982;[17]
- —Resumed eleventh session held at United Nations Headquarters in New York, 22 to 24 September 1982.[18]

[6] General Assembly resolution 3334 (XXIX).
[7] General Assembly resolution 3483 (XXX).
[8] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V, 69th plenary meeting.
[9] General Assembly resolution 31/63.
[10] General Assembly resolution 32/194.
[11] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX, 106th plenary meeting.
[12] General Assembly resolution 33/17.
[13] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XI, 115th plenary meeting.
[14] General Assembly resolution 34/20.
[15] General Assembly resolution 35/116; see also *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV, 147th plenary meeting.
[16] General Assembly decision 35/452.
[17] General Assembly resolution 36/79.
[18] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI, 182nd plenary meeting.

II. Participation in the Conference

8. Having regard to the desirability of achieving universality of participation in the Conference, the General Assembly decided by resolution 3067 (XXVIII) to request the Secretary-General to invite States Members of the United Nations or members of the specialized agencies or the International Atomic Energy Agency and States parties to the Statute of the International Court of Justice, as well as the following States, to participate in the Conference: the Republic of Guinea-Bissau and the Democratic Republic of Viet Nam.

Participating at the sessions of the Conference were the delegations of: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.[19]

9. The Secretary-General was also requested by resolution 3067 (XXVIII) to invite interested intergovernmental and non-governmental organizations, as well as the United Nations Council for Namibia, to participate in the Conference as observers.

The specialized agencies and intergovernmental organizations participating as observers at the several sessions of the Conference are listed in the appendix hereto.

10. On the recommendation of the Conference, by resolution 3334 (XXIX), adopted on 17 December 1974, the General Assembly requested the Secretary-General to invite Papua New Guinea, the Cook Islands, the Netherlands Antilles, Niue, Suriname, the West Indies Associated States and the Trust Territory of the Pacific Islands to attend future sessions of the Conference as observers or, if any of them became independent, to attend as a participating State.

The States and territories participating as observers at the several sessions of the Conference are also listed in the appendix hereto.

[19] The list of States participating at each session is recorded in the appropriate report of the Credentials Committee.

11. The Conference, at its 38th plenary meeting, decided to extend invitations to national liberation movements, recognized by the Organization of African Unity and the League of Arab States in their respective regions, to participate in its proceedings as observers.[20]

The national liberation movements participating as observers at the several sessions of the Conference are also listed in the appendix hereto.

12. Consequent upon General Assembly resolution 34/92, the Conference decided at its 122nd plenary meeting[21] that Namibia, represented by the United Nations Council for Namibia, should participate in the Conference in accordance with the relevant decisions of the General Assembly.

III. Officers and committees

13. The Conference elected Hamilton Shirley Amerasinghe (Sri Lanka) as its President. Subsequently, at its seventh session, the Conference confirmed that he was, and continued to be, the President of the Conference although he was no longer a member of his national delegation.[22] On the death of Hamilton Shirley Amerasinghe on 4 December 1980, the Conference paid tribute to his memory at a special commemorative meeting on 17 March 1981 at its tenth session (144th plenary meeting).[23]

14. The Secretary-General of the United Nations opened the tenth session as temporary President. The Conference elected Tommy T. B. Koh (Singapore) as President (143rd plenary meeting).[23]

15. At its 2nd plenary meeting, the Conference decided that the Chairmen and Rapporteurs of the three Main Committees, the Chairman of the Drafting Committee and the Rapporteur-General of the Conference would be elected in a personal capacity and that the Vice-Presidents, the Vice-Chairmen of the Main Committees and the members of the Drafting Committee should be elected by country.[24]

16. The Conference elected as Vice-Presidents the representatives of the following States: Algeria; Belgium, replaced by Ireland during alternate sessions (by agreement of the regional group concerned); Bolivia; Chile; China; Dominican Republic; Egypt; France; Iceland; Indonesia; Iran; Iraq; Kuwait; Liberia; Madagascar; Nepal; Nigeria; Norway; Pakistan; Peru; Poland; Singapore, replaced by Sri Lanka at the tenth session (by agreement of the regional group concerned); Trinidad and Tobago; Tunisia; Uganda; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America; Yugoslavia; Zaire; and Zambia.

17. The following Committees were set up by the Conference: the General Committee, the three Main Committees, the Drafting Committee and the Credentials Committee. The assignment of subjects to the plenary and each of the Main Committees was set out in section III of document A/CONF.62/29.[24]

The General Committee consisted of the President of the Conference as its Chairman, the Vice-Presidents, the officers of the Main Committees, and the Rapporteur-General. It was decided at the 3rd plenary meeting that the Chairman of the Drafting Committee had the right to participate in the meeting of the General Committee without the right to vote.[20]

The Conference elected the following officers for the three Main Committees which were constituted by all States represented at the Conference:

First Committee

Chairman	Paul Bamela Engo (United Republic of Cameroon)
Vice-Chairmen	The representatives of Brazil, the German Democratic Republic and Japan
Rapporteur	
First and second sessions	H. C. Mott (Australia)
Third to tenth sessions	John Bailey (Australia)
Eleventh session	Keith Brennan (Australia)

Second Committee

Chairman	
First and second sessions	Andrés Aguilar (Venezuela)
Third session	Reynaldo Galindo Pohl (El Salvador) (by agreement of the regional group concerned)
Fourth to eleventh sessions	Andrés Aguilar (Venezuela)
Vice-Chairmen	The representatives of Czechoslovakia, Kenya and Turkey
Rapporteur	Satya Nandan (Fiji)

Third Committee

Chairman	Alexander Yankov (Bulgaria)
Vice-Chairmen	The representatives of Colombia, Cyprus and the Federal Republic of Germany
Rapporteur	
First and second sessions	Abdel Magied A. Hassan (Sudan)
Third session	Manyang d'Awol (Sudan)
Fourth and fifth sessions	Abdel Magied A. Hassan (Sudan)
Fifth to eleventh sessions	Manyang d'Awol (Sudan)

The Conference elected the following officer and members of the Drafting Committee:

Drafting Committee

Chairman	J. Alan Beesley (Canada)
Members	The representatives of: Afghanistan; Argentina; Bangladesh (alternating with Thailand every year); Ecuador; El Salvador (replaced by Venezuela for the duration of the third session by agreement of the regional group concerned); Ghana; India; Italy; Lesotho; Malaysia; Mauritania; Mauritius; Mexico; Netherlands (alternating with Austria every session); Philippines; Romania; Sierra Leone; Spain; Syrian Arab Republic; Union of Soviet Socialist Republics; United Republic of Tanzania; and United States of America

The Conference elected the following officers and members of the Credentials Committee:

Credentials Committee

Chairman	
First session	Heinrich Gleissner (Austria)

[20] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I.

[21] *Ibid.*, vol. XIII.

[22] Decision taken at the 86th closed plenary meeting, held on 5 April 1978, by the adoption of resolution A/CONF.62/R.1 proposed by Nepal on behalf of the group of Asian States.

[23] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV. The General Assembly of the United Nations also paid tribute to the memory of Mr. Hamilton Shirley Amerasinghe (see *Official Records of the General Assembly, Thirty-fifth Session, Plenary Meetings*, 82nd meeting). The General Assembly thereafter established a memorial fellowship in his name (resolutions 35/116 and 36/79).

[24] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III.

Second and third sessions.....	Franz Weidinger (Austria)
Fourth to eleventh sessions....	Karl Wolf (Austria)
Members.....	The representatives of: Austria; Chad; China; Costa Rica; Hungary; Ireland; Ivory Coast; Japan; and Uruguay

Kenneth Rattray (Jamaica) was elected Rapporteur-General of the Conference.

18. The Secretary-General of the United Nations as Secretary-General of the Conference was represented by Constantin Stavropoulos, Under-Secretary-General, at the first and second sessions. Thereafter Bernardo Zuleta, Under-Secretary-General, represented the Secretary-General. David L. Hall was Executive Secretary of the Conference.

19. The General Assembly, by its resolution 3067 (XXVIII) convening the Conference, referred to it the reports and documents of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and the relevant documentation of the General Assembly. At the commencement of the Conference the following documentation was also before it:

(*a*) The provisional agenda of the first session of the Conference (A/CONF.62/1);[24]

(*b*) The draft rules of procedure prepared by the Secretary-General (A/CONF.62/2 and Add.1 to 3),[24] containing an appendix which embodied the Gentleman's Agreement, approved by the General Assembly at its twenty-eighth session on 16 November 1973.

Subsequently, the Conference also had before it the following documentation:

(i) The proposals submitted by the delegations participating in the Conference, as shown in the official records of the Conference;

(ii) The reports and studies prepared by the Secretary-General;[25]

(iii) The informal negotiating texts and the draft convention on the law of the sea and related draft resolutions and decision drawn up by the Conference, as hereafter set out.

[25] Economic implications of sea-bed mineral development in the international area (*ibid.*, document A/CONF.62/25).

Economic implications of sea-bed mining in the international area (*ibid.*, vol. IV, document A/CONF.62/37).

Description of some types of marine technology and possible methods for their transfer (*ibid.*, document A/CONF.62/C.3/L.22).

Draft alternative texts of the preamble and the final clauses: prepared by the Secretary-General (*ibid.*, vol. VI, document A/CONF.62/L.13).

Annotated directory of intergovernmental organizations concerned with ocean affairs; see document A/CONF.62/L.14.

Alternative means of financing the Enterprise (*ibid.*, document A/CONF.62/L.17).

Costs of the Authority and contractual means of financing its activities (*ibid.*, vol. VII, document A/CONF.62/C.1/L.19).

Manpower requirements of the Authority and related training needs; preliminary report of the Secretary-General (*ibid.*, vol. XII, document A/CONF.62/82.

Potential financial implications for States parties to the future convention on the law of the sea (*ibid.*, vol. XV, document A/CONF.62/L.65).

Effects of the production-limitation formula under certain specified assumptions (*ibid.*, document A/CONF.62/L.66).

Preliminary study illustrating various formulae for the definition of the continental shelf; map illustrating various formulae for the definition of the continental shelf; calculation of areas illustrated beyond 200 miles in document A/CONF.62/C.2/L.98/Add.1; communication received from the Secretary of the Intergovernmental Oceanographic Commission (*ibid.*, vol. IX, documents A/CONF.62/C.2/L.98 and Add.2 and 3).

Study of the implications of preparing large-scale maps for the Third United Nations Conference on the Law of the Sea (*ibid.*, vol. XI, document A/CONF.62/C.2/L.99).

Study on the future functions of the Secretary-General under the draft convention and on the needs of countries, especially developing countries, for information, advice and assistance under the new legal régime (*ibid.*, vol. XV, document A/CONF.62/L.76).

IV. Drafting Committee

20. The Drafting Committee commenced its work at the seventh session of the Conference with the informal examination of negotiating texts, for the purposes of refining drafts, harmonizing recurring words and expressions and achieving, through textual review, concordance of the text of the convention in the six languages. The Committee was assisted in its informal work by six language groups comprising both members and non-members of the Drafting Committee, representing the six official languages of the Conference, each group being chaired by a co-ordinator[26] and assisted by Secretariat linguistic experts. The co-ordinators, under the direction of the Chairman of the Drafting Committee, performed the major task of harmonizing the views of the language groups and of preparing proposals for the Drafting Committee, through meetings open to both members and non-members of the Drafting Committee. In addition to the meetings held during the regular sessions of the Conference, the Committee held inter-sessional meetings as follows:

—At United Nations Headquarters in New York, from 9 to 27 June 1980;

—At United Nations Headquarters in New York, from 12 January to 27 February 1981;

—At the Office of the United Nations in Geneva, from 29 June to 31 July 1981,

—At United Nations Headquarters in New York, from 18 January to 26 February 1982;

—At the Office of the United Nations in Geneva, from 12 July to 25 August 1982.

The Drafting Committee presented a first series of reports concerning the harmonization of recurring words and expressions.[27] The Committee presented a second series of reports containing recommendations arising out of the textual review of the convention.[28]

V. Rules of procedure and conduct of negotiations

21. The Conference adopted its rules of procedure (A/CONF.62/30)[29] at the 20th meeting of its second session.[20] The declaration incorporating the Gentleman's Agreement approved by the General Assembly at its 2169th meeting at the twenty-eighth session, made by the President and endorsed by the Conference, was appended to the rules of procedure. The declaration provided that:

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

[26] The co-ordinators of the language groups were as follows:

Arabic language group: Mustafa Kamil Yasseen (United Arab Emirates) and Mohammad Al-Haj Hamoud (Iraq).

Chinese language group: Wang Tieya (China), Ni Zhengyu (China) and Zhang Hongzeng (China).

English language group: Bernard H. Oxman (United States) and Thomas A. Clingan (United States). Alternates: Steven Asher (United States) and Milton Drucker (United States).

French language group: Tullio Treves (Italy). Alternate: Lucius Caflisch (Switzerland).

Russian language group: F. N. Kovalev (USSR), P. N. Evseev (USSR), Yevgeny N. Nasinovsky (USSR) and Georgy G. Ivanov (USSR).

Spanish language group: José Antonio Yturriaga Barbarán (Spain), José Manuel Lacleta Muñoz (Spain), José Antonio Pastor Ridruejo (Spain) and Luis Valencia Rodríguez (Ecuador).

[27] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XIII, document A/CONF.62/L.56; and *ibid.*, vol. XIV, documents A/CONF.62/L.57/Rev.1 and A/CONF.62/L.63/Rev.1.

[28] A/CONF.62/L.67/Add.1-16, A/CONF.62/L.75/Add.1-13, A/CONF.62/L.85/Add.1-9, A/CONF.62/L.142/Rev.1/Add.1 and A/CONF.62/L.152/Add.1-27.

[29] United Nations publication, Sales No. E.74.I.18.

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

22. The rules of procedure were subsequently amended by the Conference on 12 July 1974, on 17 March 1975 and on 6 March 1980.[30]

23. At the 15th meeting of its second session,[20] the Conference determined the competence of the three Main Committees by allocating to the plenary or the Committees the subjects and issues on the list prepared in accordance with General Assembly resolution 2750 C (XXV) (A/CONF.62/29).[24] The Main Committees established informal working groups or other subsidiary bodies which assisted the Committees in their work.[31]

24. At the third session, at the request of the Conference, the Chairmen of the three Main Committees each prepared an informal single negotiating text covering the subjects entrusted to the respective Committee, which together constituted the informal single negotiating text (A/CONF.62/WP.8, Parts I to III),[32] the nature of which is described in the introductory note by the President. Subsequently, the President of the Conference, taking into consideration the allocation of subjects and issues to the plenary and the Main Committee, submitted an informal single negotiating text on the subject of settlement of disputes (A/CONF.62/WP.9).[33]

25. At the fourth session of the Conference, following a general debate as recorded in the summary records of the 58th to 65th plenary meetings,[33] at the request of the Conference the President prepared a revised text on the settlement of disputes (A/CONF.62/WP.9/Rev.1),[33] which constituted Part IV of the informal single negotiating text in document A/CONF.62/WP.8. At the same session, the Chairmen of the Committees each prepared a revised single negotiating text (A/CONF.62/WP.8/Rev.1, Parts I to III)[33] and the note by the President which is attached to the text describes its nature.

26. During the fifth session, at the request of the Conference,[34] the President prepared a revised single negotiating text on the settlement of disputes (A/CONF.62/WP.9/Rev.2),[35] which constituted the fourth part of the revised single negotiating text (A/CONF.62/WP.8/Rev.1).

27. At its sixth session, the Conference requested the President and the Chairmen of the Main Committees, working under the President's leadership as a team with which the Chairman of the Drafting Committee and the Rapporteur-General were associated,[36] which was subsequently referred to as "the Collegium",[37] to prepare an informal composite negotiating text (A/CONF.62/WP.10),[38] covering the entire range of subjects and issues contained in Parts I to IV of the revised single negotiating text. The nature of the composite text so prepared was described in the President's memorandum (A/CONF.62/WP.10/Add.1).[38]

28. At its seventh session, the Conference identified certain outstanding core issues and established seven negotiating groups (as recorded in A/CONF.62/62)[39] for the purpose of resolving these issues. Each group comprised a nucleus of countries principally concerned with the outstanding core issue, but was open-ended.

The Chairmen of the negotiating groups were:

Negotiating group on item 1	Francis X. Njenga (Kenya)
Negotiating group on item 2	Tommy T. B. Koh (Singapore)
Negotiating group on item 3	Paul Bamela Engo (United Republic of Cameroon), Chairman of the First Committee
Negotiating group on item 4	Satya N. Nandan (Fiji)
Negotiating group on item 5	Constantin A. Stavropoulos (Greece)
Negotiating group on item 6	Andrés Aguilar (Venezuela), Chairman of the Second Committee
Negotiating group on item 7	E. J. Manner (Finland)

The Chairmen of the negotiating groups were to report on the results of their negotiations to the Committee or the plenary functioning as a Committee, as appropriate, before they were presented to the plenary meeting.

29. The negotiations carried out at the seventh session and resumed seventh session of the Conference were reported on by the President concerning the work of the plenary functioning as a Main Committee, and by the Chairmen of the Main Committees and the negotiating groups. These reports, together with the report of the Chairman of the Drafting Committee, were incorporated in documents A/CONF.62/RCNG.1 and 2.[39] The Conference also laid down criteria for any modifications or revisions of the informal composite negotiating text, which are set out in document A/CONF.62/62.

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[30] *Idem*, Sales No. E.81.I.5.

[31] The First Committee appointed the following officers of the informal working groups set up by it between the second and eleventh sessions:

Christopher W. Pinto (Sri Lanka): Chairman of the informal body of the whole (see *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. II, First Committee, 1st meeting) and Chairman of the negotiating group on the system of operations, the régime and the conditions of exploration and exploitation of the Area, with a membership of 50 States, but open-ended (*ibid.*, 14th to 16th meetings);

S. P. Jagota (India) and H. H. M. Sondaal (Netherlands): Co-chairmen of the open-ended working group (*ibid.*, vol. VI, First Committee, 26th meeting);

Jens Evensen (Norway): Special Co-ordinator of the Chairman's informal working group of the whole on the system of exploitation (*ibid.*, vol. VII, First Committee, 38th meeting);

Satya N. Nandan (Fiji): Chairman of the informal group on the question of production policies, established under the auspices of negotiating group 1 (*ibid.*, vol. IX, 114th meeting);

Paul Bamela Engo (United Republic of Cameroon), Chairman of the First Committee, Francis X. Njenga (Kenya), Tommy T. B. Koh (Singapore) and Harry Wuensche (German Democratic Republic): Co-chairmen of the working group of 21 on First Committee issues with the Chairman of the First Committee as principal co-ordinator. The working group consisted of 10 members nominated by the Group of 77, China, and 10 members nominated by the principal industrialized countries with alternates for each group. The working group was constituted with members and alternates as necessary to represent the interests of the issue under consideration (*ibid.*, vol. XI, Meetings of the General Committee, 45th meeting).

The Second Committee set up informal consultative groups, at different stages, chaired by the three Vice-Chairmen, the representatives of Czechoslovakia, Kenya and Turkey, and by the Rapporteur of the Committee, Satya N. Nandan (Fiji) (*ibid.*, vol. IV, documents A/CONF.62/C.2/L.87 and A/CONF.62/C.2/L.89/Rev.1).

The Third Committee appointed the following officers of its informal meetings:

José Luis Vallarta (Mexico): Chairman of the informal meetings on protection and preservation of the marine environment (*ibid.*, vol. II, Third Committee).

Cornel A. Metternich (Federal Republic of Germany): Chairman of the informal meetings on scientific research and the development and transfer of technology (*ibid.*; see also vol. III, document A/CONF.62/C.3/L.16).

[32] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IV.

[33] *Ibid.*, vol. V.

[34] *Ibid.*, vol. VI, 71st plenary meeting.

[35] *Ibid.*, vol. VI.

[36] *Ibid.*, vol. VII, 79th plenary meeting.

[37] Memorandum attached to A/CONF.62/WP.10/Rev.2, dated 11 April 1980.

[38] *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. VIII.

[39] *Ibid.*, vol. X.

30. At the eighth session a group of legal experts was set up with Harry Wuensche (German Democratic Republic) as its Chairman.[40]

31. On the basis of the deliberations of the Conference (111th to 116th plenary meetings)[41] concerning the reports of the President, the Chairmen of the Main Committees, the Chairmen of the negotiating groups and the Chairman of the group of legal experts on consultations conducted by them, a revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.1) was prepared. The nature of the text was described in the explanatory memorandum by the President attached to the text.

32. At the resumed eighth session a further group of legal experts on final clauses was set up with Jens Evensen (Norway) as its Chairman.[42]

33. The reports on the negotiations conducted at the resumed eighth session by the President, the Chairmen of the Main Committees, the Chairmen of the negotiating groups and the Chairmen of the two groups of legal experts together with the report of the Chairman of the Drafting Committee were incorporated in a memorandum by the President (A/CONF.62/91).[43]

34. At its ninth session, on the basis of the report of the President concerning the work of the informal plenary meeting (A/CONF.62/L.49/Add.1 and 2),[21] the Conference considered the draft preamble prepared by the President (A/CONF.62/L.49)[21] for incorporation in the next revision of the informal composite negotiating text (A/CONF.62/WP.10/Rev.1). On the basis of the deliberations of the Conference (125th to 128th plenary meetings)[21] concerning the reports of the President, the Chairmen of the Main Committees, the Chairmen of the negotiating groups and the Chairmen of the groups of legal experts on the consultations conducted by them, and the report of the Chairman of the Drafting Committee on its work, the Collegium undertook a second revision of the informal composite negotiating text, presented as the informal composite negotiating text (A/CONF.62/WP.10/Rev.2), the nature of which was described in the President's explanatory memorandum attached to it.

35. At its resumed ninth session, on the basis of the deliberations of the Conference (134th to 140th plenary meetings)[44] concerning the reports of the President and the Chairmen of the Main Committees on the consultations conducted by them, the Collegium prepared a further revision of the informal composite negotiating text. The revised text, titled "Draft Convention on the Law of the Sea (Informal Text)" (A/CONF.62/WP.10/Rev.3), was issued together with the explanatory memorandum of the President (A/CONF.62/WP.10/Rev.3/Add.1), which described the nature of the text.

36. The Conference also decided, at its 141st plenary meeting, that the statement of understanding on an exceptional method of delimitation of the continental shelf applicable to certain specific geological and geomorphological conditions would be incorporated in an annex to the Final Act.[44]

37. The Conference decided that the tenth session was to determine the status to be given to the draft convention (informal text).[45]

38. Following the deliberations of the Conference at its tenth and resumed tenth sessions (142nd to 155th plenary meetings),[23] the Collegium prepared a revision of the draft convention on the law of the sea (informal text). The Conference decided that the text as revised (A/CONF.62/L.78)[23] was the official draft convention of the Conference, subject only to the specific conditions recorded in document A/CONF.62/114.[23] At the resumed tenth session, the Conference decided that the decisions taken in the informal plenary concerning the seats of the International Sea-Bed Authority (Jamaica) and the International Tribunal for the Law of the Sea (the Free and Hanseatic City of Hamburg in the Federal Republic of Germany) should be incorporated in the revision of the draft convention; and that the introductory note to that revision should record the requirements agreed upon when the decision concerning the two seats was taken.

39. Following consideration, at the 120th plenary meeting,[43] of the final clauses and in particular the question of entry into force of the convention, the question of establishing a preparatory commission for the International Sea-Bed Authority and the convening of the International Tribunal for the Law of the Sea was considered in plenary meeting at the ninth session. The President, on the basis of the deliberations of the informal plenary meeting, prepared a draft resolution to be adopted by the Conference concerning interim arrangements, which was annexed to his report (A/CONF.62/L.55).[21] On the basis of the further consideration of the subject jointly by the plenary and the First Committee at the tenth, resumed tenth and eleventh sessions, the President and the Chairman of the First Committee presented a draft resolution (A/CONF.62/C.1/L.30, annex I).[46]

40. Following consideration at the eleventh session of the question of the treatment to be accorded to preparatory investments made before the convention enters into force, provided that such investments are compatible with the convention and would not defeat its object and purpose, the President and the Chairman of the First Committee presented a draft resolution contained in annex II to their report A/CONF.62/C.1/L.30. The question of participation in the convention was considered by the plenary meetings of the Conference during the eighth to eleventh sessions, and the President presented a report on the consultations at the eleventh session in document A/CONF.62/L.86.[46]

41. At the 155th plenary meeting, the eleventh session had been declared as the final decision-making session of the Conference.[23] During that session, on the basis of the deliberations of the Conference (157th to 166th plenary meetings)[46] concerning the report of the President (A/CONF.62/L.86) and the reports of the Chairmen of the Main Committees (A/CONF.62/L.87, L.91 and L.92)[46] on the negotiations conducted by them and the report of the Chairman of the Drafting Committee on its work (A/CONF.62/L.85 and L.89), the Collegium issued a memorandum (A/CONF.62/L.93)[46] containing changes to be incorporated in the draft convention on the law of the sea (A/CONF.62/L.78), and document A/CONF.62/L.94[46] setting out three draft resolutions and a draft decision of the Conference which were to be adopted at the same time as the draft convention.

The Conference determined that all efforts at reaching general agreement had been exhausted.[47] Throughout the preceding eight years of its work the Conference had taken all deci-

[40] The group of legal experts on the settlement of disputes relating to Part XI of the informal composite negotiating text was established by the Chairman of the First Committee in consultation with the President as reflected at the 114th meeting of the plenary and in A/CONF.62/L.36 and A/CONF.62/C.1/L.25; see vol. XI.

[41] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XI.

[42] The group of legal experts on final clauses was established by the President, to deal with the technical aspects of final clauses, after their preliminary consideration in informal plenary meetings; see vol. XII, 120th plenary meeting.

[43] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XII.

[44] *Ibid.*, vol. XIV.

[45] *Ibid.*, 141st plenary meeting; also referred to in A/CONF.62/BUR.13/Rev.1.

[46] *Ibid.*, vol. XVI.

[47] *Ibid.*, vol. XVI, 174th plenary meeting.

sions by consensus although it had exceptionally resorted to a vote only on procedural questions, on questions concerning the appointment of officials and on invitations to be extended to participants in the Conference as observers.

42. On the basis of the deliberations recorded in the records of the Conference (167th to 182nd plenary meetings),[46] the Conference drew up:

The United Nations Convention on the Law of the Sea

Resolution I on the establishment of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea;

Resolution II governing preparatory investment in pioneer activities relating to polymetallic nodules;

Resolution III relating to territories whose people have not obtained either full independence or some other self-governing status recognized by the United Nations or territories under colonial domination;

Resolution IV relating to national liberation movements.

The foregoing Convention together with resolutions I to IV, forming an integral whole, was adopted at the 182nd plenary meeting on 30 April 1982,[46] by a recorded vote taken at the request of one delegation.[48] The Convention together with resolutions I to IV was adopted subject to drafting changes thereafter approved by the Conference[49] which were incorporated in the Convention and in resolutions I to IV, which are annexed to this Final Act (annex I). The Convention is subject to ratification and is opened for signature from 10 December 1982 until 9 December 1984 at the Ministry of Foreign Affairs of Jamaica and also from 1 July 1983 until 9 December 1984 at United Nations Headquarters. The same instrument is opened for accession in accordance with its provisions.

After 9 December 1984, the closing date for signature at United Nations Headquarters, the Convention will be deposited with the Secretary-General of the United Nations.

There are annexed to this Final Act:

The Statement of Understanding referred to in paragraph 36 above (annex II) and the following resolutions adopted by the Conference:

Resolution paying tribute to Simón Bolívar the Liberator (annex III);[50]

Resolution expressing gratitude to the President, the Government and officials of Venezuela (annex IV);[51]

Tribute to the Amphictyonic Congress of Panama (annex V);[52]

Resolution on Development of National Marine Science, Technology and Ocean Service Infrastructures (annex VI);[53]

IN WITNESS WHEREOF the representatives have signed this Final Act.[54]

DONE at Montego Bay this tenth day of December, one thousand nine hundred and eighty-two, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.

The President of the Conference:

The Special Representative of the Secretary-General to the Conference:

The Executive Secretary of the Conference:

ANNEX I

RESOLUTION I

Establishment of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea

The Third United Nations Conference on the Law of the Sea,

Having adopted the Convention on the Law of the Sea which provides for the establishment of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea,

Having decided to take all possible measures to ensure the entry into effective operation without undue delay of the Authority and the Tribunal and to make the necessary arrangements for the commencement of their functions,

Having decided that a Preparatory Commission should be established for the fulfilment of these purposes,

Decides as follows:

1. There is hereby established the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. Upon signature of or accession to the Convention by fifty States, the Secretary-General of the United Nations shall convene the Commission, and it shall meet no sooner than sixty days and no later than ninety days thereafter;

2. The Commission shall consist of the representatives of States and of Namibia, represented by the United Nations Council for Namibia, which have signed the Convention or acceded to it. The representatives of signatories of the Final Act may participate fully in the deliberations of the Commission as observers but shall not be entitled to participate in the taking of decisions;

3. The Commission shall elect its Chairman and other officers;

4. The Rules of Procedure of the Third United Nations Conference on the Law of the Sea shall apply *mutatis mutandis* to the adoption of the rules of procedure of the Commission;

5. The Commission shall:

(*a*) prepare the provisional agenda for the first session of the Assembly and of the Council and, as appropriate, make recommendations relating to items thereon;

(*b*) prepare draft rules of procedure of the Assembly and of the Council;

(*c*) make recommendations concerning the budget for the first financial period of the Authority;

(*d*) make recommendations concerning the relationship between the Authority and the United Nations and other international organizations;

(*e*) make recommendations concerning the Secretariat of the Authority in accordance with the relevant provisions of the Convention;

(*f*) undertake studies, as necessary, concerning the establishment of the headquarters of the Authority, and make recommendations relating thereto;

(*g*) prepare draft rules, regulations and procedures, as necessary, to enable the Authority to commence its functions, including draft regulations concerning the financial management and the internal administration of the Authority;

(*h*) exercise the powers and functions assigned to it by resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment;

(*i*) undertake studies on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area with a view to minimizing their difficulties and helping them to make the necessary economic adjustment, including studies on the establishment of a compensation fund, and submit recommendations to the Authority thereon;

[48] Recorded vote taken at the request of the delegation of the United States of America, with two delegations not participating in the vote. The result was 130 in favour, 4 against, with 17 abstentions.

[49] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI, 182nd plenary meeting; see also 184th plenary meeting in the present volume.

[50] *Ibid.*, vol. I, 43rd plenary meeting.

[51] *Ibid.*, 51st plenary meeting.

[52] *Ibid.*, vol. VI, 76th plenary meeting.

[53] *Ibid.*, vol. XVI, 182nd plenary meeting.

[54] Additional pages were added for the signatures.

6. The Commission shall have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes as set forth in this resolution;

7. The Commission may establish such subsidiary bodies as are necessary for the exercise of its functions and shall determine their functions and rules of procedure. It may also make use, as appropriate, of outside sources of expertise in accordance with United Nations practice to facilitate the work of bodies so established;

8. The Commission shall establish a special commission for the Enterprise and entrust to it the functions referred to in paragraph 12 of resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment. The special commission shall take all measures necessary for the early entry into effective operation of the Enterprise;

9. The Commission shall establish a special commission on the problems which would be encountered by developing land-based producer States likely to be most seriously affected by the production of minerals derived from the Area and entrust to it the functions referred to in paragraph 5 (*i*);

10. The Commission shall prepare a report containing recommendations for submission to the meeting of the States Parties to be convened in accordance with Annex VI, article 4, of the Convention regarding practical arrangements for the establishment of the International Tribunal for the Law of the Sea;

11. The Commission shall prepare a final report on all matters within its mandate, except as provided in paragraph 10, for the presentation to the Assembly at its first session. Any action which may be taken on the basis of the report must be in conformity with the provisions of the Convention concerning the powers and functions entrusted to the respective organs of the Authority;

12. The Commission shall meet at the seat of the Authority if facilities are available; it shall meet as often as necessary for the expeditious exercise of its functions;

13. The Commission shall remain in existence until the conclusion of the first session of the Assembly, at which time its property and records shall be transferred to the Authority;

14. The expenses of the Commission shall be met from the regular budget of the United Nations, subject to the approval of the General Assembly;

15. The Secretary-General of the United Nations shall make available to the Commission such secretariat services as may be required;

16. The Secretary-General of the United Nations shall bring this resolution, in particular paragraphs 14 and 15, to the attention of the General Assembly for necessary action.

RESOLUTION II

Governing preparatory investment in pioneer activities relating to polymetallic nodules

The Third United Nations Conference on the Law of the Sea,

Having adopted the Convention on the Law of the Sea (the "Convention"),

Having established by resolution I the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea (the "Commission") and directed it to prepare draft rules, regulations and procedures, as necessary to enable the Authority to commence its functions, as well as to make recommendations for the early entry into effective operation of the Enterprise,

Desirous of making provision for investments by States and other entities made in a manner compatible with the international régime set forth in Part XI of the Convention and the Annexes relating thereto, before the entry into force of the Convention,

Recognizing the need to ensure that the Enterprise will be provided with the funds, technology and expertise necessary to enable it to keep pace with the States and other entities referred to in the preceding paragraph with respect to activities in the Area,

Decides as follows:

1. For the purposes of this resolution:

(*a*) "pioneer investor" refers to:

(i) France, India, Japan and the Union of Soviet Socialist Republics, or a state enterprise of each of those States or one natural or juridical person which possesses the nationality of or is effectively controlled by each of those States, or their nationals, provided that the State concerned signs the Convention and the State or state enterprise or natural or juridical person has expended, before 1 January 1983, an amount equivalent to at least $US 30 million (United States dollars calculated in constant dollars relative to 1982) in pioneer activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of the area referred to in paragraph 3 (*a*);

(ii) four entities, whose components being natural or juridical persons[a] possess the nationality of one or more of the following States, or are effectively controlled by one or more of them or their nationals: Belgium, Canada, the Federal Republic of Germany, Italy, Japan, the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, provided that the certifying State or States sign the Convention and the entity concerned has expended, before 1 January 1983, the levels of expenditure for the purpose stated in subparagraph (i);

(iii) any developing State which signs the Convention or any state enterprise or natural or juridical person which possesses the nationality of such State or is effectively controlled by it or its nationals, or any group of the foregoing, which, before 1 January 1985, has expended the levels of expenditure for the purpose stated in subparagraph (i);

The rights of the pioneer investor may devolve upon its successor in interest.

(*b*) "pioneer activities" means undertakings, commitments of financial and other assets, investigations, findings, research, engineering development and other activities relevant to the identification, discovery, and systematic analysis and evaluation of polymetallic nodules and to the determination of the technical and economic feasibility of exploitation. Pioneer activities include:

(i) any at-sea observation and evaluation activity which has as its objective the establishment and documentation of the nature, shape, concentration, location and grade of polymetallic nodules and of the environmental, technical and other appropriate factors which must be taken into account before exploitation;

(ii) the recovery from the Area of polymetallic nodules with a view to the designing, fabricating and testing of equipment which is intended to be used in the exploitation of polymetallic nodules;

(*c*) "certifying State" means a State which signs the Convention, standing in the same relation to a pioneer investor as would a sponsoring State pursuant to Annex III, article 4, of the Convention and which certifies the levels of expenditure specified in subparagraph (*a*);

(*d*) "polymetallic nodules" means one of the resources of the Area consisting of any deposit or accretion of nodules, on or just below the surface of the deep sea-bed, which contain manganese, nickel, cobalt and copper;

(*e*) "pioneer area" means an area allocated by the Commission to a pioneer investor for pioneer activities pursuant to this resolution. A pioneer area shall not exceed 150,000 square kilometres. The pioneer investor shall relinquish portions of the pioneer area to revert to the Area, in accordance with the following schedule:

(i) 20 per cent of the area allocated by the end of the third year from the date of the allocation;

(ii) an additional 10 per cent of the area allocated by the end of the fifth year from the date of the allocation;

(iii) an additional 20 per cent of the area allocated or such larger amount as would exceed the exploitation area decided upon by the Authority in its rules, regulations and procedures, after eight years from the date of the allocation of the area or the date of the award of a production authorization, whichever is earlier;

(*f*) "Area", "Authority", "activities in the Area" and "resources" have the meanings assigned to those terms in the Convention.

2. As soon as the Commission begins to function, any State which has signed the Convention may apply to the Commission on its behalf or on behalf of any state enterprise or entity or natural or juridical person specified in paragraph 1 (*a*) for registration as a pioneer investor.

[a] For their identity and composition see *Sea-Bed Mineral Resource Development: Recent Activities of the International Consortia* (United Nations publication E.80.II.A.9) and addendum.

The Commission shall register the applicant as a pioneer investor if the application:

(*a*) is accompanied, in the case of a State which has signed the Convention, by a statement certifying the level of expenditure made in accordance with paragraph 1 (*a*), and, in all other cases, by a certificate concerning such level of expenditure issued by a certifying State or States; and

(*b*) is in conformity with the other provisions of this resolution, including paragraph 5.

3. (*a*) Every application shall cover a total area which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The application shall indicate the co-ordinates of the area defining the total area and dividing it into two parts of equal estimated commercial value and shall contain all the data available to the applicant with respect to both parts of the area. Such data shall include, *inter alia*, information relating to mapping, testing, the density of polymetallic nodules and their metal content. In dealing with such data, the Commission and its staff shall act in accordance with the relevant provisions of the Convention and its Annexes concerning the confidentiality of data.

(*b*) Within forty-five days of receiving the data required by subparagraph (*a*), the Commission shall designate the part of the area which is to be reserved in accordance with the Convention for the conduct of activities in the Area by the Authority through the Enterprise or in association with developing States. The other part of the area shall be allocated to the pioneer investor as a pioneer area.

4. No pioneer investor may be registered in respect of more than one pioneer area. In the case of a pioneer investor which is made up of two or more components, none of such components may apply to be registered as a pioneer investor in its own right or under paragraph 1 (*a*) (iii).

5. (*a*) Any State which has signed the Convention and which is a prospective certifying State shall ensure, before making applications to the Commission under paragraph 2, that areas in respect of which applications are made do not overlap one another or areas previously allocated as pioneer areas. The States concerned shall keep the Commission currently and fully informed of any efforts to resolve conflicts with respect to overlapping claims and of the results thereof.

(*b*) Certifying States shall ensure, before the entry into force of the Convention, that pioneer activities are conducted in a manner compatible with it.

(*c*) The prospective certifying States, including all potential claimants, shall resolve their conflicts as required under subparagraph (*a*) by negotiations within a reasonable period. If such conflicts have not been resolved by 1 March 1983, the prospective certifying States shall arrange for the submission of all such claims to binding arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules to commence not later than 1 May 1983 and to be completed by 1 December 1984. If one of the States concerned does not wish to participate in the arbitration, it shall arrange for a juridical person of its nationality to represent it in the arbitration. The arbitral tribunal may, for good cause, extend the deadline for the making of the award for one or more thirty-day periods.

(*d*) In determining the issue as to which applicant involved in a conflict shall be awarded all or part of each area in conflict, the arbitral tribunal shall find a solution which is fair and equitable, having regard, with respect to each applicant involved in the conflict, to the following factors:

(i) the deposit of the list of relevant co-ordinates with the prospective certifying State or States not later than the date of adoption of the Final Act or 1 January 1983, whichever is earlier;

(ii) the continuity and extent of past activities relevant to each area in conflict and to the application area of which it is a part;

(iii) the date on which each pioneer investor concerned or predecessor in interest or component organization thereof commenced activities at sea in the application area;

(iv) the financial cost of activities measured in constant United States dollars relevant to each area in conflict and to the application area of which it is a part; and

(v) the time when those activities were carried out and the quality of activities.

6. A pioneer investor registered pursuant to this resolution shall, from the date of registration, have the exclusive right to carry out pioneer activities in the pioneer area allocated to it.

7. (*a*) Every applicant for registration as a pioneer investor shall pay to the Commission a fee of $US 250,000. When the pioneer investor applies to the Authority for a plan of work for exploration and exploitation the fee referred to in Annex III, article 13, paragraph 2, of the Convention shall be $US 250,000.

(*b*) Every registered pioneer investor shall pay an annual fixed fee of $US 1 million commencing from the date of the allocation of the pioneer area. The payments shall be made by the pioneer investor to the Authority upon the approval of its plan of work for exploration and exploitation. The financial arrangements undertaken pursuant to such plan of work shall be adjusted to take account of the payments made pursuant to this paragraph.

(*c*) Every registered pioneer investor shall agree to incur periodic expenditures, with respect to the pioneer area allocated to it, until approval of its plan of work pursuant to paragraph 8, of an amount to be determined by the Commission. The amount should be reasonably related to the size of the pioneer area and the expenditures which would be expected of a *bona fide* operator who intends to bring that area into commercial production within a reasonable time.

8. (*a*) Within six months of the entry into force of the Convention and certification by the Commission, in accordance with paragraph 11, of compliance with this resolution, the pioneer investor so registered shall apply to the Authority for approval of a plan of work for exploration and exploitation, in accordance with the Convention. The plan of work in respect of such application shall comply with and be governed by the relevant provisions of the Convention and the rules, regulations and procedures of the Authority, including those on the operational requirements, the financial requirements and the undertakings concerning the transfer of technology. Accordingly, the Authority shall approve such application.

(*b*) When an application for approval of a plan of work is submitted by an entity other than a State, pursuant to subparagraph (*a*), the certifying State or States shall be deemed to be the sponsoring State for the purposes of Annex III, article 4, of the Convention, and shall thereupon assume such obligations.

(*c*) No plan of work for exploration and exploitation shall be approved unless the certifying State is a Party to the Convention. In the case of the entities referred to in paragraph 1 (*a*) (ii), the plan of work for exploration and exploitation shall not be approved unless all the States whose natural or juridical persons comprise those entities are Parties to the Convention. If any such State fails to ratify the Convention within six months after it has received a notification from the Authority that an application by it, or sponsored by it, is pending, its status as a pioneer investor or certifying State, as the case may be, shall terminate, unless the Council, by a majority of three fourths of its members present and voting, decides to postpone the terminal date for a period not exceeding six months.

9. (*a*) In the allocation of production authorizations, in accordance with article 151 and Annex III, article 7, of the Convention, the pioneer investors who have obtained approval of plans of work for exploration and exploitation shall have priority over all applicants other than the Enterprise which shall be entitled to production authorizations for two mine sites including that referred to in article 151, paragraph 5, of the Convention. After each of the pioneer investors has obtained production authorization for its first mine site, the priority for the Enterprise contained in Annex III, article 7, paragraph 6, of the Convention shall apply.

(*b*) Production authorizations shall be issued to each pioneer investor within thirty days of the date on which that pioneer investor notifies the Authority that it will commence commercial production within five years. If a pioneer investor is unable to begin production within the period of five years for reasons beyond its control, it shall apply to the Legal and Technical Commission for an extension of time. That Commission shall grant the extension of time, for a period not exceeding five years and not subject to further extension, if it is satisfied that the pioneer investor cannot begin on an economically viable basis at the time originally planned. Nothing in this subparagraph shall prevent the Enterprise or any other pioneer applicant, who has notified the Authority that it will commence commercial production within five years, from being given a priority over any applicant who has obtained an extension of time under this subparagraph.

(*c*) If the Authority, upon being given notice, pursuant to subparagraph (*b*), determines that the commencement of commercial

production within five years would exceed the production ceiling in article 151, paragraphs 2 to 7, of the Convention, the applicant shall hold a priority over any other applicant for the award of the next production authorization allowed by the production ceiling.

(*d*) If two or more pioneer investors apply for production authorizations to begin commercial production at the same time and article 151, paragraphs 2 to 7, of the Convention would not permit all such production to commence simultaneously, the Authority shall notify the pioneer investors concerned. Within three months of such notification, they shall decide whether and, if so, to what extent they wish to apportion the allowable tonnage among themselves.

(*e*) If, pursuant to subparagraph (*d*), the pioneer investors concerned decide not to apportion the available production among themselves, they shall agree on an order of priority for production authorizations and all subsequent applications for production authorizations will be granted after those referred to in this subparagraph have been approved.

(*f*) If, pursuant to subparagraph (*d*), the pioneer investors concerned decide to apportion the available production among themselves, the Authority shall award each of them a production authorization for such lesser quantity as they have agreed. In each case the stated production requirements of the applicant will be approved and their full production will be allowed as soon as the production ceiling admits of additional capacity sufficient for the applicants involved in the competition. All subsequent applications for production authorizations will only be granted after the requirements of this subparagraph have been met and the applicant is no longer subject to the reduction of production provided for in this subparagraph.

(*g*) If the parties fail to reach agreement within the stated time period, the matter shall be decided immediately by the means provided for in paragraph 5 (*c*) in accordance with the criteria set forth in Annex III, article 7, paragraphs 3 and 5, of the Convention.

10. (*a*) Any rights acquired by entities or natural or juridical persons which possess the nationality of or are effectively controlled by a State or States whose status as certifying State has been terminated, shall lapse unless the pioneer investor changes its nationality and sponsorship within six months of the date of such termination, as provided for in subparagraph (*c*).

(*b*) A pioneer investor may change its nationality and sponsorship from that existing at the time of its registration as a pioneer investor to that of any State Party to the Convention which has effective control over the pioneer investor in terms of paragraph 1 (*a*).

(*c*) Changes of nationality and sponsorship pursuant to this paragraph shall not affect any right or priority conferred on a pioneer investor pursuant to paragraphs 6 and 8.

11. The Commission shall:

(*a*) provide each pioneer investor with the certificate of compliance with the provisions of this resolution referred to in paragraph 8; and

(*b*) include in its final report required by paragraph 11 of resolution I of the Conference details of all registrations of pioneer investors and allocations of pioneer areas pursuant to this resolution.

12. In order to ensure that the Enterprise is able to carry out activities in the Area in such a manner as to keep pace with States and other entities:

(*a*) every registered pioneer investor shall:

(i) carry out exploration, at the request of the Commission, in the area reserved, pursuant to paragraph 3 in connection with its application, for activities in the Area by the Authority through the Enterprise or in association with developing States, on the basis that the costs so incurred plus interest thereon at the rate of 10 per cent per annum shall be reimbursed;

(ii) provide training at all levels for personnel designated by the Commission;

(iii) undertake, before the entry into force of the Convention, to perform the obligations prescribed in the Convention relating to transfer of technology;

(*b*) every certifying State shall:

(i) ensure that the necessary funds are made available to the Enterprise in a timely manner in accordance with the Convention, upon its entry into force; and

(ii) report periodically to the Commission on the activities carried out by it, by its entities or natural or juridical persons.

13. The Authority and its organs shall recognize and honour the rights and obligations arising from this resolution and the decisions of the Commission taken pursuant to it.

14. Without prejudice to paragraph 13, this resolution shall have effect until the entry into force of the Convention.

15. Nothing in this resolution shall derogate from Annex III, article 6, paragraph 3 (*c*), of the Convention.

RESOLUTION III

The Third United Nations Conference on the Law of the Sea,

Having regard to the Convention on the Law of the Sea,

Bearing in mind the Charter of the United Nations, in particular Article 73,

1. *Declares* that:

(*a*) In the case of a territory whose people have not attained full independence or other self-governing status recognized by the United Nations, or a territory under colonial domination, provisions concerning rights and interests under the Convention shall be implemented for the benefit of the people of the territory with a view to promoting their well-being and development.

(*b*) Where a dispute exists between States over the sovereignty of a territory to which this resolution applies, in respect of which the United Nations has recommended specific means of settlement, there shall be consultations between the parties to that dispute regarding the exercise of the rights referred to in subparagraph (*a*). In such consultations the interests of the people of the territory concerned shall be a fundamental consideration. Any exercise of those rights shall take into account the relevant resolutions of the United Nations and shall be without prejudice to the position of any party to the dispute. The States concerned shall make every effort to enter into provisional arrangements of a practical nature and shall not jeopardize or hamper the reaching of a final settlement of the dispute.

2. *Requests* the Secretary-General of the United Nations to bring this resolution to the attention of all Members of the United Nations and the other participants in the Conference, as well as the principal organs of the United Nations, and to request their compliance with it.

RESOLUTION IV

The Third United Nations Conference on the Law of the Sea,

Bearing in mind that national liberation movements have been invited to participate in the Conference as observers in accordance with rule 62 of its rules of procedure,

Decides that the national liberation movements, which have been participating in the Third United Nations Conference on the Law of the Sea, shall be entitled to sign the Final Act of the Conference, in their capacity as observers.

ANNEX II

Statement of understanding concerning a specific method to be used in establishing the outer edge of the continental margin

The Third United Nations Conference on the Law of the Sea,

Considering the special characteristics of a State's continental margin where: (1) the average distance at which the 200 metre isobath occurs is not more than 20 nautical miles; (2) the greater proportion of the sedimentary rock of the continental margin lies beneath the rise, and

Taking into account the inequity that would result to that State from the application to its continental margin of article 76 of the Convention, in that the mathematical average of the thickness of sedimentary rock along a line established at the maximum distance permissible in accordance with the provisions of paragraph 4 (*a*) (i) and (ii) of that article as representing the entire outer edge of the continental margin would not be less than 3.5 kilometres, and that more than half of the margin would be excluded thereby,

Recognizes that such State may, notwithstanding the provisions of article 76, establish the outer edge of its continental margin by straight lines not exceeding 60 nautical miles in length connecting fixed points, defined by latitude and longitude, at each of which the thickness of sedimentary rock is not less than 1 kilometre;

Where a State establishes the outer edge of its continental margin by applying the method set forth in the preceding paragraph of this

statement, this method may also be utilized by a neighbouring State for delineating the outer edge of its continental margin on a common geological feature, where its outer edge would lie on such feature on a line established at the maximum distance permissible in accordance with article 76, paragraph 4 (*a*) (i) and (ii), along which the mathematical average of the thickness of sedimentary rock is not less than 3.5 kilometres;

Requests the Commission on the Limits of the Continental Shelf, set up pursuant to Annex II of the Convention, to be governed by the terms of this Statement when making its recommendations on matters related to the establishment of the outer edge of the continental margins of these States in the southern part of the Bay of Bengal.

ANNEX III

Tribute to Simón Bolívar the Liberator

The Third United Nations Conference on the Law of the Sea,

Considering that 24 July 1974 marks a further anniversary of the birth of Simón Bolívar the Liberator, a man of vision and early champion of international organization, and a historic figure of universal dimensions,

Considering further that the work of Simón Bolívar the Liberator, based on the concepts of liberty and justice as foundations for the peace and progress of peoples, has left an indelible mark on history and constitutes a source of constant inspiration,

Decides to pay a public tribute of admiration and respect to Simón Bolívar the Liberator, in the plenary meeting of the Third United Nations Conference on the Law of the Sea.

ANNEX IV

Resolution Expressing Gratitude to the President, the Government and Officials of Venezuela

The Third United Nations Conference on the Law of the Sea,

Bearing in mind that its second session was held in the city of Caracas, cradle of Simón Bolívar, Liberator of five nations, who devoted his life to fighting for the self-determination of peoples, equality among States and justice as the expression of their common destiny,

Acknowledging with keen appreciation the extraordinary effort made by the Government and the people of Venezuela, which enabled the Conference to meet in the most favourable spirit of brotherhood and in unparalleled material conditions,

Decides:

1. To express to His Excellency the President of the Republic of Venezuela, the President and members of the Organizing Committee of the Conference and the Government and people of Venezuela its deepest gratitude for the unforgettable hospitality which they have offered it;

2. To give voice to its hope that the ideals of social justice, equality among nations and solidarity among peoples advocated by the Liberator Simón Bolívar will serve to guide the future work of the Conference.

ANNEX V

Tribute to the Amphictyonic Congress of Panama

The Third United Nations Conference on the Law of the Sea, at its fifth session,

Considering that the current year 1976 marks the one hundred and fiftieth anniversary of the Amphictyonic Congress of Panama, convoked by the Liberator Simón Bolívar for the laudable and visionary purpose of uniting the Latin American peoples,

Considering likewise that a spirit of universality prevailed at the Congress of Panama, which was ahead of its time and which foresaw that only on the basis of union and reciprocal co-operation is it possible to guarantee peace and promote the development of nations,

Considering further that the Congress of Panama evoked the prestigious and constructive Greek Amphictyony and anticipated the ecumenical and creative image of the United Nations,

Decides to render to the Amphictyonic Congress of Panama, in a plenary meeting of the Third United Nations Conference on the Law of the Sea, at its fifth session, a public tribute acknowledging its expressive historic significance.

ANNEX VI

Resolution on Development of National Marine Science, Technology and Ocean Service Infrastructures

The Third United Nations Conference on the Law of the Sea,

Recognizing that the Convention on the Law of the Sea is intended to establish a new régime for the seas and oceans which will contribute to the realization of a just and equitable international economic order through making provision for the peaceful use of ocean space, the equitable and efficient management and utilization of its resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the new régime must take into account, in particular, the special needs and interests of the developing countries, whether coastal, land-locked or geographically disadvantaged,

Aware of the rapid advances being made in the field of marine science and technology, and the need for the developing countries, whether coastal, land-locked or geographically disadvantaged, to share in these achievements if the aforementioned goals are to be met,

Convinced that, unless urgent measures are taken, the marine scientific and technological gap between the developed and the developing countries will widen further and thus endanger the very foundations of the new régime,

Believing that optimum utilization of the new opportunities for social and economic development offered by the new régime will be facilitated through action at the national and international level aimed at strengthening national capabilities in marine science, technology and ocean services, particularly in the developing countries, with a view to ensuring the rapid absorption and efficient application of technology and scientific knowledge available to them,

Considering that national and regional marine scientific and technological centres would be the principal institutions through which States, and, in particular, the developing countries, foster and conduct marine scientific research, and receive and disseminate marine technology,

Recognizing the special role of the competent international organizations envisaged by the Convention on the Law of the Sea, especially in relation to the establishment and development of national and regional marine scientific and technological centres,

Noting that present efforts undertaken within the United Nations system in training, education and assistance in the field of marine science and technology and ocean services are far below current requirements and would be particularly inadequate to meet the demands generated through operation of the Convention on the Law of the Sea,

Welcoming recent initiatives within international organizations to promote and co-ordinate their major international assistance programmes aimed at strengthening marine science infrastructures in developing countries,

1. *Calls upon* all Member States to determine appropriate priorities in their development plans for the strengthening of their marine science, technology and ocean services;

2. *Calls upon* the developing countries to establish programmes for the promotion of technical co-operation among themselves in the field of marine science, technology and ocean service development;

3. *Urges* the industrialized countries to assist the developing countries in the preparation and implementation of their marine science, technology and ocean service development programmes;

4. *Recommends* that the World Bank, the regional banks, the United Nations Development Programme, the United Nations Financing System for Science and Technology for Development and other multilateral funding agencies augment and co-ordinate their operations for the provision of funds to developing countries for the preparation and implementation of major programmes of assistance in strengthening their marine science, technology and ocean services;

5. *Recommends* that all competent international organizations within the United Nations system expand programmes within their respective fields of competence for assistance to developing countries in the field of marine science technology and ocean services and co-ordinate their efforts on a system-wide basis in the implementation of

such programmes, paying particular attention to the special needs of the developing countries, whether coastal, land-locked or geographically disadvantaged;

6. *Requests* the Secretary-General of the United Nations to transmit this resolution to the General Assembly at its thirty-seventh session.

APPENDIX

Observers that participated at sessions of the Conference

States and territories

Cook Islands (third and tenth sessions)
Netherlands Antilles (third to resumed seventh sessions, resumed eighth session, ninth and eleventh sessions)
Papua New Guinea (third session)
Seychelles (fifth session)
Suriname (third session)
Trust Territory of the Pacific Islands (third to eleventh sessions)

Liberation movements

African National Congress (South Africa)
African National Council (Zimbabwe)
African Party for the Independence of Guinea and Cape Verde Islands (PAIGC)
Palestine Liberation Organization
Pan Africanist Congress of Azania (South Africa)
Patriotic Front (Zimbabwe)
Seychelles People's United Party (SPUP)
South West Africa People's Organization (SWAPO)

Specialized agencies and other organizations

International Labour Organisation (ILO)
Food and Agriculture Organization of the United Nations (FAO)
United Nations Educational, Scientific and Cultural Organization (UNESCO)
Intergovernmental Oceanographic Commission (IOC)
International Civil Aviation Organization (ICAO)
World Health Organization (WHO)
World Bank
International Telecommunication Union (ITU)
World Meteorological Organization (WMO)
International Maritime Organization (IMO)
World Intellectual Property Organization (WIPO)

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International Atomic Energy Agency (IAEA)

Intergovernmental organizations

Andean Development Corporation
Asian-African Legal Consultative Committee
Commonwealth Secretariat
Council of Arab Economic Unity
Council of Europe
European Communities
Inter-American Development Bank
International Hydrographic Bureau
International Oil Pollution Compensation Fund
League of Arab States
Organization of African Unity
Organization of American States
Organization of Arab Petroleum Exporting Countries
Organization of the Islamic Conference
Organization for Economic Co-operation and Development
Organization of Petroleum Exporting Countries
Permanent Commission for the South Pacific
Saudi-Sudanese Red Sea Joint Commission
West African Economic Community

Non-governmental organizations

Category I

International Chamber of Commerce
International Confederation of Free Trade Unions
International Co-operative Alliance
International Council of Voluntary Agencies
International Council of Women
International Youth and Student Movement for the United Nations
United Towns Organization
World Confederation of Labour
World Federation of United Nations Associations
World Muslim Congress

Category II

Arab Lawyers Union
Bahá'í International Community
Baptist World Alliance
Carnegie Endowment for International Peace
Commission of the Churches on International Affairs
Foundation for the Peoples of the South Pacific, Inc., The
Friends World Committee for Consultation
Inter-American Council of Commerce and Production
International Air Transport Association
International Association for Religious Freedom
International Bar Association
International Chamber of Shipping
International Commission of Jurists
International Co-operation for Socio-Economic Development
International Council of Environmental Law
International Council of Scientific Unions
International Federation for Human Rights
International Hotel Association
International Law Association
International Movement for Fraternal Union among Races and Peoples (UFER)
International Organization of Consumers' Unions
International Union for Conservation of Nature and Natural Resources
Latin American Association of Finance Development Institutions (ALIDE)
Mutual Assistance of the Latin American Government Oil Companies (ARPEL)
Pan American Federation of Engineering Societies (UPADI)
Pax Christi, International Catholic Peace Movement
Society for International Development (SID)
Women's International League for Peace and Freedom
World Alliance of Young Men's Christian Associations
World Association of World Federalists
World Conference on Religion and Peace
World Peace Through Law Centre
World Young Women's Christian Association

Roster

Asian Environmental Society
Center for Inter-American Relations
Commission to Study the Organization of Peace
Foresta Institute for Ocean and Mountain Studies
Friends of the Earth (F.O.E.)
International Institute for Environment and Development
International Ocean Institute
International Studies Association
National Audubon Society
Population Institute
Sierra Club
United Seamen's Service
World Federation of Scientific Workers
World Society of Ekistics

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United Nations Convention on the Law of the Sea

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Preamble

The States Parties to this Convention,

Prompted by the desire to settle, in a spirit of mutual understanding and co-operation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world,

Noting that developments since the United Nations Conference on the Law of the Sea held at Geneva in 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea,

Conscious that the problems of ocean space are closely interrelated and need to be considered as a whole,

Recognizing the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living

resources, and the study, protection and preservation of the marine environment,

Bearing in mind that the achievement of these goals will contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked,

Desiring by this Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly of the United Nations solemnly declared *inter alia* that the area of the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, are the common heritage of mankind, the exploration and exploitation of which shall be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States,

Believing that the codification and progressive development of the law of the sea achieved in this Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and will promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in the Charter.

Affirming that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Have agreed as follows:

Part I. Introduction

Article 1. Use of terms and scope

1. For the purposes of this Convention:

(1) "Area" means the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;

(2) "Authority" means the International Sea-Bed Authority;

(3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

(4) "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

(5) (*a*) "dumping" means:

(i) any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea;

(*b*) "dumping" does not include:

(i) the disposal of wastes or other matter incidental to, or derived from, the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

(2) This Convention applies *mutatis mutandis* to the entities referred to in article 305, paragraph 1 (*b*), (*c*), (*d*), (*e*) and (*f*), which become Parties to this Convention in accordance with the conditions relevant to each, and to that extent "States Parties" refers to those entities.

Part II. Territorial sea and contiguous zone

SECTION 1. GENERAL PROVISIONS

Article 2. Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil

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

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

SECTION 2. LIMITS OF THE TERRITORIAL SEA

Article 3. Breadth of the territorial sea

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

Article 4. Outer limit of the territorial sea

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

Article 5. Normal baseline

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

Article 6. Reefs

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.

Article 7. Straight baselines

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

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast,

and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

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

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

Article 8. Internal waters

1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

Article 9. Mouths of rivers

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

Article 10. Bays

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water marks of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

Article 11. Ports

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

Article 12. Roadsteads

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

Article 13. Low-tide elevations

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

Article 14. Combination of methods for determining baselines

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

Article 15. Delimitation of the territorial sea between States with opposite or adjacent coasts

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial sea of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

Article 16. Charts and lists of geographical co-ordinates

1. The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternately, a list of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

Article 17. Right of innocent passage

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18. Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:

(*a*) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or

(*b*) proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 19. Meaning of innocent passage

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

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

(*a*) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

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

(*c*) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;

(*d*) any act of propaganda aimed at affecting the defence or security of the coastal State;

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

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

(*g*) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;

(*h*) any act of wilful and serious pollution contrary to this Convention;

(*i*) any fishing activities;

(*j*) the carrying out of research or survey activities;

(*k*) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;

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

Article 20. Submarines and other underwater vehicles

In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

Article 21. Laws and regulations of the coastal State relating to innocent passage

1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:

(*a*) the safety of navigation and the regulation of maritime traffic;

(*b*) the protection of navigational aids and facilities and other facilities or installations;

(*c*) the protection of cables and pipelines;

(*d*) the conservation of the living resources of the sea;

(*e*) the prevention of infringement of the fisheries laws and regulations of the coastal State;

(*f*) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;

(*g*) marine scientific research and hydrographic surveys;

(*h*) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.

2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.

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

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally accepted international regulations relating to the prevention of collisions at sea.

Article 22. Sea lanes and traffic separation schemes in the territorial sea

1. The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships.

2. In particular, tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sea lanes.

3. In the designation of sea lanes and the prescription of traffic separation schemes under this article, the coastal State shall take into account:

(*a*) the recommendations of the competent international organization;

(*b*) any channels customarily used for international navigation;

(*c*) the special characteristics of particular ships and channels; and

(*d*) the density of traffic.

4. The coastal State shall clearly indicate such sea lanes and traffic separation schemes on charts to which due publicity shall be given.

Article 23. Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

Article 24. Duties of the coastal State

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea except in accordance with this Convention. In particular, in the application of this Convention or of any laws or regulations adopted in conformity with this Convention, the coastal State shall not:

(*a*) impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage; or

(*b*) discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State shall give appropriate publicity to any danger to navigation, of which it has knowledge, within its territorial sea.

Article 25. Rights of protection of the coastal State

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

2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.

3. The coastal State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, including weapons exercises. Such suspension shall take effect only after having been duly published.

Article 26. Charges which may be levied upon foreign ships

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

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

SUBSECTION B. RULES APPLICABLE TO MERCHANT SHIPS AND GOVERNMENT SHIPS OPERATED FOR COMMERCIAL PURPOSES

Article 27. Criminal jurisdiction on board a foreign ship

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

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

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

(*c*) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or

(*d*) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

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

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

4. In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.

5. Except as provided in Part XII or with respect to violations of laws and regulations adopted in accordance with Part V, the coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

Article 28. Civil jurisdiction in relation to foreign ships

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

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

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

SUBSECTION C. RULES APPLICABLE TO WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

Article 29. Definition of warships

For the purposes of this Convention, "warship" means a ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

Article 30. Non-compliance by warships with the laws and regulations of the coastal State

If any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

Article 31. Responsibility of the flag State for damage caused by a warship or other government ship operated for non-commercial purposes

The flag State shall bear international responsibility for any loss or damage to the coastal State resulting from the non-compliance by a warship or other government ship operated for non-commercial purposes with the laws and regulations of the coastal State concerning passage through the territorial sea or with the provisions of this Convention or other rules of international law.

Article 32. Immunities of warships and other government ships operated for non-commercial purposes

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

SECTION 4. CONTIGUOUS ZONE

Article 33. Contiguous zone

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(*a*) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(*b*) punish infringement of the above laws and regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Part III. Straits used for international navigation

SECTION 1. GENERAL PROVISIONS

Article 34. Legal status of waters forming straits used for international navigation

1. The régime of passage through straits used for international navigation established in this Part shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Part and to other rules of international law.

Article 35. Scope of this Part

Nothing in this Part affects:

(*a*) any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such;

(*b*) the legal status of the waters beyond the territorial seas of States bordering straits as exclusive economic zones or high seas; or

(*c*) the legal régime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

Article 36. High seas routes or routes through exclusive economic zones through straits used for international navigation

This Part does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedom of navigation and overflight, apply.

SECTION 2. TRANSIT PASSAGE

Article 37. Scope of this section

This section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

Article 38. Right of transit passage

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics.

2. Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.

Article 39. Duties of ships and aircraft during transit passage

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

(*a*) proceed without delay through or over the strait;

(*b*) refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(*c*) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress;

(*d*) comply with other relevant provisions of this Part.

2. Ships in transit passage shall:

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

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

3. Aircraft in transit passage shall:

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

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

Article 40. Research and survey activities

During transit passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the States bordering straits.

Article 41. Sea lanes and traffic separation schemes in straits used for international navigation

1. In conformity with this Part, States bordering straits may designate sea lanes and prescribe traffic separation schemes for navigation in straits where necessary to promote the safe passage of ships.

2. Such States may, when circumstances require, and after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by them.

3. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

4. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, States bordering straits shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the States bordering the straits, after which the States may designate, prescribe or substitute them.

5. In respect of a strait where sea lanes or traffic separation schemes through the waters of two or more States bordering the strait are being proposed, the States concerned shall co-operate in formulating proposals in consultation with the competent international organization.

6. States bordering straits shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by them on charts to which due publicity shall be given.

7. Ships in transit passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

Article 42. Laws and regulations of States bordering straits relating to transit passage

1. Subject to the provisions of this section, States bordering straits may adopt laws and regulations relating to transit passage through straits, in respect of all or any of the following:

(*a*) the safety of navigation and the regulation of maritime traffic, as provided in article 41;

(*b*) the prevention, reduction and control of pollution, by giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;

(*c*) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;

(*d*) the loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary laws and regulations of States bordering straits.

2. Such laws and regulations shall not discriminate in form or in fact among foreign ships, or in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this section.

3. States bordering straits shall give due publicity to all such laws and regulations.

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

5. The flag State of a ship or the State of registry of an aircraft entitled to sovereign immunity which acts in a manner contrary to such laws and regulations or other provisions of this Part shall bear international responsibility for any loss or damage which results to States bordering straits.

Article 43. Navigational and safety aids and other improvements and the prevention, reduction and control of pollution

User States and States bordering a strait should by agreement co-operate:

(*a*) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and

(*b*) for the prevention, reduction and control of pollution from ships.

Article 44. Duties of States bordering straits

States bordering straits shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which they have knowledge. There shall be no suspension of transit passage.

SECTION 3. INNOCENT PASSAGE

Article 45. Innocent passage

1. The régime of innocent passage, in accordance with Part II, section 3, shall apply in straits used for international navigation:

(*a*) excluded from the application of the régime of transit passage under article 38, paragraph 1; or

(*b*) between a part of the high seas or an exclusive economic zone and the territorial sea of a foreign State.

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

Part IV. Archipelagic States

Article 46. Use of terms

For the purposes of this Convention:

(*a*) "archipelagic State" means a State constituted wholly be one or more archipelagos and may include other islands;

(*b*) "archipelago" means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 47. Archipelagic baselines

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.

2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that

part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

9. The archipelagic State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Article 48. Measurement of the breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47.

Article 49. Legal status of archipelagic waters, of the air space over archipelagic waters and of their bed and subsoil

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

3. This sovereignty is exercised subject to this Part.

4. The régime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

Article 50. Delimitation of internal waters

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 9, 10 and 11.

Article 51. Existing agreements, traditional fishing rights and existing submarine cables

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

2. An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

Article 52. Right of innocent passage

1. Subject to article 53 and without prejudice to article 50, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with Part II, section 3.

2. The archipelagic State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its archipelagic waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

Article 53. Right of archipelagic sea lanes passage

1. An archipelagic State may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.

2. All ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes.

3. Archipelagic sea lanes passage means the exercise in accordance with this Convention of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

4. Such sea lanes and air routes shall traverse the archipelagic waters and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through or over archipelagic waters and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.

5. Such sea lanes and air routes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points. Ships and aircraft in archipelagic sea lanes passage shall not deviate more than 25 nautical miles to either side of such axis lines during passage, provided that such ships and aircraft shall not navigate closer to the coasts than 10 per cent of the distance between the nearest points on islands bordering the sea lane.

6. An archipelagic State which designates sea lanes under this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sea lanes.

7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by it.

8. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

9. In designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them.

10. The archipelagic State shall clearly indicate the axis of the sea lanes and the traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

11. Ships in archipelagic sea lanes passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

12. If an archipelagic State does not designate sea lanes or air routes, the right of archipelagic sea lanes passage may be exercised through the routes normally used for international navigation.

Article 54. Duties of ships and aircraft during their passage, research and survey activities, duties of the archipelagic State

and laws and regulations of the archipelagic State relating to archipelagic sea lanes passage

Articles 39, 40, 42 and 44 apply *mutatis mutandis* to archipelagic sea lanes passage.

Part V. Exclusive economic zone

Article 55. Specific legal régime of the exclusive economic zone

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal régime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

Article 56. Rights, jurisdiction and duties of the coastal State in the exclusive economic zone

1. In the exclusive economic zone, the coastal State has:

(*a*) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds;

(*b*) jurisdiction as provided for in the relevant provisions of this Convention with regard to:

(i) the establishment and use of artificial islands, installations and structures;

(ii) marine scientific research;

(iii) the protection and preservation of the marine environment;

(*c*) other rights and duties provided for in this Convention.

2. In exercising its rights and performing its duties under this Convention in the exclusive economic zone, the coastal State shall have due regard to the rights and duties of other States and shall act in a manner compatible with the provisions of this Convention.

3. The rights set out in this article with respect to the sea-bed and subsoil shall be exercised in accordance with Part VI.

Article 57. Breadth of the exclusive economic zone

The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Article 58. Rights and duties of other States in the exclusive economic zone

1. In the exclusive economic zone, all States, whether coastal or land-locked, enjoy, subject to the relevant provisions of this Convention, the freedoms referred to in article 87 of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines, and compatible with the other provisions of this Convention.

2. Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this Part.

3. In exercising their rights and performing their duties under this Convention in the exclusive economic zone, States shall have due regard to the rights and duties of the coastal State and shall comply with the laws and regulations adopted by the coastal State in accordance with the provisions of this Convention and other rules of international law in so far as they are not incompatible with this Part.

Article 59. Basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the exclusive economic zone

In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole.

Article 60. Artificial islands, installations and structures in the exclusive economic zone

1. In the exclusive economic zone, the coastal State shall have the exclusive right to construct and to authorize and regulate the construction, operation and use of:

(*a*) artificial islands;

(*b*) installations and structures for the purposes provided for in article 56 and other economic purposes;

(*c*) installations and structures which may interfere with the exercise of the rights of the coastal State in the zone.

2. The coastal State shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regard to customs, fiscal, health, safety and immigration laws and regulations.

3. Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed.

4. The coastal State may, where necessary, establish reasonable safety zones around such artificial islands, installations and structures in which it may take appropriate measures to ensure the safety both of navigation and of the artificial islands, installations and structures.

5. The breadth of the safety zones shall be determined by the coastal State, taking into account applicable international standards. Such zones shall be designed to ensure that they are reasonably related to the nature and function of the artificial islands, installations or structures, and shall not exceed a distance of 500 metres around them, measured from each point of their outer edge, except as authorized by generally accepted international standards or as recommended by the competent international organization. Due notice shall be given of the extent of safety zones.

6. All ships must respect these safety zones and shall comply with generally accepted international standards regarding navigation in the vicinity of artificial islands, installations, structures and safety zones.

7. Artificial islands, installations and structures and the safety zones around them may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation.

8. Artificial islands, installations and structures do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 61. Conservation of the living resources

1. The coastal State shall determine the allowable catch of the living resources in its exclusive economic zone.

2. The coastal State, taking into account the best scientific evidence available to it, shall ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not endangered by over-exploitation. As appropriate, the coastal State and competent international organizations, whether subregional, regional or global, shall co-operate to this end.

3. Such measures shall also be designed to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environmental and economic factors, including the economic needs of coastal fishing communities and the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global.

4. In taking such measures the coastal State shall take into consideration the effects on species associated with or dependent upon harvested species, with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

5. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned, including States whose nationals are allowed to fish in the exclusive economic zone.

Article 62. Utilization of the living resources

1. The coastal State shall promote the objective of optimum utilization of the living resources in the exclusive economic zone without prejudice to article 61.

2. The coastal State shall determine its capacity to harvest the living resources of the exclusive economic zone. Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements or other arrangements and pursuant to the terms, conditions, laws and regulations referred to in paragraph 4, give other States access to the surplus of the allowable catch, having particular regard to the provisions of articles 69 and 70, especially in relation to the developing States mentioned therein.

3. In giving access to other States to its exclusive economic zone under this article, the coastal State shall take into account all relevant factors, including, *inter alia*, the significance of the living resources of the area to the economy of the coastal State concerned and its other national interests, the provisions of articles 69 and 70, the requirements of developing States in the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

4. Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with the other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, *inter alia*, to the following:

(*a*) licensing of fishermen, fishing vessels and equipment, including payment of fees and other forms of remuneration, which, in the case of developing coastal States, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry;

(*b*) determining the species which may be caught, and fixing quotas of catch, whether in relation to particular stocks or groups of stocks or catch per vessel over a period of time or to the catch by nationals of any State during a specified period;

(*c*) regulating seasons and areas of fishing, the types, sizes and amount of gear and the types, sizes and number of fishing vessels that may be used;

(*d*) fixing the age and size of fish and other species that may be caught;

(*e*) specifying information required of fishing vessels, including catch and effort statistics and vessel position reports;

(*f*) requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research, including the sampling of catches, disposition of samples and reporting of associated scientific data;

(*g*) the placing of observers or trainees on board such vessels by the coastal State;

(*h*) the landing of all or any part of the catch by such vessels in the ports of the coastal State;

(*i*) terms and conditions relating to joint ventures or other co-operative arrangements;

(*j*) requirements for the training of personnel and the transfer of fisheries technology, including enhancement of the coastal State's capability of undertaking fisheries research;

(*k*) enforcement procedures.

5. Coastal States shall give due notice of conservation and management laws and regulations.

Article 63. Stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it

1. Where the same stock or stocks of associated species occur within the exclusive economic zones of two or more coastal States, those States shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary to co-ordinate and ensure the conservation and development of such stocks without prejudice to the other provisions of this Part.

2. Where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to the zone, the coastal State and the States fishing for such stocks in the adjacent area shall seek, either directly or through appropriate subregional or regional organizations, to agree upon the measures necessary for the conservation of those stocks in the adjacent area.

Article 64. Highly migratory species

1. The coastal State and other States whose nationals fish in the region for the highly migratory species listed in Annex I shall co-operate directly or through appropriate international organizations with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout the region, both within and beyond the exclusive economic zone. In regions for which no appropriate international organization exists, the coastal State and other States whose nationals harvest those species in the region shall co-operate to establish such an organization and participate in its work.

2. The provisions of paragraph 1 apply in addition to the other provisions of this Part.

Article 65. Marine mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall co-operate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 66. Anadromous stocks

1. States in whose rivers anadromous stocks originate shall have the primary interest in and responsibility for such stocks.

2. The State of origin of anadromous stocks shall ensure their conservation by the establishment of appropriate regulatory measures for fishing in all waters landward of the outer limits of its exclusive economic zone and for fishing provided for in paragraph 3 (*b*). The State of origin may, after consultations with the other States referred to in paragraphs 3 and 4 fishing those stocks, establish total allowable catches for stocks originating in its rivers.

3. (*a*) Fisheries for anadromous stocks shall be conducted only in waters landward of the outer limits of exclusive economic zones, except in cases where this provision would result in economic dislocation for a State other than the State of origin. With respect to such fishing beyond the outer limits of the exclusive economic zone, States concerned shall maintain consultations with a view to achieving agreement on terms and conditions of such fishing giving due regard to the conservation requirements and the needs of the State of origin in respect of those stocks.

(*b*) The State of origin shall co-operate in minimizing economic dislocation in such other States fishing those stocks, taking into account the normal catch and the mode of operations of such States, and all areas in which such fishing has occurred.

(*c*) States referred to in subparagraph (*b*), participating by agreement with the State of origin in measures to renew anadromous stocks, particularly by expenditures for that purpose, shall be given special consideration by the State of origin in the harvesting of stocks originating in its rivers.

(*d*) Enforcement of regulations regarding anadromous stocks beyond the exclusive economic zone shall be by agreement between the State of origin and the other States concerned.

4. In cases where anadromous stocks migrate into or through the waters landward of the outer limits of the exclusive economic zone of a State other than the State of origin, such State shall co-operate with the State of origin with regard to the conservation and management of such stocks.

5. The State of origin of anadromous stocks and other States fishing those stocks shall make arrangements for the implementation of the provisions of this article, where appropriate, through regional organizations.

Article 67. Catadromous species

1. A coastal State in whose waters catadromous species spend the greater part of their life cycle shall have responsibility for the management of those species and shall ensure the ingress and egress of migrating fish.

2. Harvesting of catadromous species shall be conducted only in waters landward of the outer limits of exclusive economic zones. When conducted in exclusive economic zones, harvesting shall be subject to this article and the other provisions of this Convention concerning fishing in those zones.

3. In cases where catadromous fish migrate through the exclusive economic zone of another State, whether as juvenile or maturing fish, the management, including harvesting, of such fish shall be regulated by agreement between the State mentioned in paragraph 1 and the other State concerned. Such agreement shall ensure the rational management of the species and take into account the responsibilities of the State mentioned in paragraph 1 for the maintenance of those species.

Article 68. Sedentary species

This Part does not apply to sedentary species as defined in article 77, paragraph 4.

Article 69. Right of land-locked States

1. Land-locked States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(*a*) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(*b*) the extent to which the land-locked State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(*c*) the extent to which other land-locked States and geographically disadvantaged States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(*d*) the nutritional needs of the populations of the respective States.

3. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing land-locked States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 2 shall also be taken into account.

4. Developed land-locked States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

5. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal

States may grant to land-locked States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 70. Right of geographically disadvantaged States

1. Geographically disadvantaged States shall have the right to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal States of the same subregion or region, taking into account the relevant economic and geographical circumstances of all the States concerned and in conformity with the provisions of this article and of articles 61 and 62.

2. For the purposes of this Part, "geographically disadvantaged States" means coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own.

3. The terms and modalities of such participation shall be established by the States concerned through bilateral, subregional or regional agreements taking into account, *inter alia*:

(*a*) the need to avoid effects detrimental to fishing communities or fishing industries of the coastal State;

(*b*) the extent to which the geographically disadvantaged State, in accordance with the provisions of this article, is participating or is entitled to participate under existing bilateral, subregional or regional agreements in the exploitation of living resources of the exclusive economic zones of other coastal States;

(*c*) the extent to which other geographically disadvantaged States and land-locked States are participating in the exploitation of the living resources of the exclusive economic zone of the coastal State and the consequent need to avoid a particular burden for any single coastal State or a part of it;

(*d*) the nutritional needs of the populations of the respective States.

4. When the harvesting capacity of a coastal State approaches a point which would enable it to harvest the entire allowable catch of the living resources in its exclusive economic zone, the coastal State and other States concerned shall co-operate in the establishment of equitable arrangements on a bilateral, subregional or regional basis to allow for participation of developing geographically disadvantaged States of the same subregion or region in the exploitation of the living resources of the exclusive economic zones of coastal States of the subregion or region, as may be appropriate in the circumstances and on terms satisfactory to all parties. In the implementation of this provision the factors mentioned in paragraph 3 shall also be taken into account.

5. Developed geographically disadvantaged States shall, under the provisions of this article, be entitled to participate in the exploitation of living resources only in the exclusive economic zones of developed coastal States of the same subregion or region having regard to the extent to which the coastal State, in giving access to other States to the living resources of its exclusive economic zone, has taken into account the need to minimize detrimental effects on fishing communities and economic dislocation in States whose nationals have habitually fished in the zone.

6. The above provisions are without prejudice to arrangements agreed upon in subregions or regions where the coastal States may grant to geographically disadvantaged States of the same subregion or region equal or preferential rights for the exploitation of the living resources in the exclusive economic zones.

Article 71. Non-applicability of articles 69 and 70

The provisions of articles 69 and 70 do not apply in the case of a coastal State whose economy is overwhelmingly dependent on the exploitation of the living resources of its exclusive economic zone.

Article 72. Restrictions on transfer of rights

1. Rights provided under articles 69 and 70 to exploit living resources shall not be directly or indirectly transferred to third States or their nationals by lease or license, by establishing joint ventures or in any other manner which has the effect of such transfer unless otherwise agreed by the States concerned.

2. The foregoing provision does not preclude the States concerned from obtaining technical or financial assistance from third States or international organizations in order to facilitate the exercise of the rights pursuant to articles 69 and 70, provided that it does not have the effect referred to in paragraph 1.

Article 73. Enforcement of laws and regulations of the coastal State

1. The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.

2. Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security.

3. Coastal State penalties for violations of fisheries laws and regulations in the exclusive economic zone may not include imprisonment, in the absence of agreements to the contrary by the States concerned, or any other form of corporal punishment.

4. In cases of arrest or detention of foreign vessels the coastal State shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

Article 74. Delimitation of the exclusive economic zone between States with opposite or adjacent coasts

1. The delimitation of the exclusive economic zone between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

Article 75. Charts and lists of geographical co-ordinates

1. Subject to this Part, the outer limit lines of the exclusive economic zone and the lines of delimitation drawn in accordance with article 74 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

Part VI. Continental shelf

Article 76. Definition of the continental shelf

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical 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.

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (*a*) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

(i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or

(ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.

(*b*) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 4 (*a*) (i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500-metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by co-ordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

Article 77. Rights of the coastal State over the continental shelf

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

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

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

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

Article 78. Legal status of the superjacent waters and air space and the rights and freedoms of other States

1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

Article 79. Submarine cables and pipelines on the continental shelf

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its terri-

tory or territorial sea, or its jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

Article 80. Artificial islands, installations and structures on the continental shelf

Article 60 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

Article 81. Drilling on the continental shelf

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

Article 82. Payments and contributions with respect to the exploitation of the continental shelf beyond 200 nautical miles

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

3. A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and the land-locked among them.

Article 83. Delimitation of the continental shelf between States with opposite or adjacent coasts

1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement on the basis of international law, as referred to in Article 38 of the Statute of the International Court of Justice, in order to achieve an equitable solution.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

Article 84. Charts and lists of geographical co-ordinates

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted for such outer limit lines or lines of delimitation.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

Article 85. Tunnelling

This Part does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

Part VII. High seas

SECTION 1. GENERAL PROVISIONS

Article 86. Application of the provisions of this Part

The provisions of this Part apply to all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State. This article does not entail any abridgement of the freedoms enjoyed by all States in the exclusive economic zone in accordance with article 58.

Article 87. Freedom of the high seas

1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, *inter alia*, both for coastal and land-locked States:

(*a*) freedom of navigation;

(*b*) freedom of overflight;

(*c*) freedom to lay submarine cables and pipelines, subject to Part VI;

(*d*) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;

(*e*) freedom of fishing, subject to the conditions laid down in section 2;

(*f*) freedom of scientific research, subject to Parts VI and XIII.

2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas, and also with due regard for the rights under this Convention with respect to activities in the Area.

Article 88. Reservation of the high seas for peaceful purposes

The high seas shall be reserved for peaceful purposes.

Article 89. Invalidity of claims of sovereignty over the high seas

No state may validly purport to subject any part of the high seas to its sovereignty.

Article 90. Right of navigation

Every State, whether coastal or land-locked, has the right to sail ships flying its flag on the high seas.

Article 91. Nationality of ships

1. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship.

2. Every State shall issue to ships to which it has granted the right to fly its flag documents to that effect.

Article 92. Status of ships

1. Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

2. A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

Article 93. Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency

The preceding articles do not prejudice the question of ships employed on the official service of the United Nations, its specialized agencies or the International Atomic Energy Agency, flying the flag of the Organization.

Article 94. Duties of the flag State

1. Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.

2. In particular every State shall:

(*a*) maintain a register of ships containing the names and particulars of ships flying its flag, except those which are excluded from generally accepted international regulations on account of their small size; and

(*b*) assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

3. Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to:

(*a*) the construction, equipment and seaworthiness of ships;

(*b*) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

(*c*) the use of signals, the maintenance of communications and the prevention of collisions.

4. Such measures shall include those necessary to ensure:

(*a*) that each ship, before registration and thereafter at appropriate intervals, is surveyed by a qualified surveyor of ships, and has on board such charts, nautical publications and navigational equipment and instruments as are appropriate for the safe navigation of the ship;

(*b*) that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;

(*c*) that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.

5. In taking the measures called for in paragraphs 3 and 4 each State is required to conform to generally accepted international regulations, procedures and practices and to take any steps which may be necessary to secure their observance.

6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.

7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall co-operate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.

Article 95. Immunity of warships on the high seas

Warships on the high seas have complete immunity from the jurisdiction of any State other than the flag State.

Article 96. Immunity of ships used only on government non-commercial service

Ships owned or operated by a State and used only on government non-commercial service shall, on the high seas, have complete immunity from the jurisdiction of any State other than the flag State.

Article 97. Penal jurisdiction in matters of collision or any other incident of navigation

1. In the event of a collision or any other incident of navigation concerning a ship on the high seas, involving the penal or disciplinary responsibility of the master or of any other person in the service of the ship, no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities either of the flag State or of the State of which such person is a national.

2. In disciplinary matters, the State which has issued a master's certificate or a certificate of competence or license shall alone be competent, after due legal process, to pronounce the withdrawal of such certificate, even if the holder is not a national of the State which issued it.

3. No arrest or detention of the ship, even as a measure of investigation, shall be ordered by any authorities other than those of the flag State.

Article 98. Duty to render assistance

1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:

(*a*) to render assistance to any person found at sea in danger of being lost;

(*b*) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;

(*c*) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Article 99. Prohibition of the transport of slaves

Every State shall take effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

Article 100. Duty to co-operate in the repression of piracy

All States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

Article 101. Definition of piracy

Piracy consists of any of the following acts:

(*a*) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(*b*) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(*c*) any act of inciting or of intentionally facilitating an act described in subparagraph (*a*) or (*b*).

Article 102. Piracy by a warship, government ship or government aircraft whose crew has mutinied

The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.

Article 103. Definition of a pirate ship or aircraft

A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

Article 104. Retention or loss of the nationality of a pirate ship or aircraft

A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

Article 105. Seizure of a pirate ship or aircraft

On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

Article 106. Liability for seizure without adequate grounds

Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft for any loss or damage caused by the seizure.

Article 107. Ships and aircraft which are entitled to seize on account of piracy

A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 108. Illicit traffic in narcotic drugs or psychotropic substances

1. All States shall co-operate in the suppression of illicit traffic in narcotic drugs and psychotropic substances engaged in by ships on the high seas contrary to international conventions.

2. Any State which has reasonable grounds for believing that a ship flying its flag is engaged in illicit traffic in narcotic drugs or psychotropic substances may request the co-operation of other States to suppress such traffic.

Article 109. Unauthorized broadcasting from the high seas

1. All States shall co-operate in the suppression of unauthorized broadcasting from the high seas.

2. For the purposes of this Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls.

3. Any person engaged in unauthorized broadcasting may be prosecuted before the court of:

(*a*) the flag State of the ship;

(*b*) the State of registry of the installation;

(*c*) the State of which the person is a national;

(*d*) any State where the transmissions can be received; or

(*e*) any State where authorized radio communication is suffering interference.

4. On the high seas, a State having jurisdiction in accordance with paragraph 3 may, in conformity with article 110, arrest any person or ship engaged in unauthorized broadcasting and seize the broadcasting apparatus.

Article 110. Right of visit

1. Except where acts of interference derive from powers conferred by treaty, a warship which encounters on the high seas a foreign ship, other than a ship entitled to complete immunity in accordance with articles 95 and 96, is not justified in boarding it unless there is reasonable ground for suspecting that:

(*a*) the ship is engaged in piracy;

(*b*) the ship is engaged in the slave trade;

(*c*) the ship is engaged in unauthorized broadcasting and the flag State of the warship has jurisdiction under article 109;

(*d*) the ship is without nationality; or

(*e*) though flying a foreign flag or refusing to show its flag, the ship is, in reality, of the same nationality as the warship.

2. In the cases provided for in paragraph 1, the warship may proceed to verify the ship's right to fly its flag. To this end, it may send a boat under the command of an officer to the suspected ship. If suspicion remains after the documents have been checked, it may proceed to a further examination on board the ship, which must be carried out with all possible consideration.

3. If the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them, it shall be compensated for any loss or damage that may have been sustained.

4. These provisions apply *mutatis mutandis* to military aircraft.

5. These provisions also apply to any other duly authorized ships or aircraft clearly marked and identifiable as being on government service.

Article 111. Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(*a*) the provisions of paragraph 1 to 4 shall apply *mutatis mutandis*;

(*b*) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continued the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered that necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

Article 112. Right to lay submarine cables and pipelines

1. All States are entitled to lay submarine cables and pipelines on the bed of the high seas beyond the continental shelf.

2. Article 79, paragraph 5, applies to such cables and pipelines.

Article 113. Breaking or injury of a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that the breaking or injury by a ship flying its flag or by a person subject to its jurisdiction of a submarine cable beneath the high seas done wilfully or through culpable negligence, in such a manner as to be liable to interrupt or obstruct telegraphic or telephonic communications, and similarly the breaking or injury of a submarine pipeline or high-voltage power cable, shall be a punishable offence. This provision shall apply also to conduct calculated or likely to result in such breaking or injury. However, it shall not apply to any break or injury caused by persons who acted merely with the legitimate object of saving their lives or their ships, after having taken all necessary precautions to avoid such break or injury.

Article 114. Breaking or injury by owners of a submarine cable or pipeline of another submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to provide that, if persons subject to its jurisdiction who are the owners of a submarine cable or pipeline beneath the high seas, in laying or repairing that cable or pipeline, cause a break in or injury to another cable or pipeline, they shall bear the cost of the repairs.

Article 115. Indemnity for loss incurred in avoiding injury to a submarine cable or pipeline

Every State shall adopt the laws and regulations necessary to ensure that the owners of ships who can prove that they have sacrificed an anchor, a net or any other fishing gear, in order to avoid injuring a submarine cable or pipeline, shall be indemnified by the owner of the cable or pipeline, provided that the owner of the ship has taken all reasonable precautionary measures beforehand.

SECTION 2. CONSERVATION AND MANAGEMENT OF THE LIVING RESOURCES OF THE HIGH SEAS

Article 116. Right to fish on the high seas

All States have the right for their nationals to engage in fishing on the high seas subject to:

(*a*) their treaty obligations;

(*b*) the rights and duties as well as the interests of coastal States provided for, *inter alia*, in article 63, paragraph 2, and articles 64 to 67; and

(*c*) the provisions of this section.

Article 117. Duty of States to adopt with respect to their nationals measures for the conservation of the living resources of the high seas

All States have the duty to take, or to co-operate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources on the high seas.

Article 118. Co-operation of States in the conservation and management of living resources

States shall co-operate with each other in the conservation and management of living resources in the areas of the high seas. States whose nationals exploit identical living resources, or different living resources in the same area, shall enter into negotiations with a view to taking the measures necessary for the conservation of the living resources concerned. They shall, as appropriate, co-operate to establish subregional or regional fisheries organizations to this end.

Article 119. Conservation of the living resources of the high seas

1. In determining the allowable catch and establishing other conservation measures for the living resources in the high seas, States shall:

(*a*) take measures which are designed, on the best scientific evidence available to the States concerned, to maintain or restore populations of harvested species at levels which can produce the maximum sustainable yield, as qualified by relevant environment and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(*b*) take into consideration the effects on species associated with or dependent upon harvested species with a view to maintaining or restoring populations of such associated or dependent species above levels at which their reproduction may become seriously threatened.

2. Available scientific information, catch and fishing effort statistics, and other data relevant to the conservation of fish stocks shall be contributed and exchanged on a regular basis through competent international organizations, whether subregional, regional or global, where appropriate and with participation by all States concerned.

3. States concerned shall ensure that conservation measures and their implementation do not discriminate in form or in fact against the fishermen of any State.

Article 120. Marine mammals

Article 65 also applies to the conservation and management of marine mammals in the high seas.

Part VIII. Régime of islands

Article 121. Régime of islands

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

Part IX. Enclosed or semi-enclosed seas

Article 122. Definition

For the purposes of this Convention, "enclosed or semi-enclosed sea" means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive zones of two or more coastal States.

Article 123. Co-operation of States bordering enclosed or semi-enclosed seas

States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

(*a*) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea;

(*b*) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;

(*c*) to co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(*d*) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

Part X. Right of access of land-locked States to and from the sea and freedom of transit

Article 124. Use of terms

1. For the purposes of this Convention:

(*a*) "land-locked State" means a State which has no sea-coast;

(*b*) "transit State" means a State, with or without a sea-coast, situated between a land-locked State and the sea, through whose territory traffic in transit passes;

(*c*) "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without trans-shipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

(*d*) "means of transport" means:

(i) railway rolling stock, sea, lake and river craft and road vehicles;

(ii) where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 1.

Article 125. Right of access to and from the sea and freedom of transit

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.

2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, subregional or regional agreements.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

Article 126. Exclusion of application of the most-favoured-nation clause

The provisions of this Convention, as well as special agreements relating to the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

Article 127. Customs duties, taxes and other charges

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connection with such traffic.

2. Means of transport in transit and other facilities provided for and used by land-locked States shall not be subject to taxes or charges higher than those levied for the use of means of transport of the transit State.

Article 128. Free zones and other customs facilities

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

Article 129. Co-operation in the construction and improvement of means of transport

Where there are no means of transport in transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, the transit States and land-locked States concerned may co-operate in constructing or improving them.

Article 130. Measures to avoid or eliminate delays or other difficulties of a technical nature in traffic in transit

1. Transit States shall take all appropriate measures to avoid delays or other difficulties of a technical nature in traffic in transit.

2. Should such delays or difficulties occur, the competent authorities of the transit States and land-locked States concerned shall co-operate towards their expeditious elimination.

Article 131. Equal treatment in maritime ports

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

Article 132. Grant of greater transit facilities

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Convention and which are agreed between States Parties to this Convention or granted by a State Party. This Convention also does not preclude such grant of greater facilities in the future.

Part XI. The Area

SECTION 1. GENERAL PROVISIONS

Article 133. Use of terms

For the purposes of this Part:

(*a*) "resources" means all solid, liquid or gaseous mineral resources *in situ* in the Area at or beneath the sea-bed, including polymetallic nodules;

(*b*) resources, when recovered from the Area, are referred to as "minerals".

Article 134. Scope of this Part

1. This Part applies to the Area.

2. Activities in the Area shall be governed by the provisions of this Part.

3. The requirements concerning deposit of, and publicity to be given to, the charts or lists of geographical co-ordinates showing the limits referred to in article I, paragraph 1 (1), are set forth in Part VI.

4. Nothing in this article affects the establishment of the outer limits of the continental shelf in accordance with Part VI or the validity of agreements relating to delimitation between States with opposite or adjacent coasts.

Article 135. Legal status of the superjacent waters and air space

Neither this Part nor any rights granted or exercised pursuant thereto shall affect the legal status of the waters superjacent to the Area or that of the air space above those waters.

SECTION 2. PRINCIPLES GOVERNING THE AREA

Article 136. Common heritage of mankind

The Area and its resources are the common heritage of mankind.

Article 137. Legal status of the Area and its resources

1. No State shall claim or exercise sovereignty or sovereign rights over any part of the Area or its resources, nor shall any State or natural or juridical person appropriate any part thereof. No such claim or exercise of sovereignty or sovereign rights nor such appropriation shall be recognized.

2. All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act. These resources are not subject to alienation. The minerals recovered from the Area, however, may only be alienated in accordance with this Part and the rules, regulations and procedures of the Authority.

3. No State or natural or juridical person shall claim, acquire or exercise rights with respect to the minerals recovered from the Area except in accordance with this Part. Otherwise, no such claim, acquisition or exercise of such rights shall be recognized.

Article 138. General conduct of States in relation to the Area

The general conduct of States in relation to the Area shall be in accordance with the provisions of this Part, the principles embodied in the Charter of the United Nations and other rules of international law in the interests of maintaining peace and security and promoting international co-operation and mutual understanding.

Article 139. Responsibility to ensure compliance and liability for damage

1. States Parties shall have the responsibility to ensure that activities in the Area, whether carried out by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, shall be carried out in conformity with this Part. The same responsibility applies to international organizations for activities in the Area carried out by such organizations.

2. Without prejudice to the rules of international law and Annex III, article 22, damage caused by the failure of a State Party or international organization to carry out its responsibilities under this Part shall entail liability; States Parties or international organizations acting together shall bear joint and several liability. A State Party shall not however be liable for damage caused by any failure to comply with this Part by a person whom it has sponsored under article 153, paragraph 2 (*b*), if the State Party has taken all necessary and appropriate measures to secure effective compliance under article 153, paragraph 4, and Annex III, article 4, paragraph 4.

3. States Parties that are members of international organizations shall take appropriate measures to ensure the implementation of this article with respect to such organizations.

Article 140. Benefit of mankind

1. Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as as whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States and of peoples who have not attained full independence or other self-governing status recognized by the United Nations in accordance with General Assembly resolution 1514 (XV) and other relevant General Assembly resolutions.

2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism, on a non-discriminatory basis, in accordance with article 160, paragraph 2 (*f*) (i).

Article 141. Use of the Area exclusively for peaceful purposes

The Area shall be open to use exclusively for peaceful purposes by all States, whether coastal or land-locked, without discrimination and without prejudice to the other provisions of this Part.

Article 142. Rights and legitimate interests of coastal States

1. Activities in the Area, with respect to resource deposits in the Area which lie across limits of national jurisdiction, shall be conducted with due regard to the rights and legitimate interests of any coastal State across whose jurisdiction such deposits lie.

2. Consultations, including a system of prior notification, shall be maintained with the State concerned, with a view to avoiding infringement of such rights and interests. In cases where activities in the Area may result in the exploitation of resources lying within national jurisdiction, the prior consent of the coastal State concerned shall be required.

3. Neither this Part nor any rights granted or exercised pursuant thereto shall affect the rights of coastal States to take such measures consistent with the relevant provisions of Part XII as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline, or related interests from pollution or threat thereof or from other hazardous occurrences resulting from or caused by any activities in the Area.

Article 143. Marine scientific research

1. Marine scientific research in the Area shall be carried out exclusively for peaceful purposes and for the benefit of mankind as a whole, in accordance with Part XIII.

2. The Authority may carry out marine scientific research concerning the Area and its resources, and may enter into contracts for that purpose. The Authority shall promote and encourage the conduct of marine scientific research in the Area, and shall co-ordinate and disseminate the results of such research and analysis when available.

3. States Parties may carry out marine scientific research in the Area. States Parties shall promote international co-operation in marine scientific research in the Area by:

(*a*) participating in international programmes and encouraging co-operation in marine scientific research by personnel of different countries and of the Authority;

(*b*) ensuring that programmes are developed through the Authority or other international organizations as appropriate for the benefit of developing States and technologically less developed States with a view to:

(i) strengthening their research capabilities;

(ii) training their personnel and the personnel of the Authority in the techniques and applications of research;

(iii) fostering the employment of their qualified personnel in research in the Area;

(*c*) effectively disseminating the results of research and analysis when available, through the Authority or other international channels when appropriate.

Article 144. Transfer of technology

1. The Authority shall take measures in accordance with this Convention:

(*a*) to acquire technology and scientific knowledge relating to activities in the Area; and

(*b*) to promote and encourage the transfer to developing States of such technology and scientific knowledge so that all States Parties benefit therefrom.

2. To this end the Authority and States Parties shall co-operate in promoting the transfer of technology and scientific knowledge relating to activities in the Area so that the Enterprise and all States Parties may benefit therefrom. In particular they shall initiate and promote:

(*a*) programmes for the transfer of technology to the Enterprise and to developing States with regard to activities in the Area, including, *inter alia*, facilitating the access of the Enterprise and of developing States to the relevant technology, under fair and reasonable terms and conditions;

(*b*) measures directed towards the advancement of the technology of the Enterprise and the domestic technology of developing States, particularly by providing opportunities to personnel from the Enterprise and from developing States for training in marine science and technology and for their full participation in activities in the Area.

Article 145. Protection of the marine environment

Necessary measures shall be taken in accordance with this Convention with respect to activities in the Area to ensure effective protection for the marine environment from harmful effects which may arise from such activities. To this end the Authority shall adopt appropriate rules, regulations and procedures for *inter alia*:

(*a*) the prevention, reduction and control of pollution and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment, particular attention being paid to the need for protection from harmful effects of such activities as drilling, dredging, excavation, disposal of waste, construction and operation or maintenance of installations, pipelines and other devices related to such activities;

(*b*) the protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment.

Article 146. Protection of human life

With respect to activities in the Area, necessary measures shall be taken to ensure effective protection of human life. To this end the Authority shall adopt appropriate rules, regulations and procedures to supplement existing international law as embodied in relevant treaties.

Article 147. Accommodation of activities in the Area and in the marine environment

1. Activities in the Area shall be carried out with reasonable regard for other activities in the marine environment.

2. Installations used for carrying out activities in the Area shall be subject to the following conditions:

(*a*) such installations shall be erected, emplaced and removed solely in accordance with this Part and subject to the rules, regulations and procedures of the Authority. Due notice must be given of the erection, emplacement and removal of such installations, and permanent means for giving warning of their presence must be maintained;

(*b*) such installations may not be established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity;

(*c*) safety zones shall be established around such installations with appropriate markings to ensure the safety of both navigation and the installations. The configuration and location of such safety zones shall not be such as to form a belt impeding the lawful access of shipping to particular maritime zones or navigation along international sea lanes;

(*d*) such installations shall be used exclusively for peaceful purposes;

(*e*) such installations do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

3. Other activities in the marine environment shall be conducted with reasonable regard for activities in the Area.

Article 148. Participation of developing States in activities in the Area

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in this Part, having due regard to their special interests and needs, and in particular to the special need of the land-locked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it.

Article 149. Archaeological and historical objects

All objects of an archaeological and historical nature found in the Area shall 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.

SECTION 3. DEVELOPMENT OF RESOURCES OF THE AREA

Article 150. Policies relating to activities in the Area

Activities in the Area shall, as specifically provided for in this Part, be carried out in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to promote international co-operation for the over-all development of all countries, especially developing States, and with a view to ensuring:

(*a*) the development of the resources of the Area;

(*b*) orderly, safe and rational management of the resources of the Area, including the efficient conduct of activities in the Area and, in accordance with sound principles of conservation, the avoidance of unnecessary waste;

(*c*) the expansion of opportunities for participation in such activities consistent in particular with articles 144 and 148;

(*d*) participation in revenues by the Authority and the transfer of technology to the Enterprise and developing States as provided for in this Convention;

(*e*) increased availability of the minerals derived from the Area as needed in conjunction with minerals derived from other sources, to ensure supplies to consumers of such minerals;

(*f*) the promotion of just and stable prices remunerative to producers and fair to consumers for minerals derived both from the Area and from other sources, and the promotion of long-term equilibrium between supply and demand;

(*g*) the enhancement of opportunities for all States Parties, irrespective of their social and economic systems or geographical location, to participate in the development of the resources of the Area and the prevention of monopolization of activities in the Area;

(*h*) the protection of developing countries from adverse effects on their economies or on their export earnings resulting from a reduction in the price of an affected mineral, or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, as provided in article 151;

(*i*) the development of the common heritage for the benefit of mankind as a whole; and

(*j*) conditions of access to markets for the imports of minerals produced from the resources of the Area and for imports of commodities produced from such minerals shall not be more favourable than the most favourable applied to imports from other sources.

Article 151. Production policies

1. (*a*) Without prejudice to the objectives set forth in article 150 and for the purpose of implementing subparagraph (*h*) of that article, the Authority, acting through existing forums or such new arrangements or agreements as may be appropriate, in which all interested parties, including both producers and consumers, participate, shall take measures

necessary to promote the growth, efficiency and stability of markets for those commodities produced from the minerals derived from the Area, at prices remunerative to producers and fair to consumers. All States Parties shall co-operate to this end.

(*b*) The Authority shall have the right to participate in any commodity conference dealing with those commodities and in which all interested parties including both producers and consumers participate. The Authority shall have the right to become a party to any arrangement or agreement resulting from such conferences. Participation of the Authority in any organs established under those arrangements or agreements shall be in respect of production in the Area and in accordance with the relevant rules of those organs.

(*c*) The Authority shall carry out its obligations under the arrangements or agreements referred to in this paragraph in a manner which assures a uniform and non-discriminatory implementation in respect of all production in the Area of the minerals concerned. In doing so, the Authority shall act in a manner consistent with the terms of existing contracts and approved plans of work of the Enterprise.

2. (*a*) During the interim period specified in paragraph 3, commercial production shall not be undertaken pursuant to an approved plan of work until the operator has applied for and has been issued a production authorization by the Authority. Such production authorizations may not be applied for or issued more than five years prior to the planned commencement of commercial production under the plan of work unless, having regard to the nature and timing of project development, the rules, regulations and procedures of the Authority prescribe another period.

(*b*) In the application for the production authorization, the operator shall specify the annual quantity of nickel expected to be recovered under the approved plan of work. The application shall include a schedule of expenditures to be made by the operator after he has received the authorization which are reasonably calculated to allow him to begin commercial production on the date planned.

(*c*) For the purposes of subparagraphs (*a*) and (*b*), the Authority shall establish appropriate performance requirements in accordance with Annex III, article 17.

(*d*) The Authority shall issue a production authorization for the level of production applied for unless the sum of that level and the levels already authorized exceeds the nickel production ceiling, as calculated pursuant to paragraph 4 in the year of issuance of the authorization, during any year of planned production falling within the interim period.

(*e*) When issued, the production authorization and approved application shall become a part of the approved plan of work.

(*f*) If the operator's application for a production authorization is denied pursuant to subparagraph (*d*), the operator may apply again to the Authority at any time.

3. The interim period shall begin five years prior to 1 January of the year in which the earliest commercial production is planned to commence under an approved plan of work. If the earliest commercial production is delayed beyond the year originally planned, the beginning of the interim period and the production ceiling originally calculated shall be adjusted accordingly. The interim period shall last twenty-five years or until the end of the Review Conference referred to in article 155 or until the day when such new arrangements or agreements as are referred to in paragraph 1 enter into force, whichever is earliest. The Authority shall resume the power provided in this article for the remainder of the interim period if the said arrangements or agreements should lapse or become ineffective for any reason whatsoever.

4. (*a*) The production ceiling for any year of the interim period shall be the sum of:

(i) the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (*b*), for the year immediately prior to the year of the earliest commercial production and the year immediately prior to the commencement of the interim period; and

(ii) sixty per cent of the difference between the trend line values for nickel consumption, as calculated pursuant to subparagraph (*b*), for the year for which the production authorization is being applied for and the year immediately prior to the year of the earliest commercial production.

(*b*) For the purposes of subparagraph (*a*):

(i) trend line values used for computing the nickel production ceiling shall be those annual nickel consumption values on a trend line computed during the year in which a production authorization is issued. The trend line shall be derived from a linear regression of the logarithms of actual nickel consumption for the most recent fifteen-year period for which such data are available, time being the independent variable. This trend line shall be referred to as the original trend line;

(ii) if the annual rate of increase of the original trend line is less than 3 per cent, then the trend line used to determine the quantities referred to in subparagraph (*a*) shall instead be one passing through the original trend line at the value for the first year of the relevant 15-year period, and increasing at 3 per cent annually; provided however that the production ceiling established for any year of the interim period may not in any case exceed the difference between the original trend line value for that year and the original trend line value for the year immediately prior to the commencement of the interim period.

5. The Authority shall reserve to the Enterprise for its initial production a quantity of 38,000 metric tonnes of nickel from the available production ceiling calculated pursuant to paragraph 4.

6. (*a*) An operator may in any year produce less than or up to 8 per cent more than the level of annual production of minerals from polymetallic nodules specified in his production authorization, provided that the over-all amount of production shall not exceed that specified in the authorization. Any excess over 8 per cent and up to 20 per cent in any year, or any excess in the first and subsequent years following two consecutive years in which excesses occur, shall be negotiated with the Authority, which may require the operator to obtain a supplementary production authorization to cover additional production.

(*b*) Applications for such supplementary production authorizations shall be considered by the Authority only after all pending applications by operators who have not yet received production authorizations have been acted upon and due account has been taken of other likely applicants. The Authority shall be guided by the principle of not exceeding the total production allowed under the production ceiling in any year of the interim period. It shall not authorize the production under any plan of work of a quantity in excess of 46,500 metric tonnes of nickel per year.

7. The levels of production of other metals such as copper, cobalt and manganese extracted from the polymetallic nodules that are recovered pursuant to a production authorization should not be higher than those which would have been produced had the operator produced the maximum level of nickel from those nodules pursuant to this article. The Authority shall establish rules, regulations and procedures pursuant to Annex III, article 17, to implement this paragraph.

8. Rights and obligations relating to unfair economic practices under relevant multilateral trade agreements shall apply to the exploration for and exploitation of minerals from the Area. In the settlement of disputes arising under this provision, States Parties which are Parties to such multilateral trade agreements shall have recourse to the dispute settlement procedures of such agreements.

9. The Authority shall have the power to limit the level of production of minerals from the Area, other than minerals from polymetallic nodules, under such conditions and applying such methods as may be appropriate by adopting regulations in accordance with article 161, paragraph 8.

10. Upon the recommendation of the Council on the basis of advice from the Economic Planning Commission, the Assembly shall establish a system of compensation or take other measures of economic adjustment assistance including co-operation with specialized agencies and other international organizations to assist developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. The Authority on request shall initiate studies on the problems of those States which are likely to be most seriously affected with a view to minimizing their difficulties and assisting them in their economic adjustment.

Article 152. Exercise of powers and functions by the Authority

1. The Authority shall avoid discrimination in the exercise of its powers and functions, including the granting of opportunities for activities in the Area.

2. Nevertheless, special consideration for developing States, including particular consideration for the land-locked and geographically disadvantaged among them, specifically provided for in this Part shall be permitted.

Article 153. System of exploration and exploitation

1. Activities in the Area shall be organized, carried out and controlled by the Authority on behalf of mankind as a whole in accordance with this article as well as other relevant provisions of this Part and the relevant Annexes, and the rules, regulations and procedures of the Authority.

2. Activities in the Area shall be carried out as prescribed in paragraph 3:

(*a*) by the Enterprise, and

(*b*) in association with the Authority by States Parties, or state enterprises or natural or juridical persons which possess the nationality of States Parties or are effectively controlled by them or their nationals, when sponsored by such States, or any group of the foregoing which meets the requirements provided in this Part and in Annex III.

3. Activities in the Area shall be carried out in accordance with a formal written plan of work drawn up in accordance with Annex III and approved by the Council after review by the Legal and Technical Commission. In the case of activities in the Area carried out as authorized by the Authority by the entities specified in paragraph 2 (*b*), the plan of work shall, in accordance with Annex III, article 3, be in the form of a contract. Such contracts may provide for joint arrangements in accordance with Annex III, article 11.

4. The Authority shall exercise such control over activities in the Area as is necessary for the purpose of securing compliance with the relevant provisions of this Part and the Annexes relating thereto, and the rules, regulations and procedures of the Authority, and the plans of work approved in accordance with paragraph 3. States Parties shall assist the Authority by taking all measures necessary to ensure such compliance in accordance with article 139.

5. The Authority shall have the right to take at any time any measures provided for under this Part to ensure compliance with its provisions and the exercise of the functions of control and regulation assigned to it thereunder or under any contract. The Authority shall have the right to inspect all installations in the Area used in connection with activities in the Area.

6. A contract under paragraph 3 shall provide for security of tenure. Accordingly, the contract shall not be revised, suspended or terminated except in accordance with Annex III, articles 18 and 19.

Article 154. Periodic review

Every five years from the entry into force of this Convention, the Assembly shall undertake a general and systematic review of the manner in which the international régime of the Area established in this Convention has operated in practice. In the light of this review the Assembly may take, or recommend that other organs take, measures in accordance with the provisions and procedures of this Part and the Annexes relating thereto which will lead to the improvement of the operation of the régime.

Article 155. The Review Conference

1. Fifteen years from 1 January of the year in which the earliest commercial production commences under an approved plan of work, the Assembly shall convene a conference for the review of those provisions of this Part and the relevant Annexes which govern the system of exploration and exploitation of the resources of the Area. The Review Conference shall consider in detail, in the light of the experience acquired during that period:

(*a*) whether the provisions of this Part which govern the system of exploration and exploitation of the resources of the Area have achieved their aims in all respects, including whether they have benefited mankind as a whole;

(*b*) whether, during the fifteen-year period, reserved areas have been exploited in an effective and balanced manner in comparison with non-reserved areas;

(*c*) whether the development and use of the Area and its resources have been undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade;

(*d*) whether monopolization of activities in the Area has been prevented;

(*e*) whether the policies set forth in articles 150 and 151 have been fulfilled; and

(*f*) whether the system has resulted in the equitable sharing of benefits derived from activities in the Area, taking into particular consideration the interests and needs of the developing States.

2. The Review Conference shall ensure the maintenance of the principle of the common heritage of mankind, the international régime designed to ensure equitable exploitation of the resources of the Area for the benefit of all countries, especially the developing States, and an Authority to organize, conduct and control activities in the Area. It shall also ensure the maintenance of the principles laid down in this Part with regard to the exclusion of claims or exercise of sovereignty over any part of the Area, the rights of States and their general conduct in relation to the Area, and their participation in activities in the Area in conformity with this Convention, the prevention of monopolization of activities in the Area, the use of the Area exclusively for peaceful purposes, economic aspects of activities in the Area, marine scientific research, transfer of technology, protection of the marine en-

vironment, protection of human life, rights of coastal States, the legal status of the waters superjacent to the Area and that of the air space above those waters and accommodation between activities in the Area and other activities in the marine environment.

3. The decision-making procedure applicable at the Review Conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea. The Conference shall make every effort to reach agreement on any amendments by way of consensus and there should be no voting on such matters until all efforts at achieving consensus have been exhausted.

4. If, five years after its commencement, the Review Conference has not reached agreement on the system of exploration and exploitation of the resources of the Area, it may decide during the ensuing twelve months, by a three-fourths majority of the States Parties, to adopt and submit to the States Parties for ratification or accession such amendments changing or modifying the system as it determines necessary and appropriate. Such amendments shall enter into force for all States Parties twelve months after the deposit of instruments of ratification or accession by three fourths of the States Parties.

5. Amendments adopted by the Review Conference pursuant to this article shall not affect rights acquired under existing contracts.

SECTION 4. THE AUTHORITY

SUBSECTION A. GENERAL PROVISIONS

Article 156. Establishment of the Authority

1. There is hereby established the International Sea-Bed Authority, which shall function in accordance with this Part.

2. All States Parties are *ipso facto* members of the Authority.

3. Observers at the Third United Nations Conference on the Law of the Sea who have signed the Final Act and who are not referred to in article 305, paragraph 1 (*c*), (*d*), (*e*) or (*f*), shall have the right to participate in the Authority as observers, in accordance with its rules, regulations and procedures.

4. The seat of the Authority shall be in Jamaica.

5. The Authority may establish such regional centres or offices as it deems necessary for the exercise of its functions.

Article 157. Nature and fundamental principles of the Authority

1. The Authority is the organization through which States Parties shall, in accordance with this Part, organize and control activities in the Area, particularly with a view to administering the resources of the Area.

2. The powers and functions of the Authority shall be those expressly conferred upon it by this Convention. The Authority shall have such incidental powers, consistent with this Convention, as are implicit in and necessary for the exercise of those powers and functions with respect to activities in the Area.

3. The Authority is based on the principle of the sovereign equality of all its members.

4. All members of the Authority shall fulfil in good faith the obligations assumed by them in accordance with this Part in order to ensure to all of them the rights and benefits resulting from membership.

Article 158. Organs of the Authority

1. There are hereby established, as the principal organs of the Authority, an Assembly, a Council and a Secretariat.

2. There is hereby established the Enterprise, the organ through which the Authority shall carry out the functions referred to in article 170, paragraph 1.

3. Such subsidiary organs as may be found necessary may be established in accordance with this Part.

4. Each principal organ of the Authority and the Enterprise shall be responsible for exercising those powers and functions which are conferred upon it. In exercising such powers and functions each organ shall avoid taking any action which may derogate from or impede the exercise of specific powers and functions conferred upon another organ.

SUBSECTION B. THE ASSEMBLY

Article 159. Composition, procedure and voting

1. The Assembly shall consist of all the members of the Authority. Each member shall have one representative in the Assembly, who may be accompanied by alternates and advisers.

2. The Assembly shall meet in regular annual sessions and in such special sessions as may be decided by the Assembly, or convened by the Secretary-General at the request of the Council or of a majority of the members of the Authority.

3. Sessions shall take place at the seat of the Authority unless otherwise decided by the Assembly.

4. The Assembly shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its President and such other officers as may be required. They shall hold office until a new President and other officers are elected at the next regular session.

5. A majority of the members of the Assembly shall constitute a quorum.

6. Each member of the Assembly shall have one vote.

7. Decisions on questions of procedure, including decisions to convene special sessions of the Assembly, shall be taken by a majority of the members present and voting.

8. Decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members participating in the session. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Assembly by the majority required for decisions on questions of substance.

9. When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Assembly, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.

10. Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with this Convention of a proposal before the Assembly on any matter, the Assembly shall request the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

Article 160. Powers and functions

1. The Assembly, as the sole organ of the Authority consisting of all the members, shall be considered the supreme

organ of the Authority to which the other principal organs shall be accountable as specifically provided for in this Convention. The Assembly shall have the power to establish general policies in conformity with the relevant provisions of this Convention on any question or matter within the competence of the Authority.

2. In addition, the powers and functions of the Assembly shall be:

(*a*) to elect the members of the Council in accordance with article 161;

(*b*) to elect the Secretary-General from among the candidates proposed by the Council;

(*c*) to elect, upon the recommendation of the Council, the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(*d*) to establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of these subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs;

(*e*) to assess the contributions of members to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses;

(*f*) (i) to consider and approve, upon the recommendation of the Council, the rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of developing States and peoples who have not attained full independence or other self-governing status. If the Assembly does not approve the recommendations of the Council, the Assembly shall return them to the Council for reconsideration in the light of the views expressed by the Assembly;

(ii) to consider and approve the rules, regulations and procedures of the Authority, and any amendments thereto, provisionally adopted by the Council pursuant to article 162, paragraph 2 (*o*) (ii). These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area, the financial management and internal administration of the Authority, and, upon the recommendation of the Governing Board of the Enterprise, to the transfer of funds from the Enterprise to the Authority;

(*g*) to decide upon the equitable sharing of financial and other economic benefits derived from activities in the Area, consistent with this Convention and the rules, regulations and procedures of the Authority;

(*h*) to consider and approve the proposed annual budget of the Authority submitted by the Council;

(*i*) to examine periodic reports from the Council and from the Enterprise and special reports requested from the Council or any other organ of the Authority;

(*j*) to initiate studies and make recommendations for the purpose of promoting international co-operation concerning activities in the Area and encouraging the progressive development of international law relating thereto and its codification;

(*k*) to consider problems of a general nature in connection with activities in the Area arising in particular for developing States, as well as those problems for States in connection with activities in the Area that are due to their geographical location, particularly for land-locked and geographically disadvantaged States;

(*l*) to establish, upon the recommendation of the Council, on the basis of advice from the Economic Planning Commission, a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;

(*m*) to suspend the exercise of rights and privileges of membership pursuant to article 185;

(*n*) to discuss any question or matter within the competence of the Authority and to decide as to which organ of the Authority shall deal with any such question or matter not specifically entrusted to a particular organ, consistent with the distribution of powers and functions among the organs of the Authority.

SUBSECTION C. THE COUNCIL

Article 161. Composition, procedure and voting

1. The Council shall consist of 36 members of the Authority elected by the Assembly in the following order:

(*a*) four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent of total world consumption or have had net imports of more than 2 per cent of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one State from the Eastern European (Socialist) region, as well as the largest consumer;

(*b*) four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals, including at least one State from the Eastern European (Socialist) region;

(*c*) four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;

(*d*) six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals, and least developed States;

(*e*) eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.

2. In electing the members of the Council in accordance with paragraph 1, the Assembly shall ensure that:

(*a*) land-locked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(*b*) coastal States, especially developing States, which do not qualify under paragraph 1 (*a*), (*b*), (*c*) or (*d*) are

represented to a degree which is reasonably proportionate to their representation in the Assembly;

(*c*) each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by that group.

3. Elections shall take place at regular sessions of the Assembly. Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in paragraph 1 shall be two years.

4. Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.

5. The Council shall function at the seat of the Authority, and shall meet as often as the business of the Authority may require, but not less than three times a year.

6. A majority of the members of the Council shall constitute a quorum.

7. Each member of the Council shall have one vote.

8. (*a*) Decisions on questions of procedure shall be taken by a majority of the members present and voting.

(*b*) Decisions on questions of substance arising under the following provisions shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (*f*); (*g*); (*h*); (*i*); (*n*); (*p*); (*v*); article 191.

(*c*) Decisions on questions of substance arising under the following provisions shall be taken by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (*a*); (*b*); (*c*); (*d*); (*e*); (*l*); (*q*); (*r*); (*s*); (*t*); (*u*) in cases of non-compliance by a contractor or a sponsor; (*w*) provided that orders issued thereunder may be binding for not more than 30 days unless confirmed by a decision taken in accordance with subparagraph (*d*); article 162, paragraph 2, subparagraphs (*x*); (*y*); (*z*); article 163, paragraph 2; article 174, paragraph 3; Annex IV, article 11.

(*d*) Decisions on questions of substance arising under the following provisions shall be taken by consensus: article 162, paragraph 2 (*m*) and (*o*); adoption of amendments to Part XI.

(*e*) For the purposes of subparagraphs (*d*), (*f*) and (*g*), "consensus" means the absence of any formal objection. Within fourteen days of the submission of a proposal to the Council, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within fourteen days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.

(*f*) Decisions on questions not listed above which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the subparagraphs of this paragraph specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the subparagraph determined by the Council if possible in advance, by consensus.

(*g*) When the issue arises as to whether a question is within subparagraph (*a*), (*b*), (*c*) or (*d*), the question shall be treated as being within the subparagraph requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.

9. The Council shall establish a procedure whereby a member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote.

Article 162. Powers and functions

1. The Council is the executive organ of the Authority. The Council shall have the power to establish, in conformity with this Convention and the general policies established by the Assembly, the specific policies to be pursued by the Authority on any question or matter within the competence of the Authority.

2. In addition, the Council shall:

(*a*) supervise and co-ordinate the implementation of the provisions of this Part on all questions and matters within the competence of the Authority and invite the attention of the Assembly to cases of non-compliance;

(*b*) propose to the Assembly a list of candidates for the election of the Secretary-General;

(*c*) recommend to the Assembly candidates for the election of the members of the Governing Board of the Enterprise and the Director-General of the Enterprise;

(*d*) establish, as appropriate, and with due regard to economy and efficiency, such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Part. In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs provided that due account shall be taken of the principle of equitable geographical distribution and of special interests;

(*e*) adopt its rules of procedure including the method of selecting its president;

(*f*) enter into agreements with the United Nations or other international organizations on behalf of the Authority and within its competence, subject to approval by the Assembly;

(*g*) consider the reports of the Enterprise and transmit them to the Assembly with its recommendations;

(*h*) present to the Assembly annual reports and such special reports as the Assembly may request;

(*i*) issue directives to the Enterprise in accordance with article 170;

(*j*) approve plans of work in accordance with Annex III, article 6. The Council shall act upon each plan of work within sixty days of its submission by the Legal and Technical Commission at a session of the Council in accordance with the following procedures:

(i) if the Commission recommends the approval of a plan of work, it shall be deemed to have been approved by the Council if no member of the Council submits in writing to the President within 14 days a specific objection alleging non-compliance with the requirements of Annex III, article 6. If there is an objection, the conciliation procedure set forth in article 161, paragraph 8 (*e*), shall apply. If, at the end of the conciliation procedure, the objection is still maintained, the plan of work shall be deemed to have been approved by the Council unless the Council disapproves it by consensus among its members excluding any State or States making the application or sponsoring the applicant;

(ii) if the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may approve the plan of work by a three-fourths majority of the members present and voting, provided that such majority includes a majority of the members participating in the session;

(*k*) approve plans of work submitted by the Enterprise in accordance with Annex IV, article 12, applying, *mutatis mutandis*, the procedures set forth in subparagraph (*j*);

(*l*) exercise control over activities in the Area in accordance with article 153, paragraph 4, and the rules, regulations and procedures of the Authority;

(*m*) take, upon the recommendation of the Economic Planning Commission, necessary and appropriate measures in accordance with article 150, subparagraph (*h*), to provide protection from the adverse economic effects specified therein;

(*n*) make recommendations to the Assembly, on the basis of advice from the Economic Planning Commission, for a system of compensation or other measures of economic adjustment assistance as provided in article 151, paragraph 10;

(*o*) (i) recommend to the Assembly rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the payments and contributions made pursuant to article 82, taking into particular consideration the interests and needs of the developing States and peoples who have not attained full independence or other self-governing status;

(ii) adopt and supply provisionally, pending approval by the Assembly, the rules, regulations and procedures of the Authority, and any amendments thereto, taking into account the recommendations of the Legal and Technical Commission or other subordinate organ concerned. These rules, regulations and procedures shall relate to prospecting, exploration and exploitation in the Area and the financial management and internal administration of the Authority. Priority shall be given to the adoption of rules, regulations and procedures for the exploration for and exploitation of polymetallic nodules. Rules, regulations and procedures for the exploration for and exploitation of any resource other than polymetallic nodules shall be adopted within three years from the date of a request to the Authority by any of its members to adopt such rules, regulations and procedures in respect of such resource. All rules, regulations and procedures shall remain in effect on a provisional basis until approved by the Assembly or until amended by the Council in the light of any views expressed by the Assembly;

(*p*) review the collection of all payments to be made by or to the Authority in connection with operations pursuant to this Part;

(*q*) make the selection from among applicants for production authorizations pursuant to Annex III, article 7, where such selection is required by that provision;

(*r*) submit the proposed annual budget of the Authority to the Assembly for its approval;

(*s*) make recommendations to the Assembly concerning policies on any question or matter within the competence of the Authority;

(*t*) make recommendations to the Assembly concerning suspension of the exercise of the rights and privileges of membership pursuant to article 185;

(*u*) institute proceedings on behalf of the Authority before the Sea-Bed Disputes Chamber in cases of non-compliance;

(*v*) notify the Assembly upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted under subparagraph (*u*), and make any recommendations which it may find appropriate with respect to measures to be taken;

(*w*) issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area;

(*x*) disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(*y*) establish a subsidiary organ for the elaboration of draft financial rules, regulations and procedures relating to:

(i) financial management in accordance with articles 171 to 175; and

(ii) financial arrangements in accordance with Annex III, article 13 and article 17, paragraph 1 (*c*);

(*z*) establish appropriate mechanisms for directing and supervising a staff of inspectors who shall inspect activities in the Area to determine whether this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with.

Article 163. Organs of the Council

1. There are hereby established the following organs of the Council:

(*a*) an Economic Planning Commission;

(*b*) a Legal and Technical Commission.

2. Each Commission shall be composed of 15 members, elected by the Council from among the candidates nominated by the States Parties. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency.

3. Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions.

4. In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests.

5. No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission.

6. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term.

7. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of the term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest.

8. Members of Commissions shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commission upon which they serve, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their duties for the Authority.

9. Each Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt.

10. Each Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions.

11. The decision-making procedures of the Commissions shall be established by the rules, regulations and procedures of the Authority. Recommendations to the Council shall, where necessary, be accompanied by a summary on the divergencies of opinion in the Commission.

12. Each Commission shall normally function at the seat of the Authority and shall meet as often as is required for the efficient exercise of its functions.

13. In the exercise of its functions, each Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation.

Article 164. The Economic Planning Commission

1. Members of the Economic Planning Commission shall have appropriate qualifications such as those relevant to mining, management of mineral resource activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies.

2. The Commission shall:

(*a*) propose, upon the request of the Council, measures to implement decisions relating to activities in the Area taken in accordance with this Convention;

(*b*) review the trends of and the factors affecting supply, demand and prices of materials which may be derived from the Area, bearing in mind the interests of both importing and exporting countries, and in particular of the developing States among them;

(*c*) examine any situation likely to lead to the adverse effects referred to in article 150, subparagraph (*h*), brought to its attention by the State Party or States Parties concerned, and make appropriate recommendations to the Council;

(*d*) propose to the Council for submission to the Assembly, as provided in article 151, paragraph 10, a system of compensation or other measures of economic adjustment assistance for developing States which suffer adverse effects caused by activities in the Area. The Commission shall make the recommendations to the Council that are necessary for the application of the system or other measures adopted by the Assembly in specific cases.

Article 165. The Legal and Technical Commission

1. Members of the Legal and Technical Commission shall have appropriate qualifications such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications.

2. The Commission shall:

(*a*) make recommendations with regard to the exercise of the Authority's functions upon the request of the Council;

(*b*) review formal written plans of work for activities in the Area in accordance with article 153, paragraph 3, and submit appropriate recommendations to the Council. The Commission shall base its recommendations solely on the grounds stated in Annex III and shall report fully thereon to the Council;

(*c*) supervise, upon the request of the Council, activities in the Area, where appropriate, in consultation and collaboration with any entity carrying out such activities or State or States concerned and report to the Council;

(*d*) prepare assessments of the environmental implications of activities in the Area;

(*e*) make recommendations to the Council on the protection of the marine environment, taking into account the views of recognized experts in that field;

(*f*) formulate and submit to the Council the rules, regulations and procedures referred to in article 162, paragraph 2 (*o*), taking into account all relevant factors including assessments of the environmental implications of activities in the Area;

(*g*) keep such rules, regulations and procedures under review and recommend to the Council from time to time such amendments thereto as it may deem necessary or desirable;

(*h*) make recommendations to the Council regarding the establishment of a monitoring programme to observe, measure, evaluate and analyse, by recognized scientific methods, on a regular basis, the risks or effects of pollution of the marine environment resulting from activities in the Area, ensure that existing regulations are adequate and are complied with and co-ordinate the implementation of the monitoring programme approved by the Council;

(*i*) recommend to the Council that proceedings be instituted on behalf of the Authority before the Sea-Bed Disputes Chamber, in accordance with this Part and the relevant Annexes taking into account particularly article 187;

(*j*) make recommendations to the Council with respect to measures to be taken, upon a decision by the Sea-Bed Disputes Chamber in proceedings instituted in accordance with subparagraph (*i*);

(*k*) make recommendations to the Council to issue emergency orders, which may include orders for the suspension or adjustment of operations, to prevent serious harm to the marine environment arising out of activities in the Area. Such recommendations shall be taken up by the Council on a priority basis;

(*l*) make recommendations to the Council to disapprove areas for exploitation by contractors or the Enterprise in cases where substantial evidence indicates the risk of serious harm to the marine environment;

(*m*) make recommendations to the Council regarding the direction and supervision of a staff of inspectors who shall inspect activities in the Area to determine whether the provisions of this Part, the rules, regulations and procedures of the Authority, and the terms and conditions of any contract with the Authority are being complied with;

(*n*) calculate the production ceiling and issue production authorizations on behalf of the Authority pursuant to article 151, paragraphs 2 to 7, following any necessary selection among applicants for production authorizations by the Council in accordance with Annex III, article 7.

3. The members of the Commission shall, upon request by any State Party or other party concerned, be accompanied by a representative of such State or other party concerned when carrying out their function of supervision and inspection.

SUBSECTION D. THE SECRETARIAT

Article 166. The Secretariat

1. The Secretariat of the Authority shall comprise a Secretary-General and such staff as the Authority may require.

2. The Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.

3. The Secretary-General shall be the chief administrative officer of the Authority, and shall act in that capacity in all meetings of the Assembly, of the Council and of any subsidiary organ, and shall perform such other administrative functions as are entrusted to the Secretary-General by those organs.

4. The Secretary-General shall make an annual report to the Assembly on the work of the Authority.

Article 167. The staff of the Authority

1. The staff of the Authority shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the administrative functions of the Authority.

2. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

3. The staff shall be appointed by the Secretary-General. The terms and conditions on which they shall be appointed, remunerated and dismissed shall be in accordance with the rules, regulations and procedures of the Authority.

Article 168. International character of the Secretariat

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other source external to the Authority. They shall refrain from any action which might reflect on their position as international officials responsible only to the Authority. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities. Any violation of responsibilities by a staff member shall be submitted to the appropriate administrative tribunal as provided in the rules, regulations and procedures of the Authority.

2. The Secretary-General and the staff shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Authority, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with Annex III, article 14, or any other confidential information coming to their knowledge by reason of their employment with the Authority.

3. Violations of the obligations of a staff member of the Authority set forth in paragraph 2 shall, on the request of a State Party affected by such violation, or a natural or juridical person, sponsored by a State Party as provided in article 153, paragraph 2 (*b*), and affected by such violation, be submitted by the Authority against the staff member concerned to a tribunal designated by the rules, regulations and procedures of the Authority. The Party affected shall have the right to take part in the proceedings. If the tribunal so recommends, the Secretary-General shall dismiss the staff member concerned.

4. The rules, regulations and procedures of the Authority shall contain such provisions as are necessary to implement this article.

Article 169. Consultation and co-operation with international and non-governmental organizations

1. The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and co-operation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations.

2. Any organization with which the Secretary-General has entered into an arrangement under paragraph 1 may designate representatives to attend meetings of the organs of the Authority as observers in accordance with the rules of procedure of those organs. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

3. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in paragraph 1 on subjects in which they have special competence and which are related to the work of the Authority.

SUBSECTION E. THE ENTERPRISE

Article 170. The Enterprise

1. The Enterprise shall be the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2 (*a*), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is provided for in the Statute set forth in Annex IV. The Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority, as well as the general policies established by the Assembly, and shall be subject to the directives and control of the Council.

3. The Enterprise shall have its principal place of business at the seat of the Authority.

4. The Enterprise shall, in accordance with article 173, paragraph 2, and Annex IV, article 11, be provided with such funds as it may require to carry out its functions, and shall receive technology as provided in article 144 and other relevant provisions of this Convention.

SUBSECTION F. FINANCIAL ARRANGEMENTS OF THE AUTHORITY

Article 171. Funds of the Authority

The funds of the Authority shall include:

(*a*) assessed contributions made by members of the Authority in accordance with article 160, paragraph 2 (*e*);

(*b*) funds received by the Authority pursuant to Annex III, article 13, in connection with activities in the Area;

(*c*) funds transferred from the Enterprise in accordance with Annex IV, article 10;

(*d*) funds borrowed pursuant to article 174;

(*e*) voluntary contributions made by members or other entities; and

(*f*) payments to a compensation fund, in accordance with article 151, paragraph 10, whose sources are to be recommended by the Economic Planning Commission.

Article 172. Annual budget of the Authority

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council. The Council shall consider the proposed annual budget and sub-

mit it to the Assembly, together with any recommendations thereon. The Assembly shall consider and approve the proposed annual budget in accordance with article 160, paragraph 2 (*h*).

Article 173. Expenses of the Authority

1. The contributions referred to in article 171, subparagraph (*a*), shall be paid into a special account to meet the administrative expenses of the Authority until the Authority has sufficient funds from other sources to meet those expenses.

2. The administrative expenses of the Authority shall be a first call upon the funds of the Authority. Except for the assessed contributions referred to in article 171, subparagraph (*a*), the funds which remain after payment of administrative expenses may, *inter alia*:

(*a*) be shared in accordance with article 140 and article 160, paragraph 2 (*g*);

(*b*) be used to provide the Enterprise with funds in accordance with article 170, paragraph 4;

(*c*) be used to compensate developing States in accordance with article 151, paragraph 10, and article 160, paragraph 2 (*l*).

Article 174. Borrowing power of the Authority

1. The Authority shall have the power to borrow funds.

2. The Assembly shall prescribe the limits on the borrowing power of the Authority in the financial regulations adopted pursuant to article 160, paragraph 2 (*f*).

3. The Council shall exercise the borrowing power of the Authority.

4. States Parties shall not be liable for the debts of the Authority.

Article 175. Annual audit

The records, books and accounts of the Authority, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Assembly.

SUBSECTION G. LEGAL STATUS, PRIVILEGES AND IMMUNITIES

Article 176. Legal status

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 177. Privileges and immunities

To enable the Authority to exercise its functions, it shall enjoy in the territory of each State Party the privileges and immunities set forth in this subsection. The privileges and immunities relating to the Enterprise shall be those set forth in Annex IV, article 13.

Article 178. Immunity from legal process

The Authority, its property and assets, shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case.

Article 179. Immunity from search and any form of seizure

The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

Article 180. Exemption from restrictions, regulations, controls and moratoria

The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature.

Article 181. Archives and official communications of the Authority

1. The archives of the Authority, wherever located, shall be inviolable.

2. Proprietary data, industrial secrets or similar information and personnel records shall not be placed in archives which are open to public inspection.

3. With regard to its official communications, the Authority shall be accorded by each State Party treatment no less favourable than that accorded by that State to other international organizations.

Article 182. Privileges and immunities of certain persons connected with the Authority

Representatives of States Parties attending meetings of the Assembly, the Council or organs of the Assembly or the Council, and the Secretary-General and staff of the Authority, shall enjoy in the territory of each State Party:

(*a*) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or the Authority, as appropriate, expressly waives this immunity in a particular case;

(*b*) if they are not nationals of that State Party, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by that State to the representatives, officials and employees of comparable rank of other States Parties.

Article 183. Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by this Convention, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes which are no more than charges for services rendered.

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by States Parties to grant exemption from such taxes or duties or provide for their reimbursement. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of the State Party which granted the exemption, except under conditions agreed with that State Party.

3. No tax shall be levied by States Parties on or in respect of salaries and emoluments paid or any other form of payment made by the Authority to the Secretary-General and staff of the Authority, as well as experts performing missions for the Authority, who are not their nationals.

SUBSECTION H. SUSPENSION OF THE EXERCISE OF RIGHTS AND PRIVILEGES OF MEMBERS

Article 184. Suspension of the exercise of voting rights

A State Party which is in arrears in the payment of its financial contributions to the Authority shall have no vote if the

amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 185. Suspension of exercise of rights and privileges of membership

1. A State Party which has grossly and persistently violated the provisions of this Part may be suspended from the exercise of the rights and privileges of membership by the Assembly upon the recommendation of the Council.

2. No action may be taken under paragraph 1 until the Sea-Bed Disputes Chamber has found that a State Party has grossly and persistently violated the provisions of this Part.

SECTION 5. SETTLEMENT OF DISPUTES AND ADVISORY OPINIONS

Article 186. Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea

The establishment of the Sea-Bed Disputes Chamber and the manner in which it shall exercise its jurisdiction shall be governed by the provisions of this section, of Part XV and of Annex VI.

Article 187. Jurisdiction of the Sea-Bed Disputes Chamber

The Sea-Bed Disputes Chamber shall have jurisdiction under this Part and the Annexes relating thereto in disputes with respect to activities in the Area falling within the following categories:

(*a*) disputes between States Parties concerning the interpretation or application of this Part of the Annexes relating thereto;

(*b*) disputes between a State Party and the Authority concerning:

(i) acts or omissions of the Authority or of a State Party alleged to be in violation of this Part or the Annexes relating thereto or of rules, regulations and procedures of the Authority adopted in accordance therewith; or

(ii) acts of the Authority alleged to be in excess of jurisdiction or a misuse of power;

(*c*) disputes between parties to a contract, being States Parties, the Authority or the Enterprise, state enterprises and natural or juridical persons referred to in article 153, paragraph 2 (*b*), concerning:

(i) the interpretation or application of a relevant contract or a plan of work; or

(ii) acts or omissions of a party to the contract relating to activities in the Area and directed to the other party or directly affecting its legitimate interests;

(*d*) disputes between the Authority and a prospective contractor who has been sponsored by a State as provided in article 153, paragraph 2 (*b*), and has duly fulfilled the conditions referred to in Annex III, article 4, paragraph 6, and article 13, paragraph 2, concerning the refusal of a contract or a legal issue arising in the negotiation of the contract;

(*e*) disputes between the Authority and a State Party, a state enterprise or a natural or juridical person sponsored by a State Party as provided for in article 153, paragraph 2 (*b*), where it is alleged that the Authority has incurred liability as provided in Annex III, article 22;

(*f*) any other disputes for which the jurisdiction of the Chamber is specifically provided in this Convention.

Article 188. Submission of disputes to a special chamber of the International Tribunal for the Law of the Sea or an ad hoc *chamber of the Sea-Bed Disputes Chamber or to binding commercial arbitration*

1. Disputes between States Parties referred to in article 187, subparagraph (*a*), may be submitted:

(*a*) at the request of the parties to the dispute, to a special chamber of the International Tribunal for the Law of the Sea to be formed in accordance with Annex VI, articles 15 and 17; or

(*b*) at the request of any party to the dispute, to an *ad hoc* chamber of the Sea-Bed Disputes Chamber to be formed in accordance with Annex VI, article 36.

2. (*a*) Disputes concerning the interpretation or application of a contract referred to in article 187, subparagraph (*c*) (i), shall be submitted, at the request of any party to the dispute, to binding commercial arbitration, unless the parties otherwise agree. A commercial arbitral tribunal to which the dispute is submitted shall have no jurisdiction to decide any question of interpretation of this Convention. When the dispute also involves a question of the interpretation of Part XI and the Annexes relating thereto, with respect to activities in the Area, that question shall be referred to the Sea-Bed Disputes Chamber for a ruling.

(*b*) If, at the commencement of or in the course of such arbitration, the arbitral tribunal determines, either at the request of any party to the dispute or *proprio motu*, that its decision depends upon a ruling of the Sea-Bed Disputes Chamber, the arbitral tribunal shall refer such question to the Sea-Bed Disputes Chamber for such ruling. The arbitral tribunal shall then proceed to render its award in conformity with the ruling of the Sea-Bed Disputes Chamber.

(*c*) In the absence of a provision in the contract on the arbitration procedure to be applied in the dispute, the arbitration shall be conducted in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority, unless the parties to the dispute otherwise agree.

Article 189. Limitation on jurisdiction with regard to decisions of the Authority

The Sea-Bed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part; in no case shall it substitute its discretion for that of the Authority. Without prejudice to article 191, in exercising its jurisdiction pursuant to article 187, the Sea-Bed Disputes Chamber shall not pronounce itself on the question of whether any rules, regulations and procedures of the Authority are in conformity with this Convention, nor declare invalid any such rules, regulations and procedures. Its jurisdiction in this regard shall be confined to deciding claims that the application of any rules, regulations and procedures of the Authority in individual cases would be in conflict with the contractual obligations of the parties to the dispute or their obligations under this Convention, claims concerning excess of jurisdiction or misuse of power, and claims for damages to be paid or other remedy to be given to the party concerned for the failure of the other party to comply with its contractual obligations or its obligations under this Convention.

Article 190. Participation and appearance of sponsoring States Parties in proceedings

1. If a natural or juridical person is a party to a dispute referred to in article 187, the sponsoring State shall be given notice thereof and shall have the right to participate in the proceedings by submitting written or oral statements.

2. If an action is brought against a State Party by a natural or juridical person sponsored by another State Party in a dispute referred to in article 187, subparagraph (*c*), the respondent State may request the State sponsoring that person to appear in the proceedings on behalf of that person. Failing such appearance, the respondent State may arrange to be represented by a juridical person of its nationality.

Article 191. Advisory opinions

The Sea-Bed Disputes Chamber shall give advisory opinions at the request of the Assembly or the Council on legal questions arising within the scope of their activities. Such opinions shall be given as a matter of urgency.

Part XII. Protection and preservation of the marine environment

SECTION 1. GENERAL PROVISIONS

Article 192. General obligation

States have the obligation to protect and preserve the marine environment.

Article 193. Sovereign right of States to exploit their natural resources

States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment.

Article 194. Measures to prevent, reduce and control pollution of the marine environment

1. States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.

2. States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.

3. The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, *inter alia*, those designed to minimize to the fullest possible extent:

(*a*) the release of toxic, harmful or noxious substances, especially those which are persistent, from land-based sources, from or through the atmosphere or by dumping;

(*b*) pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels;

(*c*) pollution from installations and devices used in exploration or exploitation of the natural resources of the sea-bed and subsoil, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices;

(*d*) pollution from other installations and devices operating in the marine environment, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, and regulating the design, construction, equipment, operation and manning of such installations or devices.

4. In taking measures to prevent, reduce or control pollution of the marine environment, States shall refrain from unjustifiable interference with activities carried out by other States in the exercise of their rights and in pursuance of their duties in conformity with this Convention.

5. The measures taken in accordance with this Part shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.

Article 195. Duty not to transfer damage or hazards or transform one type of pollution into another

In taking measures to prevent, reduce and control pollution of the marine environment, States shall act so as not to transfer, directly or indirectly, damage or hazards from one area to another or transform one type of pollution into another.

Article 196. Use of technologies or introduction of alien or new species

1. States shall take all measures necessary to prevent, reduce and control pollution of the marine environment resulting from the use of technologies under their jurisdiction or control, or in the international or accidental introduction of species, alien or new, to a particular part of the marine environment, which may cause significant and harmful changes thereto.

2. This article does not affect the application of this Convention regarding the prevention, reduction and control of pollution of the marine environment.

SECTION 2. GLOBAL AND REGIONAL CO-OPERATION

Article 197. Co-operation on a global or regional basis

States shall co-operate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features.

Article 198. Notification of imminent or actual damage

When a State becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution, it shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

Article 199. Contingency plans against pollution

In the cases referred to in article 198, States in the area affected, in accordance with their capabilities, and the competent international organizations shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing the damage. To this end, States shall jointly develop and promote contingency plans for responding to pollution incidents in the marine environment.

Article 200. Studies, research programmes and exchange of information and data

States shall co-operate, directly or through competent international organizations, for the purpose of promoting studies,

undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

Article 201. Scientific criteria for regulations

In the light of the information and data acquired pursuant to article 200, States shall co-operate, directly or through competent international organizations, in establishing appropriate scientific criteria for the formulation and elaboration of rules, standards and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment.

SECTION 3. TECHNICAL ASSISTANCE

Article 202. Scientific and technical assistance to developing States

States shall, directly or through competent international organizations:

(*a*) promote programmes of scientific, educational, technical and other assistance to developing States for the protection and preservation of the marine environment and the prevention, reduction and control of marine pollution. Such assistance shall include, *inter alia*:

(i) training of their scientific and technical personnel;
(ii) facilitating their participation in relevant international programmes;
(iii) supplying them with necessary equipment and facilities;
(iv) enhancing their capacity to manufacture such equipment;
(v) advice on and developing facilities for research, monitoring, educational and other programmes;

(*b*) provide appropriate assistance, especially to developing States, for the minimization of the effects of major incidents which may cause serious pollution of the marine environment;

(*c*) provide appropriate assistance, especially to developing States, concerning the preparation of environmental assessments.

Article 203. Preferential treatment for developing States

Developing States shall, for the purposes of prevention, reduction and control of pollution of the marine environment or minimization of its effects, be granted preference by international organizations in:

(*a*) the allocation of appropriate funds and technical assistance; and

(*b*) the utilization of their specialized services.

SECTION 4. MONITORING AND ENVIRONMENTAL ASSESSMENT

Article 204. Monitoring of the risks or effects of pollution

1. States shall, consistent with the rights of other States, endeavour, as far as practicable, directly or through the competent international organizations, to observe, measure, evaluate and analyse, by recognized scientific methods, the risks or effects of pollution of the marine environment.

2. In particular, States shall keep under surveillance the effects of any activities which they permit or in which they engage in order to determine whether these activities are likely to pollute the marine environment.

Article 205. Publication of reports

States shall publish reports of the results obtained pursuant to article 204 or provide such reports at appropriate intervals to the competent international organizations, which should make them available to all States.

Article 206. Assessment of potential effects of activities

When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

SECTION 5. INTERNATIONAL RULES AND NATIONAL LEGISLATION TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

Article 207. Pollution from land-based sources

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines and outfall structures, taking into account internationally agreed rules, standards and recommended practices and procedures.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution of the marine environment from land-based sources, taking into account characteristic regional features, the economic capacity of developing States and their need for economic development. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Laws, regulations, measures, rules, standards and recommended practices and procedures referred to in paragraphs 1, 2 and 4 shall include those designed to minimize, to the fullest extent possible, the release of toxic, harmful or noxious substances, especially those which are persistent, into the marine environment.

Article 208. Pollution from sea-bed activities subject to national jurisdiction

1. Coastal States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment arising from or in connection with sea-bed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall be no less effective than international rules, standards and recommended practices and procedures.

4. States shall endeavour to harmonize their policies in this connection at the appropriate regional level.

5. States, acting especially through competent international organizations or diplomatic conference, shall establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution

of the marine environment referred to in paragraph 1. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

Article 209. Pollution from activities in the Area

1. International rules, regulations and procedures shall be established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area. Such rules, regulations and procedures shall be re-examined from time to time as necessary.

2. Subject to the relevant provisions of this section, States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from activities in the Area undertaken by vessels, installations, structures and other devices flying their flag or of their registry or operating under their authority, as the case may be. The requirements of such laws and regulations shall be no less effective than the international rules, regulations and procedures referred to in paragraph 1.

Article 210. Pollution by dumping

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment by dumping.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. Such laws, regulations and measures shall ensure that dumping is not carried out without the permission of the competent authorities of States.

4. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution. Such rules, standards and recommended practices and procedures shall be re-examined from time to time as necessary.

5. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf shall not be carried out without the express prior approval of the coastal State, which has the right to permit, regulate and control such dumping after due consideration of the matter with other States which by reason of their geographical situation may be adversely affected thereby.

6. National laws, regulations and measures shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.

Article 211. Pollution from vessels

1. States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption, in the same manner, wherever appropriate, of routing systems designed to minimize the threat of accidents which might cause pollution of the marine environment, including the coastline, and pollution damage to the related interests of coastal States. Such rules and standards shall, in the same manner, be re-examined from time to time as necessary.

2. States shall adopt laws and regulations for the prevention, reduction and control of pollution of the marine environment from vessels flying their flag or of their registry. Such laws and regulations shall at least have the same effect as that of generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

3. States which establish particular requirements for the prevention, reduction and control of pollution of the marine environment as a condition for the entry of foreign vessels into their ports or internal waters or for a call at their offshore terminals shall give due publicity to such requirements and shall communicate them to the competent international organization. Whenever such requirements are established in identical form by two or more coastal States in an endeavour to harmonize policy, the communication shall indicate which States are participating in such co-operative arrangements. Every State shall require the master of a vessel flying its flag or of its registry, when navigating within the territorial sea of a State participating in such co-operative arrangements, to furnish, upon the request of that State, information as to whether it is proceeding to a State of the same region participating in such co-operative arrangements and, if so, to indicates whether it complies with the port entry requirements of that State. This article is without prejudice to the continued exercise by a vessel of its right of innocent passage or to the application of article 25, paragraph 2.

4. Coastal States may, in the exercise of their sovereignty within their territorial sea, adopt laws and regulations for the prevention, reduction and control of marine pollution from foreign vessels, including vessels exercising the right of innocent passage. Such laws and regulations shall, in accordance with Part II, section 3, not hamper innocent passage of foreign vessels.

5. Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their exclusive economic zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization or general diplomatic conference.

6. (*a*) Where the international rules and standards referred to in paragraph 1 are inadequate to meet special circumstances and coastal States have reasonable grounds for believing that a particular, clearly defined area of their respective exclusive economic zones is an area where the adoption of special mandatory measures for the prevention of pollution from vessels is required for recognized technical reasons in relation to its oceanographical and ecological conditions, as well as its utilization or the protection of its resources and the particular character of its traffic, the coastal States, after appropriate consultations through the competent international organization with any other States concerned, may, for that area, direct a communication to that organization, submitting scientific and technical evidence in support and information on necessary reception facilities. Within 12 months after receiving such a communication, the organization shall determine whether the conditions in that area correspond to the requirements set out above. If the organization so determines, the coastal States may, for that area, adopt laws and regulations for the prevention, reduction and control of pollution from vessels implementing such international rules and standards or navigational practices as are made applicable, through the organization, for special areas. These laws and regulations shall not become applicable to foreign vessels until 15 months after the submission of the communication to the organization.

(*b*) The coastal States shall publish the limits of any such particular, clearly defined area.

(*c*) If the coastal States intend to adopt additional laws and regulations for the same area for the prevention, reduction and control of pollution from vessels, they shall, when submitting the aforesaid communication, at the same time notify the organization thereof. Such additional laws and regulations may relate to discharges or navigational practices but shall not require foreign vessels to observe design, construction, manning or equipment standards other than generally accepted international rules and standards; they shall become applicable to foreign vessels 15 months after the submission of

the communication to the organization, provided that the organization agrees within 12 months after the submission of the communication.

7. The international rules and standards referred to in this article should include *inter alia* those relating to prompt notification to coastal States, whose coastline or related interests may be affected by incidents, including maritime casualties, which involve discharges or probability of discharges.

Article 212. Pollution from or through the atmosphere

1. States shall adopt laws and regulations to prevent, reduce and control pollution of the marine environment from or through the atmosphere, applicable to the air space under their sovereignty and to vessels flying their flag or vessels or aircraft of their registry, taking into account internationally agreed rules, standards and recommended practices and procedures and the safety of air navigation.

2. States shall take other measures as may be necessary to prevent, reduce and control such pollution.

3. States, acting especially through competent international organizations or diplomatic conference, shall endeavour to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control such pollution.

SECTION 6. ENFORCEMENT

Article 213. Enforcement with respect to pollution from land-based sources

States shall enforce their laws and regulations adopted in accordance with article 207 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from land-based sources.

Article 214. Enforcement with respect to pollution from sea-bed activities

States shall enforce their laws and regulations adopted in accordance with article 208 and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment arising from or in connection with sea-bed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction, pursuant to articles 60 and 80.

Article 215. Enforcement with respect to pollution from activities in the Area

Enforcement of international rules, regulations and procedures established in accordance with Part XI to prevent, reduce and control pollution of the marine environment from activities in the Area shall be governed by that Part.

Article 216. Enforcement with respect to pollution by dumping

1. Laws and regulations adopted in accordance with this Convention and applicable international rules and standards established through competent international organizations or diplomatic conference for the prevention, reduction and control of pollution of the marine environment by dumping shall be enforced:

(*a*) by the coastal State with regard to dumping within its territorial sea or its exclusive economic zone or onto its continental shelf;

(*b*) by the flag State with regard to vessels flying its flag or vessels or aircraft of its registry;

(*c*) by any State with regard to acts of loading of wastes or other matter occurring within its territory or at its off-shore terminals.

2. No State shall be obliged by virtue of this article to institute proceedings when another State has already instituted proceedings in accordance with this article.

Article 217. Enforcement by flag States

1. States shall ensure compliance by vessels flying their flag or of their registry with applicable international rules and standards, established through the competent international organization or general diplomatic conference, and with their laws and regulations adopted in accordance with this Convention for the prevention, reduction and control of pollution of the marine environment from vessels and shall accordingly adopt laws and regulations and take other measures necessary for their implementation. Flag States shall provide for the effective enforcement of such rules, standards, laws and regulations, irrespective of where a violation occurs.

2. States shall, in particular, take appropriate measures in order to ensure that vessels flying their flag or of their registry are prohibited from sailing, until they can proceed to sea in compliance with the requirements of the international rules and standards referred to in paragraph 1, including requirements in respect of design, construction, equipment and manning of vessels.

3. States shall ensure that vessels flying their flag or of their registry carry on board certificates required by and issued pursuant to international rules and standards referred to in paragraph 1. States shall ensure that vessels flying their flag are periodically inspected in order to verify that such certificates are in conformity with the actual condition of the vessels. These certificates shall be accepted by other States as evidence of the condition of the vessels and shall be regarded as having the same force as certificates issued by them, unless there are clear grounds for believing that the condition of the vessel does not correspond substantially with the particulars of the certificates.

4. If a vessel commits a violation of rules and standards established through the competent international organization or general diplomatic conference, the flag State, without prejudice to articles 218, 220 and 228, shall provide for immediate investigation and where appropriate institute proceedings in respect of the alleged violation, irrespective of where the violation occurred or where the pollution caused by such violation has occured or has been spotted.

5. Flag States conducting an investigation of the violation may request the assistance of any other State whose cooperation could be useful in clarifying the circumstances of the case. States shall endeavour to meet appropriate requests of flag States.

6. States shall, at the written request of any State, investigate any violation alleged to have been committed by vessels flying their flag. If satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, flag States shall without delay institute such proceedings in accordance with their laws.

7. Flag States shall promptly inform the requesting State and the competent international organization of the action taken and its outcome. Such information shall be available to all States.

8. Penalties provided for by the laws and regulations of States for vessels flying their flag shall be adequate in severity to discourage violations wherever they occur.

Article 218. Enforcement by port States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may undertake investigations and, where the evidence so warrants, institute proceedings in respect of any discharge from that vessel outside the internal waters, territorial sea or exclusive economic zone of that State in violation of applicable international rules and standards established through the competent international organization or general diplomatic conference.

2. No proceedings pursuant to paragraph 1 shall be instituted in respect of a discharge violation in the internal waters, territorial sea or exclusive economic zone of another State unless requested by that State, the flag State, or a State damaged or threatened by the discharge violation, or unless the violation has caused or is likely to cause pollution in the internal waters, territorial sea or exclusive economic zone of the State instituting the proceedings.

3. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State shall, as far as practicable, comply with requests from any State for investigation of a discharge violation referred to in paragraph 1, believed to have occurred in, caused, or threatened damage to the internal waters, territorial sea or exclusive economic zone of the requesting State. It shall likewise, as far as practicable, comply with requests from the flag State for investigation of such a violation, irrespective of where the violation occurred.

4. The records of the investigation carried out by a port State pursuant to this article shall be transmitted upon request to the flag State or to the coastal State. Any proceedings instituted by the port State on the basis of such an investigation may, subject to section 7, be suspended at the request of the coastal State when the violation has occurred within its internal waters, territorial sea or exclusive economic zone. The evidence and records of the case, together with any bond or other financial security posted with the authorities of the port State, shall in that event be transmitted to the coastal State. Such transmittal shall preclude the continuation of proceedings in the port State.

Article 219. Measures relating to seaworthiness of vessels to avoid pollution

Subject to section 7, States which, upon request or on their own initiative, have ascertained that a vessel within one of their ports or at one of their off-shore terminals is in violation of applicable international rules and standards relating to seaworthiness of vessels and thereby threatens damage to the marine environment shall, as far as practicable, take administrative measures to prevent the vessel from sailing. Such States may permit the vessel to proceed only to the nearest appropriate repair yard and, upon removal of the causes of the violation, shall permit the vessel to continue immediately.

Article 220. Enforcement by coastal States

1. When a vessel is voluntarily within a port or at an off-shore terminal of a State, that State may, subject to section 7, institute proceedings in respect of any violation of its laws and regulations adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels when the violation has occurred within the territorial sea or the exclusive economic zone of that State.

2. Where there are clear grounds for believing that a vessel navigating in the territorial sea of a State has, during its passage therein, violated laws and regulations of that State adopted in accordance with this Convention or applicable international rules and standards for the prevention, reduction and control of pollution from vessels, that State, without prejudice to the application of the relevant provisions of Part II, section 3, may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws, subject to the provisions of section 7.

3. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation of applicable international rules and standards for the prevention, reduction and control of pollution from vessels or laws and regulations of that State conforming and giving effect to such rules and standards, that State may require the vessel to give information regarding its identity and port of registry, its last and its next port of call and other relevant information required to establish whether a violation has occurred.

4. States shall adopt laws and regulations and take other measures so that vessels flying their flag comply with requests for information pursuant to paragraph 3.

5. Where there are clear grounds for believing that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a substantial discharge causing or threatening significant pollution of the marine environment, that State may undertake physical inspection of the vessel for matters relating to the violation if the vessel has refused to give information or if the information supplied by the vessel is manifestly at variance with the evident factual situation and if the circumstances of the case justify such inspection.

6. Where there is clear objective evidence that a vessel navigating in the exclusive economic zone or the territorial sea of a State has, in the exclusive economic zone, committed a violation referred to in paragraph 3 resulting in a discharge causing major damage or threat of major damage to the coastline or related interests of the coastal State, or to any resources of its territorial sea or exclusive economic zone, that State may, subject to section 7, provided that the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws.

7. Notwithstanding the provisions of paragraph 6, whenever appropriate procedures have been established, either through the competent international organization or as otherwise agreed, whereby compliance with requirements for bonding or other appropriate financial security has been assured, the coastal State if bound by such procedures shall allow the vessel to proceed.

8. The provisions of paragraphs 3, 4, 5, 6 and 7 also apply in respect of national laws and regulations adopted pursuant to article 211, paragraph 6.

Article 221. Measures to avoid pollution arising from maritime casualties

1. Nothing in this Part shall prejudice the right of States, pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty or acts relating to such a casualty, which may reasonably be expected to result in major harmful consequences.

2. For the purposes of this article, "maritime casualty" means a collision of vessels, stranding or other incident of navigation, or other occurrence on board a vessel or external to it resulting in material damage or imminent threat of material damage to a vessel or cargo.

Article 222. Enforcement with respect to pollution from or through the atmosphere

States shall enforce, within the air space under their sovereignty or with regard to vessels flying their flag or vessels or aircraft of their registry, their laws and regulations adopted in accordance with article 212, paragraph 1, and with other provisions of this Convention and shall adopt laws and regulations and take other measures necessary to implement applicable international rules and standards established through competent international organizations or diplomatic conference to prevent, reduce and control pollution of the marine environment from or through the atmosphere, in conformity with all relevant international rules and standards concerning the safety of air navigation.

SECTION 7. SAFEGUARDS

Article 223. Measures to facilitate proceedings

In proceedings instituted pursuant to this Part, States shall take measures to facilitate the hearing of witnesses and the admission of evidence submitted by authorities of another State, or by the competent international organization, and shall facilitate the attendance at such proceedings of official representatives of the competent international organization, the flag State and any State affected by pollution arising out of any violation. The official representatives attending such proceedings shall have such rights and duties as may be provided under national laws and regulations or international law.

Article 224. Exercise of powers of enforcement

The powers of enforcement against foreign vessels under this Part may only be exercised by officials or by warships, military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

Article 225. Duty to avoid adverse consequences in the exercise of the powers of enforcement

In the exercise under this Convention of their powers of enforcement against foreign vessels, States shall not endanger the safety of navigation or otherwise create any hazard to a vessel, or bring it to an unsafe port or anchorage, or expose the marine environment to an unreasonable risk.

Article 226. Investigation of foreign vessels

1. (*a*) States shall not delay a foreign vessel longer than is essential for purposes of the investigations provided for in articles 216, 218 and 220. Any physical inspection of a foreign vessel shall be limited to an examination of such certificates, records or other documents as the vessel is required to carry by generally accepted international rules and standards or of any similar documents which it is carrying; further physical inspection of the vessel may be undertaken only after such an examination and only when:

(i) there are clear grounds for believing that the condition of the vessel or its equipment does not correspond substantially with the particulars of those documents;

(ii) the contents of such documents are not sufficient to confirm or verify a suspected violation; or

(iii) the vessel is not carrying valid certificates and records.

(*b*) If the investigation indicates a violation of applicable laws and regulations or international rules and standards for the protection and preservation of the marine environment, release shall be made promptly subject to reasonable procedures such as bonding or other appropriate financial security.

(*c*) Without prejudice to applicable international rules and standards relating to the seaworthiness of vessels, the release of a vessel may, whenever it would present an unreasonable threat of damage to the marine environment, be refused or made conditional upon proceeding to the nearest appropriate repair yard. Where release has been refused or made conditional, the flag State of the vessel must be promptly notified, and may seek release of the vessel in accordance with Part XV.

2. States shall co-operate to develop procedures for the avoidance of unnecessary physical inspection of vessels at sea.

Article 227. Non-discrimination with respect to foreign vessels

In exercising their rights and performing their duties under this Part, States shall not discriminate in form or in fact against vessels of any other State.

Article 228. Suspension and restrictions on institution of proceedings

1. Proceedings to impose penalties in respect of any violation of applicable laws and regulations or international rules and standards relating to the prevention, reduction and control of pollution from vessels committed by a foreign vessel beyond the territorial sea of the State instituting proceedings shall be suspended upon the taking of proceedings to impose penalties in respect of corresponding charges by the flag State within six months of the date on which proceedings were first instituted, unless those proceedings relate to a case of major damage to the coastal State, or the flag State in question has repeatedly disregarded its obligation to enforce effectively the applicable international rules and standards in respect of violations committed by its vessels. The flag State shall in due course make available to the State previously instituting proceedings a full dossier of the case and the records of the proceedings, whenever the flag State has requested the suspension of proceedings in accordance with this article. When proceedings instituted by the flag State have been brought to a conclusion, the suspended proceedings shall be terminated. Upon payment of costs incurred in respect of such proceedings, any bond posted or other financial security provided in connection with the suspended proceedings shall be released by the coastal State.

2. Proceedings to impose penalties on foreign vessels shall not be instituted after the expiry of three years from the date on which the violation was committed, and shall not be taken by any State in the event of proceedings having been instituted by another State subject to the provisions set out in paragraph 1.

3. The provisions of this article are without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws irrespective of prior proceedings by another State.

Article 229. Institution of civil proceedings

Nothing in this Convention affects the institution of civil proceedings in respect of any claim for loss or damage resulting from pollution of the marine environment.

Article 230. Monetary penalties and the observance of recognized rights of the accused

1. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels beyond the territorial sea.

2. Monetary penalties only may be imposed with respect to violations of national laws and regulations or applicable international rules and standards for the prevention, reduction and control of pollution of the marine environment, committed by foreign vessels in the territorial sea, except in the case of a wilful and serious act of pollution in the territorial sea.

3. In the conduct of proceedings in respect of such violations committed by a foreign vessel which may result in the imposition of penalties, recognized rights of the accused shall be observed.

Article 231. Notification to the flag State and other States concerned

States shall promptly notify the flag State and any other State concerned of any measures taken pursuant to section 6 against foreign vessels, and shall submit to the flag State all official reports concerning such measures. However, with respect to violations committed in the territorial sea, the foregoing obligations of the coastal State apply only to such measures as are taken in proceedings. The diplomatic agents or consular officers, and where possible the maritime authority of the flag State, shall be immediately informed of any such measures taken pursuant to section 6 against foreign vessels.

Article 232. Liability of States arising from enforcement measures

States shall be liable for damage or loss attributable to them arising from measures taken pursuant to section 6 when such measures are unlawful or exceed those reasonably required in the light of available information. States shall provide for recourse in their courts for actions in respect of such damage or loss.

Article 233. Safeguards with respect to straits used for international navigation

Nothing in sections 5, 6 and 7 affects the legal régime of straits used for international navigation. However, if a foreign ship other than those referred to in section 10 has committed a violation of the laws and regulations referred to in article 42, paragraph 1 (*a*) and (*b*), causing or threatening major damage to the marine environment of the straits, the States bordering the straits may take appropriate enforcement measures and if so shall respect *mutatis mutandis* the provisions of this section.

SECTION 8. ICE-COVERED AREAS

Article 234. Ice-covered areas

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.

SECTION 9. RESPONSIBILITY AND LIABILITY

Article 235. Responsibility and liability

1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.

2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.

3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall co-operate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation, such as compulsory insurance or compensation funds.

SECTION 10. SOVEREIGN IMMUNITY

Article 236. Sovereign immunity

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State used, for the time being, only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Convention.

SECTION 11. OBLIGATIONS UNDER OTHER CONVENTIONS ON THE PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Article 237. Obligations under other conventions on the protection and preservation of the marine environment

1. The provisions of this Part are without prejudice to the specific obligations assumed by States under special conventions and agreements concluded previously which relate to the protection and preservation of the marine environment and to agreements which may be concluded in furtherance of the general principles set forth in this Convention.

2. Specific obligations assumed by States under special conventions, with respect to the protection and preservation of the marine environment, should be carried out in a manner consistent with the general principles and objectives of this Convention.

Part XIII. Marine scientific research

SECTION 1. GENERAL PROVISIONS

Article 238. Right to conduct marine scientific research

All States, irrespective of their geographical location, and competent international organizations have the right to conduct marine scientific research subject to the rights and duties of other States as provided for in this Convention.

Article 239. Promotion of marine scientific research

States and competent international organizations shall promote and facilitate the development and conduct of marine scientific research in accordance with this Convention.

Article 240. General principles for the conduct of marine scientific research

In the conduct of marine scientific research the following principles shall apply:

(*a*) marine scientific research shall be conducted exclusively for peaceful purposes;

(*b*) marine scientific research shall be conducted with appropriate scientific methods and means compatible with this Convention;

(*c*) marine scientific research shall not unjustifiably interfere with other legitimate uses of the sea compatible with this Convention and shall be duly respected in the course of such uses;

(*d*) marine scientific research shall be conducted in compliance with all relevant regulations adopted in conformity with this Convention, including those for the protection and preservation of the marine environment.

Article 241. Non-recognition of marine scientific research activities as the legal basis for claims

Marine scientific research activities shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

SECTION 2. INTERNATIONAL CO-OPERATION

Article 242. Promotion of international co-operation

1. States and competent international organizations shall, in accordance with the principle of respect for sovereignty and jurisdiction and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.

2. In this context, without prejudice to the rights and duties of States under this Convention, a State, in the application of this Part, shall provide, as appropriate, other States with a reasonable opportunity to obtain from it, or with its co-operation, information necessary to prevent and control damage to the health and safety of persons and to the marine environment.

Article 243. Creation of favourable conditions

States and competent international organizations shall co-operate, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of marine scientific research in the marine environment and to integrate the efforts of scientists in studying the essence of phenomena and processes occurring in the marine environment and the interrelations between them.

Article 244. Publication and dissemination of information and knowledge

1. States and competent international organizations shall, in accordance with this Convention, make available by publication and dissemination through appropriate channels information on proposed major programmes and their objectives as well as knowledge resulting from marine scientific research.

2. For this purpose, States, both individually and in co-operation with other States and with competent international organizations, shall actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, especially to developing States, as well as the strengthening of the autonomous marine scientific research capabilities of developing States through, *inter alia*, programmes to provide adequate education and training of their technical and scientific personnel.

SECTION 3. CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCH

Article 245. Marine scientific research in the territorial sea

Coastal States, in the exercise of their sovereignty, have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Marine scientific research therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State.

Article 246. Marine scientific research in the exclusive economic zone and on the continental shelf

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.

2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

4. For the purposes of applying paragraph 3, normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State.

5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:

(*a*) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;

(*b*) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;

(*c*) involves the construction, operation or use of artificial islands, installations and structures referred to in articles 60 and 80;

(*d*) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.

6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (*a*) of that paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of this Part on the continental shelf, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, outside those specific areas which coastal States may at any time publicly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.

7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77.

8. Marine scientific research activities referred to in this article shall not unjustifiably interfere with activities undertaken by coastal States in the exercise of their sovereign rights and jurisdiction provided for in this Convention.

Article 247. Marine scientific research projects undertaken by or under the auspices of international organizations

A coastal State which is a member of or has a bilateral agreement with an international organization, and in whose exclusive economic zone or on whose continental shelf that organization wants to carry out a marine scientific research project, directly or under its auspices, shall be deemed to have authorized the project to be carried out in conformity with the agreed specifications if that State approved the detailed project when the decision was made by the organization for the undertaking of the project, or is willing to participate in it, and has not expressed any objection within four months of notification of the project by the organization to the coastal State.

Article 248. Duty to provide information to the coastal State

States and competent international organizations which intend to undertake marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall, not less than six months in advance of the expected starting date of the marine scientific research project, provide that State with a full description of:

(*a*) the nature and objectives of the project;

(*b*) the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment;

(*c*) the precise geographical areas in which the project is to be conducted;

(*d*) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;

(*e*) the name of the sponsoring institution, its director, and the person in charge of the project; and

(*f*) the extent to which it is considered that the coastal State should be able to participate or to be represented in the project.

Article 249. Duty to comply with certain conditions

1. States and competent international organizations when undertaking marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall comply with the following conditions:

(*a*) ensure the right of the coastal State, if it so desires, to participate or be represented in the marine scientific research project, especially on board research vessels and other craft or scientific research installations, when practicable, without payment of any remuneration to the scientists of the coastal State and without obligation to contribute towards the costs of the project;

(*b*) provide the coastal State, at its request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;

(*c*) undertake to provide access for the coastal State, at its request, to all data and samples derived from the marine scientific research project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;

(*d*) if requested, provide the coastal State with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;

(*e*) ensure, subject to paragraph 2, that the research results are made internationally available through appropriate national or international channels, as soon as practicable;

(*f*) inform the coastal State immediately of any major change in the research programme;

(*g*) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

2. This article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to article 246, paragraph 5, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

Article 250. Communications concerning marine scientific research projects

Communications concerning the marine scientific research projects shall be made through appropriate official channels, unless otherwise agreed.

Article 251. General criteria and guidelines

States shall seek to promote through competent international organizations the establishment of general criteria and guidelines to assist States in ascertaining the nature and implications of marine scientific research.

Article 252. Implied consent

States or competent international organizations may proceed with a marine scientific research project six months after the date upon which the information required pursuant to article 248 was provided to the coastal State unless within four months of the receipt of the communication containing such information the coastal State has informed the State or organization conducting the research that:

(*a*) it has withheld its consent under the provisions of article 246; or

(*b*) the information given by that State or competent international organization regarding the nature or objectives of the project does not conform to the manifestly evident facts; or

(*c*) it requires supplementary information relevant to conditions and the information provided for under articles 248 and 249; or

(*d*) outstanding obligations exist with respect to a previous marine scientific research project carried out by that State or organization, with regard to conditions established in article 249.

Article 253. Suspension or cessation of marine scientific research activities

1. A coastal State shall have the right to require the suspension of any marine scientific research activities in progress within its exclusive economic zone or on its continental shelf if:

(*a*) the research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or

(*b*) the State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the marine scientific research project.

2. A coastal State shall have the right to require the cessation of any marine scientific research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. A coastal State may also require cessation of marine scientific research activities if any of the situations contem-

plated in paragraph 1 are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct marine scientific research activities shall terminate the research activities that are the subject of such a notification.

5. An order of suspension under paragraph 1 shall be lifted by the coastal State and the marine scientific research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

Article 254. Rights of neighbouring land-locked and geographically disadvantaged States

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research referred to in article 246, paragraph 3, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project, and shall notify the coastal State thereof.

2. After the consent has been given for the proposed marine scientific research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this Convention, States and competent international organizations undertaking such a project shall provide to the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, relevant information as specified in article 248 and article 249, paragraph 1 (*f*).

3. The neighbouring land-locked and geographically disadvantaged States referred to above shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed marine scientific research project through qualified experts appointed by them and not objected to by the coastal State, in accordance with the conditions agreed for the project, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 shall provide to the abovementioned land-locked and geographically disadvantaged States, at their request, the information and assistance specified in article 249, paragraph 1 (*d*), subject to the provisions of article 249, paragraph 2.

Article 255. Measures to facilitate marine scientific research and assist research vessels

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific research conducted in accordance with this Convention beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their laws and regulations, access to their harbours and promote assistance for marine scientific research vessels which comply with the relevant provisions of this Part.

Article 256. Marine scientific research in the Area

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with the provisions of Part XI, to conduct marine scientific research in the Area.

Article 257. Marine scientific research in the water column beyond the exclusive economic zone

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with this Convention, to conduct marine scientific research in the water column beyond the limits of the exclusive economic zone.

SECTION 4. SCIENTIFIC RESEARCH INSTALLATIONS OR EQUIPMENT IN THE MARINE ENVIRONMENT

Article 258. Deployment and use

The deployment and use of any type of scientific research installations or equipment in any area of the marine environment shall be subject to the same conditions as are prescribed in this Convention for the conduct of marine scientific research in any such area.

Article 259. Legal status

The installations or equipment referred to in this section do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf.

Article 260. Safety zones

Safety zones of a reasonable breadth not exceeding a distance of 500 metres may be created around scientific research installations in accordance with the relevant provisions of this Convention. All States shall ensure that such safety zones are respected by their vessels.

Article 261. Non-interference with shipping routes

The deployment and use of any type of scientific research installations or equipment shall not constitute an obstacle to established international shipping routes.

Article 262. Identification markings and warning signals

Installations or equipment referred to in this section shall bear identification markings indicating the State of registry or the international organization to which they belong and shall have adequate internationally agreed warning signals to ensure safety at sea and the safety of air navigation, taking into account rules and standards established by competent international organizations.

SECTION 5. RESPONSIBILITY AND LIABILITY

Article 263. Responsibility and liability

1. States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with this Convention.

2. States and competent international organizations shall be responsible and liable for the measures they take in contravention of this Convention in respect of marine scientific research conducted by other States, their natural or juridical persons or by competent international organizations, and shall provide compensation for damage resulting from such measures.

3. States and competent international organizations shall be responsible and liable pursuant to article 235 for damage caused by pollution of the marine environment arising out of marine scientific research undertaken by them or on their behalf.

SECTION 6. SETTLEMENT OF DISPUTES AND INTERIM MEASURES

Article 264. Settlement of disputes

Disputes concerning the interpretation or application of the provisions of this Convention with regard to the marine

scientific research shall be settled in accordance with Part XV, sections 2 and 3.

Article 265. Interim measures

Pending settlement of a dispute in accordance with Part XV, sections 2 and 3, the State or competent international organization authorized to conduct a marine scientific research project shall not allow research activities to commence or continue without the express consent of the coastal State concerned.

Part XIV. Development and transfer of marine technology

SECTION 1. GENERAL PROVISIONS

Article 266. Promotion of the development and transfer of marine technology

1. States, directly or through competent international organizations, shall co-operate in accordance with their capabilities to promote actively the development and transfer of marine science and marine technology on fair and reasonable terms and conditions.

2. States shall promote the development of the marine scientific and technological capacity of States which may need and request technical assistance in this field, particularly developing States, including land-locked and geographically disadvantaged States, with regard to the exploration, exploitation, conservation and management of marine resources, the protection and preservation of the marine environment, marine scientific research and other activities in the marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

3. States shall endeavour to foster favourable economic and legal conditions for the transfer of marine technology for the benefit of all parties concerned on an equitable basis.

Article 267. Protection of legitimate interests

States, in promoting co-operation pursuant to article 266, shall have due regard for all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of marine technology.

Article 268. Basic objectives

States, directly or through competent international organizations, shall promote:

(*a*) the acquisition, evaluation and dissemination of marine technological knowledge and facilitate access to such information and data;

(*b*) the development of appropriate marine technology;

(*c*) the development of the necessary technological infrastructure to facilitate the transfer of marine technology;

(*d*) the development of human resources through training and education of nationals of developing States and countries and especially the nationals of the least developed among them;

(*e*) international co-operation at all levels, particularly at the regional, subregional and bilateral levels.

Article 269. Measures to achieve the basic objectives

In order to achieve the objectives referred to in article 268, States, directly or through competent international organizations, shall endeavour, *inter alia*, to:

(*a*) establish programmes of technical co-operation for the effective transfer of all kinds of marine technology to States which may need and request technical assistance in this field, particularly the developing land-locked and geographically disadvantaged States, as well as other developing States which have not been able either to establish or develop their own technological capacity in marine science and in the exploration and exploitation of marine resources or to develop the infrastructure of such technology;

(*b*) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;

(*c*) hold conferences, seminars and symposia on scientific and technological subjects, in particular on policies and methods for the transfer of marine technology;

(*d*) promote the exchange of scientists and of technological and other experts;

(*e*) undertake projects and promote joint ventures and other forms of bilateral and multilateral co-operation.

SECTION 2. INTERNATIONAL CO-OPERATION

Article 270. Ways and means of international co-operation

International co-operation for the development and transfer of marine technology shall be carried out, where feasible and appropriate, through existing bilateral, regional or multilateral programmes, and also through expanded and new programmes in order to facilitate marine scientific research, the transfer of marine technology, particularly in new fields, and appropriate international funding for ocean research and development.

Article 271. Guidelines, criteria and standards

States, directly or through competent international organizations, shall promote the establishment of generally accepted guidelines, criteria and standards for the transfer of marine technology on a bilateral basis or within the framework of international organizations and other forums, taking into account, in particular, the interests and needs of developing States.

Article 272. Co-ordination of international programmes

In the field of transfer of marine technology, States shall endeavour to ensure that competent international organizations co-ordinate their activities, including any regional or global programmes, taking into account the interests and needs of developing States, particularly land-locked and geographically disadvantaged States.

Article 273. Co-operation with international organizations and the Authority

States shall co-operate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals and the Enterprise of skills and marine technology with regard to activities in the Area.

Article 274. Objectives of the Authority

Subject to all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of technology, the Authority, with regard to activities in the Area, shall ensure that:

(*a*) on the basis of the principle of equitable geographical distribution, nationals of developing States, whether coastal, land-locked or geographically disadvantaged, shall be taken on for the purposes of training as members of the managerial, research and technical staff constituted for its undertakings;

(*b*) the technical documentation on the relevant equipment, machinery, devices and processes is made available to all States, in particular developing States which may need and request technical assistance in this field;

(*c*) adequate provision is made by the Authority to facilitate the acquisition of technical assistance in the field of marine technology by States which may need and request it, in particular developing States, and the acquisition by their nationals of the necessary skills and know-how, including professional training;

(*d*) States which may need and request technical assistance in this field, in particular developing States, are assisted in the acquisition of necessary equipment, processes, plant and other technical know-how through any financial arrangements provided for in this Convention.

SECTION 3. NATIONAL AND REGIONAL MARINE SCIENTIFIC AND TECHNOLOGICAL CENTRES

Article 275. Establishment of national centres

1. States, directly or through competent international organizations and the Authority, shall promote the establishment, particularly in developing coastal States, of national marine scientific and technological research centres and the strengthening of existing national centres, in order to stimulate and advance the conduct of marine scientific research by developing coastal States and to enhance their national capabilities to utilize and preserve their marine resources for their economic benefit.

2. States, through competent international organizations and the Authority, shall give adequate support to facilitate the establishment and strengthening of such national centres so as to provide for advanced training facilities and necessary equipment, skills and know-how as well as technical experts to such States which may need and request such assistance.

Article 276. Establishment of regional centres

1. States, in co-ordination with the competent international organizations, the Authority and national marine scientific and technological research institutions, shall promote the establishment of regional marine scientific and technological research centres, particularly in developing States, in order to stimulate and advance the conduct of marine scientific research by developing States and foster the transfer of marine technology.

2. All States of a region shall co-operate with the regional centres therein to ensure the more effective achievement of their objectives.

Article 277. Functions of regional centres

The functions of such regional centres shall include, *inter alia*:

(*a*) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geological exploration of the sea-bed, mining and desalination technologies;

(*b*) management studies;

(*c*) study programmes related to the protection and preservation of the marine environment and the prevention, reduction and control of pollution;

(*d*) organization of regional conferences, seminars and symposia;

(*e*) acquisition and processing of marine scientific and technological data and information;

(*f*) prompt dissemination of results of marine scientific and technological research in readily available publications;

(*g*) publicizing national policies with regard to the transfer of marine technology and systematic comparative study of those policies;

(*h*) compilation and systematization of information on the marketing of technology and on contracts and other arrangements concerning patents;

(*i*) technical co-operation with other States of the region.

SECTION 4. CO-OPERATION AMONG INTERNATIONAL ORGANIZATIONS

Article 278. Co-operation among international organizations

The competent international organizations referred to in this Part and in Part XIII shall take all appropriate measures to ensure, either directly or in close co-operation among themselves, the effective discharge of their functions and responsibilities under this Part.

Part XV. Settlement of disputes

SECTION 1. GENERAL PROVISIONS

Article 279. Obligation to settle disputes by peaceful means

States Parties shall settle any dispute between them concerning the interpretation or application of this Convention by peaceful means in accordance with Article 2, paragraph 3, of the Charter of the United Nations and, to this end, shall seek a solution by the means indicated in Article 33, paragraph 1, of the Charter.

Article 280. Settlement of disputes by any peaceful means chosen by the parties

Nothing in this Part impairs the right of any States Parties to agree at any time to settle a dispute between them concerning the interpretation or application of this Convention by any peaceful means of their own choice.

Article 281. Procedure where no settlement has been reached by the parties

1. If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed to seek settlement of the dispute by a peaceful means of their own choice, the procedures provided for in this Part apply only where no settlement has been reached by recourse to such means and the agreement between the parties does not exclude any further procedure.

2. If the parties have also agreed on a time-limit, paragraph 1 applies only upon the expiration of that time-limit.

Article 282. Obligations under general, regional or bilateral agreements

If the States Parties which are parties to a dispute concerning the interpretation or application of this Convention have agreed, through a general, regional or bilateral agreement or otherwise, that such dispute shall, at the request of any party to the dispute, be submitted to a procedure that entails a binding decision, that procedure shall apply in lieu of the procedures provided for in this Part, unless the parties to the dispute otherwise agree.

Article 283. Obligation to exchange views

1. When a dispute arises between States Parties concerning the interpretation or application of this Convention, the parties to the dispute shall proceed expeditiously to an

exchange of views regarding its settlement by negotiation or other peaceful means.

2. The parties shall also proceed expeditiously to an exchange of views where a procedure for the settlement of such a dispute has been terminated without a settlement or where a settlement has been reached and the circumstances require consultation regarding the manner of implementing the settlement.

Article 284. Conciliation

1. A State Party which is a party to a dispute concerning the interpretation or application of this Convention may invite the other party or parties to submit the dispute to conciliation in accordance with the procedure under Annex V, section 1, or another conciliation procedure.

2. If the invitation is accepted and if the parties agree upon the conciliation procedure to be applied, any party may submit the dispute to that procedure.

3. If the invitation is not accepted or the parties do not agree upon the procedure, the conciliation proceedings shall be deemed to be terminated.

4. Unless the parties otherwise agree, when a dispute has been submitted to conciliation, the proceedings may be terminated only in accordance with the agreed conciliation procedure.

Article 285. Application of this section to disputes submitted pursuant to Part XI

This section applies to any dispute which pursuant to Part XI, section 5, is to be settled in accordance with procedures provided for in this Part. If an entity other than a State Party is a party to such a dispute, this section applies *mutatis mutandis*.

SECTION 2. COMPULSORY PROCEDURES ENTAILING BINDING DECISIONS

Article 286. Application of procedures under this section

Subject to section 3, any dispute concerning the interpretation or application of this Convention shall, where no settlement has been reached by recourse to section 1, be submitted at the request of any party to the dispute to the court or tribunal having jurisdiction under this section.

Article 287. Choice of procedure

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State shall be free to choose, by means of a written declaration, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Convention:

(*a*) the International Tribunal for the Law of the Sea established in accordance with Annex VI;

(*b*) the International Court of Justice;

(*c*) an arbitral tribunal constituted in accordance with Annex VII;

(*d*) a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.

2. A declaration made under paragraph 1 shall not affect or be affected by the obligation of a State Party to accept the jurisdiction of the Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea to the extent and in the manner provided for in Part XI, section 5.

3. A State Party, which is a party to a dispute not covered by a declaration in force, shall be deemed to have accepted arbitration in accordance with Annex VII.

4. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree.

6. A declaration made under paragraph 1 shall remain in force until three months after notice of revocation has been deposited with the Secretary-General of the United Nations.

7. A new declaration, a notice of revocation or the expiry of a declaration does not in any way affect proceedings pending before a court or tribunal having jurisdiction under this article, unless the parties otherwise agree.

8. Declarations and notices referred to in this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 288. Jurisdiction

1. A court or tribunal referred to in article 287 shall have jurisdiction over any dispute concerning the interpretation or application of this Convention which is submitted to it in accordance with this Part.

2. A court or tribunal referred to in article 287 shall also have jurisdiction over any dispute concerning the interpretation or application of an international agreement related to the purposes of this Convention, which is submitted to it in accordance with the agreement.

3. The Sea-Bed Disputes Chamber of the International Tribunal for the Law of the Sea established in accordance with Annex VI, and any other chamber or arbitral tribunal referred to in Part XI, section 5, shall have jurisdiction in any matter which is submitted to it in accordance therewith.

4. In the event of a dispute as to whether a court or tribunal has jurisdiction, the matter shall be settled by decision of that court or tribunal.

Article 289. Experts

In any dispute involving scientific or technical matters, a court or tribunal exercising jurisdiction under this section may, at the request of a party or *proprio motu*, select in consultation with the parties no fewer than two scientific or technical experts chosen preferably from the relevant list prepared in accordance with Annex VIII, article 2, to sit with the court or tribunal but without the right to vote.

Article 290. Provisional measures

1. If a dispute has been duly submitted to a court or tribunal which considers that *prima facie* it has jurisdiction under this Part or Part XI, section 5, the court or tribunal may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent serious harm to the marine environment, pending the final decision.

2. Provisional measures may be modified or revoked as soon as the circumstances justifying them have changed or ceased to exist.

3. Provisional measures may be prescribed, modified or revoked under this article only at the request of a party to the dispute and after the parties have been given an opportunity to be heard.

4. The court or tribunal shall forthwith give notice to the parties to the dispute, and to such other States Parties as it considers appropriate, of the prescription, modification or revocation of provisional measures.

5. Pending the constitution of an arbitral tribunal to which a dispute is being submitted under this section, any court or tribunal agreed upon by the parties or, failing such agreement within two weeks from the date of the request for provisional measures, the International Tribunal for the Law of the Sea or, with respect to activities in the Area, the Sea-Bed Disputes Chamber, may prescribe, modify or revoke provisional measures in accordance with this article if it considers that *prima facie* the tribunal which is to be constituted would have jurisdiction and that the urgency of the situation so requires. Once constituted, the tribunal to which the dispute has been submitted may modify, revoke or affirm those provisional measures, acting in conformity with paragraphs 1 to 4.

6. The parties to the dispute shall comply promptly with any provisional measures prescribed under this article.

Article 291. Access

1. All the dispute settlement procedures specified in this Part shall be open to States Parties.

2. The dispute settlement procedures specified in this Part shall be open to entities other than States Parties only as specifically provided for in this Convention.

Article 292. Prompt release of vessels and crews

1. Where the authorities of a State Party have detained a vessel flying the flag of another State Party and it is alleged that the detaining State has not complied with the provisions of this Convention for the prompt release of the vessel or its crew upon the posting of a reasonable bond or other financial security, the question of release from detention may be submitted to any court or tribunal agreed upon by the parties or, failing such agreement within ten days from the time of detention, to a court or tribunal accepted by the detaining State under article 287 or to the International Tribunal for the Law of the Sea, unless the parties otherwise agree.

2. The application for release may be made only by or on behalf of the flag State of the vessel.

3. The court or tribunal shall deal without delay with the application for release and shall deal only with the question of release, without prejudice to the merits of any case before the appropriate domestic forum against the vessel, its owner or its crew. The authorities of the detaining State remain competent to release the vessel or its crew at any time.

4. Upon the posting of the bond or other financial security determined by the court or tribunal, the authorities of the detaining State shall comply promptly with the decision of the court or tribunal concerning the release of the vessel or its crew.

Article 293. Applicable law

1. A court or tribunal having jurisdiction under this section shall apply this Convention and other rules of international law not incompatible with this Convention.

2. Paragraph 1 does not prejudice the power of the court or tribunal having jurisdiction under this section to decide a case *ex aequo et bono*, if the parties so agree.

Article 294. Preliminary proceedings

1. A court or tribunal provided for in article 287 to which an application is made in respect of a dispute referred to in article 297 shall determine at the request of a party, or may determine *proprio motu*, whether the claim constitutes an abuse of legal process or whether *prima facie* it is well founded. If the court or tribunal determines that the claim constitutes an abuse of legal process or is *prima facie* unfounded, it shall take no further action in the case.

2. Upon receipt of the application, the court or tribunal shall immediately notify the other party or parties of the application, and shall fix a reasonable time-limit within which they may request it to make a determination in accordance with paragraph 1.

3. Nothing in this article affects the right of any party to a dispute to make preliminary objections in accordance with the applicable rules of procedure.

Article 295. Exhaustion of local remedies

Any dispute between States Parties concerning the interpretation or application of this Convention may be submitted to the procedures provided for in this section only after local remedies have been exhausted where this is required by international law.

Article 296. Finality and binding force of decisions

1. Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.

2. Any such decision shall have no binding force except between the parties and in respect of that particular dispute.

SECTION 3. LIMITATIONS AND EXCEPTIONS TO THE APPLICABILITY OF SECTION 2

Article 297. Limitations on applicability of section 2

1. Disputes concerning the interpretation or application of this Convention with regard to the exercise by a coastal State of its sovereign rights or jurisdiction provided for in this Convention shall be subject to the procedures provided for in section 2 in the following cases:

(*a*) when it is alleged that a coastal State has acted in contravention of the provisions of this Convention in regard to the freedoms and rights of navigation, overflight or the laying of submarine cables and pipelines, or in regard to other internationally lawful uses of the sea specified in article 58;

(*b*) when it is alleged that a State in exercising the aforementioned freedoms, rights or uses has acted in contravention of this Convention or of laws or regulations adopted by the coastal State in conformity with this Convention and other rules of international law not incompatible with this Convention; or

(*c*) when it is alleged that a coastal State has acted in contravention of specified international rules and standards for the protection and preservation of the marine environment which are applicable to the coastal State and which have been established by this Convention or through a competent international organization or diplomatic conference in accordance with this Convention.

2. (*a*) Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute arising out of:

(i) the exercise by the coastal State of a right or discretion in accordance with article 246; or

(ii) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.

(*b*) A dispute arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with this Convention shall be submitted, at the request of either party, to conciliation under Annex V, section 2, provided that the conciliation commission shall not

call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in article 246, paragraph 6, or of its discretion to withhold consent in accordance with article 246, paragraph 5.

3. (*a*) Disputes concerning the interpretation or application of the provisions of this Convention with regard to fisheries shall be settled in accordance with section 2, except that the coastal State shall not be obliged to accept the submission to such settlement of any dispute relating to its sovereign rights with respect to the living resources in the exclusive economic zone or their exercise, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States and the terms and conditions established in its conservation and management laws and regulations.

(*b*) Where no settlement has been reached by recourse to section 1 of this Part, a dispute shall be submitted to conciliation under Annex V, section 2, at the request of any party to the dispute, when it is alleged that:

(i) a coastal State has manifestly failed to comply with its obligations to ensure through proper conservation and management measures that the maintenance of the living resources in the exclusive economic zone is not seriously endangered;

(ii) a coastal State has arbitrarily refused to determine, at the request of another State, the allowable catch and its capacity to harvest living resources with respect to stocks which that other State is interested in fishing; or

(iii) a coastal State has arbitrarily refused to allocate to any State, under articles 62, 69 and 70 and under the terms and conditions established by the coastal State consistent with this Convention, the whole or part of the surplus it has declared to exist.

(*c*) In no case shall the conciliation commission substitute its discretion for that of the coastal State.

(*d*) The report of the conciliation commission shall be communicated to the appropriate international organizations.

(*e*) In negotiating agreements pursuant to articles 69 and 70, States Parties, unless they otherwise agree, shall include a clause on measures which they shall take in order to minimize the possibility of disagreement concerning the interpretation or application of the agreement, and on how they should proceed if a disagreement nevertheless arises.

Article 298. Optional exceptions to applicability of section 2

1. When signing, ratifying or acceding to this Convention or at any time thereafter, a State may, without prejudice to the obligations arising under section 1, declare in writing that it does not accept any one or more of the procedures provided for in section 2 with respect to one or more of the following categories of disputes:

(*a*) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that a State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, accept submission of the matter to conciliation under Annex V, section 2; and provided further that any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory shall be excluded from such submission;

(ii) after the conciliation commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2, unless the parties otherwise agree;

(iii) this subparagraph does not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties;

(*b*) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(*c*) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

2. A State Party which has made a declaration under paragraph 1 may at any time withdraw it, or agree to submit a dispute excluded by such declaration to any procedure specified in this Convention.

3. A State Party which has made a declaration under paragraph 1 shall not be entitled to submit any dispute falling within the excepted category of disputes to any procedure in this Convention as against another State Party, without the consent of that party.

4. If one of the States Parties has made a declaration under paragraph 1 (*a*), any other State Party may submit any dispute falling within an excepted category against the declarant party to the procedure specified in such declaration.

5. A new declaration, or the withdrawal of a declaration, does not in any way affect proceedings pending before a court or tribunal in accordance with this article, unless the parties otherwise agree.

6. Declarations and notices of withdrawal of declarations under this article shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the States Parties.

Article 299. Right of the parties to agree upon a procedure

1. A dispute excluded under article 297 or excepted by a declaration made under article 298 from the dispute settlement procedures provided for in section 2 may be submitted to such procedures only by agreement of the parties to the dispute.

2. Nothing in this section impairs the right of the parties to the dispute to agree to some other procedure for the settlement of such dispute or to reach an amicable settlement.

Part XVI. General provisions

Article 300. Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.

Article 301. Peaceful uses of the seas

In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.

Article 302. Disclosure of information

Without prejudice to the right of a State Party to resort to the procedures for the settlement of disputes provided for in this Convention, nothing in this Convention shall be deemed to require a State Party, in the fulfilment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.

Article 303. Archaeological and historical objects found at sea

1. States have the duty to protect objects of an archaeological and historical nature found at sea and shall co-operate for this purpose.

2. In order to control traffic in such objects, the coastal State may, in applying article 33, presume that their removal from the sea-bed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.

3. Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.

4. This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

Article 304. Responsibility and liability for damage

The provisions of this Convention regarding responsibility and liability for damage are without prejudice to the application of existing rules and the development of further rules regarding responsibility and liability under international law.

Part XVII. Final provisions

Article 305. Signature

1. This Convention shall be open for signature by:

(*a*) all States;

(*b*) Namibia, represented by the United Nations Council for Namibia;

(*c*) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;

(*d*) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;

(*e*) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;

(*f*) international organizations, in accordance with Annex IX.

2. This Convention shall remain open for signature until 9 December 1984 at the Ministry of Foreign Affairs of Jamaica and also, from 1 July 1983 until 9 December 1984, at United Nations Headquarters in New York.

Article 306. Ratification and formal confirmation

This Convention is subject to ratification by States and the other entities referred to in article 305, paragraph 1 (*b*), (*c*), (*d*) and (*e*), and to formal confirmation, in accordance with Annex IX, by the entities referred to in article 305, paragraph 1 (*f*). the instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

Article 307. Accession

This Convention shall remain open for accession by States and the other entities referred to in article 305. Accession by the entities referred to in article 305, paragraph 1 (*f*), shall be in accordance with Annex IX. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 308. Entry into force

1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

3. The Assembly of the Authority shall meet on the date of entry into force of this Convention and shall elect the Council of the Authority. The first Council shall be constituted in a manner consistent with the purpose of article 161 if the provisions of that article cannot be strictly applied.

4. The rules, regulations and procedures drafted by the Preparatory Commission shall apply provisionally pending their formal adoption by the Authority in accordance with Part XI.

5. The Authority and its organs shall act in accordance with resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment and with decisions of the Preparatory Commission taken pursuant to that resolution.

Article 309. Reservations and exceptions

No reservations or exceptions may be made to this Convention unless expressly permitted by other articles of this Convention.

Article 310. Declarations and statements

Article 309 does not preclude a State, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State.

Article 311. Relation to other conventions and international agreements

1. This Convention shall prevail, as between States Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958.

2. This Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

3. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Convention, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Convention, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

4. States Parties intending to conclude an agreement referred to in paragraph 3 shall notify the other States Parties through the depositary of this Convention of their intention to conclude the agreement and of the modification or suspension for which it provides.

5. This article does not affect international agreements expressly permitted or preserved by other articles of this Convention.

6. States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof.

Article 312. Amendment

1. After the expiry of a period of ten years from the date of entry into force of this Convention, a State Party may, by written communication addressed to the Secretary-General of the United Nations, propose specific amendments to this Convention, other than those relating to activities in the Area, and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within twelve months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

Article 313. Amendment by simplified procedure

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose an amendment to this Convention, other than an amendment relating to activities in the Area, to be adopted by the simplified procedure set forth in this article without convening a conference. The Secretary-General shall circulate the communication to all States Parties.

2. If, within a period of twelve months from the date of the circulation of the communication, a State Party objects to the proposed amendment or to the proposal for its adoption by the simplified procedure, the amendment shall be considered rejected. The Secretary-General shall immediately notify all States Parties accordingly.

3. If, twelve months from the date of the circulation of the communication, no State Party has objected to the proposed amendment or to the proposal for its adoption by the simplified procedure, the proposed amendment shall be considered adopted. The Secretary-General shall notify all States Parties that the proposed amendment has been adopted.

Article 314. Amendments to the provisions of this Convention relating exclusively to activities in the Area

1. A State Party may, by written communication addressed to the Secretary-General of the Authority, propose an amendment to the provisions of this Convention relating exclusively to activities in the Area, including Annex VI, section 4. The Secretary-General shall circulate such communication to all States Parties. The proposed amendment shall be subject to approval by the Assembly following its approval by the Council. Representatives of States Parties in those organs shall have full powers to consider and approve the proposed amendment. The proposed amendment as approved by the Council and the Assembly shall be considered adopted.

2. Before approving any amendment under paragraph 1, the Council and the Assembly shall ensure that it does not prejudice the system of exploration for and exploitation of the resources of the Area, pending the Review Conference in accordance with article 155.

Article 315. Signature, ratification of, accession to and authentic texts of amendments

1. Once adopted, amendments to this Convention shall be open for signature by States Parties for twelve months from the date of adoption, at United Nations Headquarters in New York, unless otherwise provided in the amendment itself.

2. Articles 306, 307 and 320 apply to all amendments to this Convention.

Article 316. Entry into force of amendments

1. Amendments to this Convention, other than those referred to in paragraph 5, shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties or by sixty States Parties, whichever is greater. Such amendments shall not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

2. An amendment may provide that a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

3. For each State Party ratifying or acceding to an amendment referred to in paragraph 1 after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

4. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 1 shall, failing an expression of a different intention by that State:

(*a*) be considered as a Party to this Convention as so amended; and

(*b*) be considered as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

5. Any amendment relating exclusively to activities in the Area and any amendment to Annex VI shall enter into force for all States Parties one year following the deposit of instruments of ratification or accession by three fourths of the States Parties.

6. A State which becomes a Party to this Convention after the entry into force of amendments in accordance with paragraph 5 shall be considered as a Party to this Convention as so amended.

Article 317. Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Convention and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. A State shall not be discharged by reason of the denunciation from the financial and contractual obligations which accrued while it was a Party to this Convention, nor shall the denunciation affect any right, obligation or legal situation of that State created through the execution of this Convention prior to its termination for that State.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 318. Status of Annexes

The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its Parts includes a reference to the Annexes relating thereto.

Article 319. Depositary

1. The Secretary-General of the United Nations shall be the depositary of this Convention and amendments thereto.

2. In addition to his functions as depositary, the Secretary-General shall:

(*a*) report to all States Parties, the Authority and competent international organizations on issues of a general nature that have arisen with respect to this Convention;

(*b*) notify the Authority of ratifications and formal confirmations of and accessions to this Convention and amendments thereto, as well as of denunciations of this Convention;

(*c*) notify States Parties of agreements in accordance with article 311, paragraph 4;

(*d*) circulate amendments adopted in accordance with this Convention to States Parties for ratification or accession;

(*e*) convene necessary meetings of States Parties in accordance with this Convention.

3. (*a*) The Secretary-General shall also transmit to the observers referred to in article 156:

(i) reports referred to in paragraph 2 (*a*);

(ii) notifications referred to in paragraph 2 (*b*) and (*c*); and

(iii) texts of amendments referred to in paragraph 2 (*d*), for their information.

(*b*) The Secretary-General shall also invite those observers to participate as observers at meetings of States Parties referred to in paragraph 2 (*e*).

Article 320. Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall, subject to article 305, paragraph 2, be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE at Montego Bay, this tenth day of December, one thousand nine hundred and eighty-two.

ANNEXES

ANNEX I

Highly migratory species

1. Albacore tuna: *Thunnus alalunga.*
2. Bluefin tuna: *Thunnus thynnus.*
3. Bigeye tuna: *Thunnus obesus.*
4. Skipjack tuna: *Katsuwonus pelamis.*
5. Yellowfin tuna: *Thunnus albacares.*
6. Blackfin tuna: *Thunnus atlanticus.*
7. Little tuna: *Euthynnus alletteratus; euthynnus affinis.*
8. Southern bluefin tuna: *Thunnus maccoyii.*
9. Frigate mackerel: *Auxis thazard; Auxis rochei.*
10. Pomfrets: Family *Bramidae.*
11. Marlins: *Tetrapturus angustirostris; Tetrapturus belone; Tetrapturus pfluegeri; Tetrapturus albidus; Tetrapturus audax; Tetrapturus georgei; Makaira mazara; Makaira indica; Makaira nigricans.*
12. Sail-fishes: *Istiophorus platypterus; Istiophorus albicans.*
13. Swordfish: *Xiphias gladius.*
14. Sauries: *Scomberesox saurus; Cololabis saira; Coloabis adocetus; Scomberesox saurus scombroides.*
15. Dolphin: *Coryphaena hippurus; Coryphaena equiselis.*
16. Oceanic sharks: *Hexanchus griseus; Cetorhinus maximus;* Family *Alopiidae; Rhincodon typus;* Family *Carcharhinidae;* Family *Sphyrnidae;* Family *Isuridae.*
17. Cetaceans: Family *Physeteridae;* Family *Balaenopteridae;* Family *Balaenidae:* Family *Eschrichtiidae;* Family *Monodontidae;* Family *Ziphiidae;* Family *Delphinidae.*

ANNEX II

Commission on the Limits of the Continental Shelf

Article 1

In accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following articles.

Article 2

1. The Commission shall consist of twenty-one members who shall be experts in the field of geology, geophysics or hydrography, elected by States Parties to this Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.

2. The initial election shall be held as soon as possible but in any case within eighteen months after the date of entry into force of this Convention. At least three months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties, inviting the submission of nominations, after appropriate regional consultations, within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to all the States Parties.

3. Elections of the members of the Commission shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Commission shall be those nominees who obtain a two-thirds majority of the votes of the representatives of States Parties present and voting. Not less than three members shall be elected from each geographical region.

4. The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election.

5. The State Party which submitted the nomination of a member of the Commission shall defray the expenses of that member while in performance of Commission duties. The coastal State concerned shall defray the expenses incurred in respect of the advice referred to in article 3, paragraph 1 (*b*), of this Annex. The secretariat of the Commission shall be provided by the S cretary-General of the United Nations.

Article 3

1. The functions of the Commission shall be:

(*a*) to consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;

(*b*) to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (*a*).

2. The Commission may co-operate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

Article 4

Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be members of the sub-commission dealing with that submission but have the right to participate as members in the proceedings of the Commission concerning the said submission. The coastal State which has made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

Article 6

1. The sub-commission shall submit its recommendations to the Commission.

2. Approval by the Commission of the recommendations of the sub-commission shall be by a majority of two thirds of Commission members present and voting.

3. The recommendations of the Commission shall be submitted in writing to the coastal State which made the submission and to the Secretary-General of the United Nations.

Article 7

Coastal States shall establish the outer limits of the continental shelf in conformity with the provisions of article 76, paragraph 8, and in accordance with the appropriate national procedures.

Article 8

In the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission.

Article 9

The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.

ANNEX III

Basic conditions of prospecting, exploration and exploitation

Article 1. Title to minerals

Title to minerals shall pass upon recovery in accordance with this Convention.

Article 2. Prospecting

1. (*a*) The Authority shall encourage prospecting in the Area.

(*b*) Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector will comply with this Convention and the relevant rules, regulations and procedures of the Authority concerning co-operation in the training programmes referred to in articles 143 and 144 and the protection of the marine environment, and will accept verification by the Authority of compliance therewith. The proposed prospector shall, at the same time, notify the Authority of the approximate area or areas in which prospecting is to be conducted.

(*c*) Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

2. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals to be used for testing.

Article 3. Exploration and exploitation

1. The Enterprise, States Parties and the other entities referred to in article 153, paragraph 2 (*b*), may apply to the Authority for approval of plans of work for activities in the Area.

2. The Enterprise may apply with respect to any part of the Area, but applications by others with respect to reserved areas are subject to the additional requirements of article 9 of this Annex.

3. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in article 153, paragraph 3, and approved by the Authority in accordance with this Convention and the relevant rules, regulations and procedures of the Authority.

4. Every approved plan of work shall:

(*a*) be in conformity with this Convention and the rules, regulations and procedures of the Authority;

(*b*) provide for control by the Authority of activities in the Area in accordance with article 153, paragraph 4;

(*c*) confer on the operator, in accordance with the rules, regulations and procedures of the Authority, the exclusive right to explore for and exploit the specified categories of resources in the area covered by the plan of work. If, however, the applicant presents for approval a plan of work covering only the stage of exploration or the stage of exploitation, the approved plan of work shall confer such exclusive right with respect to that stage only.

5. Upon its approval by the Authority, every plan of work, except those presented by the Enterprise, shall be in the form of a contract concluded between the Authority and the applicant or applicants.

Article 4. Qualifications of applicants

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2 (*b*), and if they follow the procedures and meet the qualification standards set forth in the rules, regulations and procedures of the Authority.

2. Except as provided in paragraph 6, such qualification standards shall relate to the financial and technical capabilities of the applicant and his performance under any previous contracts with the Authority.

3. Each applicant shall be sponsored by the State Party of which it is a national unless the applicant has more than one nationality, as in the case of a partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, or unless the applicant is effectively controlled by another State Party or its nationals, in which event both States Parties shall sponsor the application. The criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority.

4. The sponsoring State or States shall, pursuant to article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the terms of its contract and its obligations under this Convention. A sponsoring State shall not, however, be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if that State Party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

5. The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.

6. The qualification standards shall require that every applicant, without exception, shall as part of his application undertake:

(*a*) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and terms of his contracts with the Authority;

(*b*) to accept control by the Authority of activities in the Area, as authorized by this Convention;

(*c*) to provide the Authority with a written assurance that his obligations under the contract will be fulfilled in good faith;

(*d*) to comply with the provisions on the transfer of technology set forth in article 5 of this Annex.

Article 5. Transfer of technology

1. When submitting a plan of work, every applicant shall make available to the Authority a general description of the equipment and methods to be used in carrying out activities in the Area, and other relevant non-proprietary information about the characteristics of such technology and information as to where such technology is available.

2. Every operator shall inform the Authority of revisions in the description and information made available pursuant to paragraph 1 whenever a substantial technological change or innovation is introduced.

3. Every contract for carrying out activities in the Area shall contain the following undertakings by the contractor:

(*a*) to make available to the Enterprise on fair and reasonable commercial terms and conditions, whenever the Authority so requests, the technology which he uses in carrying out activities in the Area under the contract, which the contractor is legally entitled to transfer. This shall be done by means of licences or other appropriate arrangements which the contractor shall negotiate with the Enterprise and which shall be set forth in a specific agreement supplementary to the contract. This undertaking may be invoked only if the Enterprise finds that it is unable to obtain the same or equally efficient and useful technology on the open market on fair and reasonable commercial terms and conditions;

(*b*) to obtain a written assurance from the owner of any technology used in carrying out activities in the Area under the contract, which is not generally available on the open market and which is not covered by subparagraph (*a*), that the owner will, whenever the Authority so requests, make that technology available to the Enterprise under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, to the same extent as made available to the contractor. If this assurance is not obtained, the technology in question shall not be used by the contractor in carrying out activities in the Area;

(*c*) to acquire from the owner by means of an enforceable contract, upon the request of the Enterprise and if it is possible to do so without substantial cost to the contractor, the legal right to transfer to the Enterprise any technology used by the contractor, in carrying out activities in the Area under the contract, which the contractor is otherwise not legally entitled to transfer and which is not generally available on the open market. In cases where there is a substantial corporate relationship between the contractor and the owner of the technology, the closeness of this relationship and the degree of control or influence shall be relevant to the determination whether all feasible measures have been taken to acquire such a right. In cases where the contractor exercises effective control over the owner, failure to acquire from the owner the legal right shall be considered relevant to the contractor's qualification for any subsequent application for approval of a plan of work;

(*d*) to facilitate, upon the request of the Enterprise, the acquisition by the Enterprise of any technology covered by subparagraph (*b*), under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, if the Enterprise decides to negotiate directly with the owner of the technology;

(*e*) to take the same measures as are prescribed in subparagraphs (*a*), (*b*), (*c*) and (*d*) for the benefit of a developing State or group of developing States which has applied for a contract under article 9 of this Annex, provided that these measures shall be limited to the exploitation of the part of the area proposed by the contractor which has been reserved pursuant to article 8 of this Annex and provided that activities under the contract sought by the developing State or group of developing States would not involve transfer of technology to a third State or the nationals of a third State. The obligation under this provision shall only apply with respect to any given contractor where technology has not been requested by the Enterprise or transferred by that contractor to the Enterprise.

4. Disputes concerning undertakings required by paragraph 3, like other provisions of the contracts, shall be subject to compulsory settlement in accordance with Part XI and, in cases of violation of these undertakings, suspension or termination of the contract or monetary penalties may be ordered in accordance with article 18 of this Annex. Disputes as to whether offers made by the contractor are within the range of fair and reasonable commercial terms and conditions may be submitted by either party to binding commercial arbitration in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules or such other arbitration rules as may be prescribed in the rules, regulations and procedures of the Authority. If the finding is that the offer made by the contractor is not within the range of fair and reasonable commercial terms and conditions, the contractor shall be given forty-five days to revise his offer to bring it within that range before the Authority takes any action in accordance with article 18 of this Annex.

5. If the Enterprise is unable to obtain on fair and reasonable commercial terms and conditions appropriate technology to enable it to commence in a timely manner the recovery and processing of minerals from the Area, either the Council or the Assembly may convene a group of States Parties composed of those which are engaged in activities in the Area, those which have sponsored entities which are engaged in activities in the Area and other States Parties having access to such technology. This group shall consult together and shall take effective measures to ensure that such technology is made available to the Enterprise on fair and reasonable commercial terms and conditions. Each such State Party shall take all feasible measures to this end within its own legal system.

6. In the case of joint ventures with the Enterprise, transfer of technology will be in accordance with the terms of the joint venture agreement.

7. The undertakings required by paragraph 3 shall be included in each contract for the carrying out of activities in the Area until 10 years after the commencement of commercial production by the Enterprise, and may be invoked during that period.

8. For the purposes of this article, "technology" means the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis.

Article 6. Approval of plans of work

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration proposed plans of work.

2. When considering an application for approval of a plan of work in the form of a contract, the Authority shall first ascertain whether:

(*a*) the applicant has complied with the procedures established for applications in accordance with article 4 of this Annex and has given the Authority the undertakings and assurances required by that article. In cases of non-compliance with these procedures or in the absence of any of these undertakings and assurances, the applicant shall be given forty-five days to remedy these defects;

(*b*) the applicant possesses the requisite qualifications provided for in article 4 of this Annex.

3. All proposed plans of work shall be taken up in the order in which they are received. The proposed plans of work shall comply with and be governed by the relevant provisions of this Convention and the rules, regulations and procedures of the Authority, including those on operational requirements, financial contributions and the undertakings concerning the transfer of technology. If the proposed plans of work conform to these requirements, the Authority shall approve them provided that they are in accordance with the uniform and non-discriminatory requirements set forth in the rules, regulations and procedures of the Authority, unless:

(*a*) part or all of the area covered by the proposed plan of work is included in an approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority;

(*b*) part or all of the area covered by the proposed plan of work is disapproved by the Authority pursuant to article 162, paragraph 2 (*x*); or

(*c*) the proposed plan of work has been submitted or sponsored by a State Party which already holds:

(i) plans of work for exploration and exploitation of polymetallic nodules in non-reserved areas that, together with either part of the area covered by the application for a plan of work, exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed plan of work;

(ii) plans of work for the exploration and exploitation of polymetallic nodules in non-reserved areas which, taken together, constitute 2 per cent of the total sea-bed area which is not reserved or disapproved for exploitation pursuant to article 162, paragraph (2) (*x*).

4. For the purpose of the standard set forth in paragraph 3 (*c*), a plan of work submitted by a partnership or consortium shall be counted on a *pro rata* basis among the sponsoring States Parties involved in accordance with article 4, paragraph 3, of this Annex. The Authority may approve plans of work covered by paragraph 3 (*c*) if it determines that such approval would not permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area.

5. Notwithstanding paragraph 3 (*a*), after the end of the interim period specified in article 151, paragraph 3, the Authority may adopt by means of rules, regulations and procedures other procedures and criteria consistent with this Convention for deciding which applicants shall have plans of work approved in cases of selection among applicants for a proposed area. These procedures and criteria shall ensure approval of plans of work on an equitable and non-discriminatory basis.

Article 7. Selection among applicants for production authorizations

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration applications for production authorizations submitted during the immediately preceding period. The Authority shall issue the authorizations applied for if all such applications can be approved without exceeding the production limitation or contravening the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided in article 151.

2. When a selection must be made among applicants for production authorizations because of the production limitation set forth in article 151, paragraphs 2 to 7, or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in its rules, regulations and procedures.

3. In the application of paragraph 2, the Authority shall give priority to those applicants which:

(*a*) give better assurance of performance, taking into account their financial and technical qualifications and their performance, if any, under previously approved plans of work;

(*b*) provide earlier prospective financial benefits to the Authority, taking into account when commercial production is scheduled to begin;

(*c*) have already invested the most resources and effort in prospecting or exploration.

4. Applicants which are not selected in any period shall have priority in subsequent periods until they receive a production authorization.

5. Selection shall be made taking into account the need to enhance opportunities for all States Parties, irrespective of their social and economic systems or geographical locations so as to avoid discrimination against any State or system, to participate in activities in the Area and to prevent monopolization of those activities.

6. Whenever fewer reserved areas than non-reserved areas are under exploitation, applications for production authorizations with respect to reserved areas shall have priority.

7. The decisions referred to in this article shall be taken as soon as possible after the close of each period.

Article 8. Reservation of areas

Each application, other than those submitted by the Enterprise or by any other entities for reserved areas, shall cover a total area, which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall indicate the co-ordinates dividing the area into two parts of equal estimated commercial value and submit all the data obtained by him with respect to both parts. Without prejudice to the powers of the Authority pursuant to article 17 of this Annex, the data to be submitted concerning polymetallic nodules shall relate to mapping, sampling, the abundance of nodules and their metal content. Within forty-five days of receiving such data, the Authority shall designate which part is to be reserved solely for the conduct of activities by the Authority through the Enterprise or in association with developing States. This designation may be deferred for a further period of forty-five days if the Authority requests an independent expert to assess whether all data required by this article has been submitted. The area designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed.

Article 9. Activities in reserved areas

1. The Enterprise shall be given an opportunity to decide whether it intends to carry out activities in each reserved area. This decision may be taken at any time, unless a notification pursuant to paragraph 4 is received by the Authority, in which event the Enterprise shall take its decision within a reasonable time. The Enterprise may decide to exploit such areas in joint ventures with the interested State or entity.

2. The Enterprise may conclude contracts for the execution of part of its activities in accordance with Annex IV, article 12. It may also enter into joint ventures for the conduct of such activities with any entities which are eligible to carry out activities in the Area pursuant to article 153, paragraph 2 (*b*). When considering such joint ventures, the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective participation.

3. The Authority may prescribe, in its rules, regulations and procedures, substantive and procedural requirements and conditions with respect to such contracts and joint ventures.

4. Any State Party which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by other developing State which is a qualified applicant, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work pursuant to article 6 of this Annex with respect to a reserved area. The plan of work shall be considered if the Enterprise decides, pursuant to paragraph 1, that it does not intend to carry out activities in that area.

Article 10. Preference and priority among applicants

An operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4 (*c*), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. However, such preference or priority may be withdrawn if the operator's performance has not been satisfactory.

Article 11. Joint arrangements

1. Contracts may provide for joint arrangements between the contractor and the Authority through the Enterprise, in the form of joint ventures or production sharing, as well as any other form of joint arrangement, which shall have the same protection against revision, suspension or termination as contracts with the Authority.

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in article 13 of this Annex.

3. Partners in joint ventures with the Enterprise shall be liable for the payments required by article 13 of this Annex to the extent of their share in the joint ventures, subject to financial incentives as provided for in that article.

Article 12. Activities carried out by the Enterprise

1. Activities in the Area carried out by the Enterprise pursuant to article 153, paragraph 2 (*a*), shall be governed by Part XI, the rules, regulations and procedures of the Authority and its relevant decisions.

2. Any plan of work submitted by the Enterprise shall be accompanied by evidence supporting its financial and technical capabilities.

Article 13. Financial terms of contracts

1. In adopting rules, regulations and procedures concerning the financial terms of a contract between the Authority and the entities

referred to in article 153, paragraph 2 (*b*), and in negotiating those financial terms in accordance with Part XI and those rules, regulations and procedures, the Authority shall be guided by the following objectives:

(*a*) to ensure optimum revenues for the Authority from the proceeds of commercial production;

(*b*) to attract investments and technology to the exploration and exploitation of the Area;

(*c*) to ensure equality of financial treatment and comparable financial obligations for contractors;

(*d*) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing States or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing States;

(*e*) to enable the Enterprise to engage in sea-bed mining effectively at the same time as the entities referred to in article 153, paragraph 2 (*b*); and

(*f*) to ensure that, as a result of the financial incentives provided to contractors under paragraph 14, under the terms of contracts reviewed in accordance with article 19 of this Annex or under the provisions of article 11 of this Annex with respect to joint ventures, contractors are not subsidized so as to be given an artificial competitive advantage with respect to land-based miners.

2. A fee shall be levied for the administrative cost of processing an application for approval of a plan of work in the form of a contract and shall be fixed at an amount of $US 500,000 per application. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant.

3. A contractor shall pay an annual fixed fee of $US 1 million from the date of entry into force of the contract. If the approved date of commencement of commercial production is postponed because of a delay in issuing the production authorization, in accordance with article 151, the annual fixed fee shall be waived for the period of postponement. From the date of commencement of commercial production, the contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

4. Within a year of the date of commencement of commercial production, in conformity with paragraph 3, a contractor shall choose to make his financial contribution to the Authority by either:

(*a*) paying a production charge only; or

(*b*) paying a combination of a production charge and a share of net proceeds.

5. (*a*) If a contractor chooses to make his financial contribution to the Authority by paying a production charge only, it shall be fixed at a percentage of the market value of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

(i) years 1-10 of commercial production ..... 5 per cent
(ii) years 11 to the end of commercial production ..... 12 per cent

(*b*) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules extracted from the area covered by the contract and the average price for those metals during the relevant accounting year, as defined in paragraphs 7 and 8.

6. If a contractor chooses to make his financial contribution to the Authority by paying a combination of a production charge and a share of net proceeds, such payments shall be determined as follows:

(*a*) The production charge shall be fixed at a percentage of the market value, determined in accordance with subparagraph (*b*), of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

(i) first period of commercial production ..... 2 per cent
(ii) second period of commercial production ..... 4 per cent

If, in the second period of commercial production, as defined in subparagraph (*d*), the return on investment in any accounting year as defined in subparagraph (*m*) falls below 15 per cent as a result of the payment of the production charge at 4 per cent, the production charge shall be 2 per cent instead of 4 per cent in that accounting year.

(*b*) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract and the average price for those metals during the relevant accounting year as defined in paragraphs 7 and 8.

(*c*) (i) The Authority's share of net proceeds shall be taken out of that portion of the contractor's net proceeds which is attributable to the mining of the resources of the area covered by the contract, referred to hereinafter as attributable net proceeds.

(ii) The Authority's share of attributable net proceeds shall be determined in accordance with the following incremental schedule:

Portion of attributable net proceeds	*Share of the Authority*	
	First period of commercial production	*Second period of commercial production*
That portion representing a return on investment which is greater than 0 per cent, but less than 10 per cent	35 per cent	40 per cent
That portion representing a return on investment which is 10 per cent or greater, but less than 20 per cent	42.5 per cent	50 per cent
That portion representing a return on investment which is 20 per cent or greater	50 per cent	70 per cent

(*d*) (i) The first period of commercial production referred to in subparagraphs (*a*) and (*c*) shall commence in the first accounting year of commercial production and terminate in the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus, as follows: In the first accounting year during which development costs are incurred, unrecovered development costs shall equal the development costs less cash surplus in that year. In each subsequent accounting year, unrecovered development costs shall equal the unrecovered development costs at the end of the preceding accounting year, plus interest thereon at the rate of 10 per cent per annum, plus development costs incurred in the current accounting year and less contractor's cash surplus in the current accounting year. The accounting year in which unrecovered development costs become zero for the first time shall be the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recoverd by his cash surplus. The contractor's cash surplus in any accounting year shall be his gross proceeds less his operating costs and less his payments to the Authority under subparagraph (*c*).

(ii) The second period of commercial production shall commence in the accounting year following the termination of the first period of commercial production and shall continue until the end of the contract.

(*e*) "Attributable net proceeds" means the product of the contractor's net proceeds and the ratio of the development costs in the mining sector to the contractor's development costs. If the contractor engages in mining, transporting polymetallic nodules and production primarily of three processed metals, namely, cobalt, copper and nickel, the amount of attributable net proceeds shall not be less than 25 per cent of the contractor's net proceeds. Subject to subparagraph (*n*), in all other cases, including those where the contractor engages in mining, transporting polymetallic nodules and production primarily of four processed metals, namely, cobalt, copper, manganese and nickel, the Authority may, in its rules, regulations and procedures, prescribe appropriate floors which shall bear the same relationship to each case as the 25 per cent floor does to the three-metal case.

(*f*) "Contractor's net proceeds" means the contractor's gross proceeds less his operating costs and less the recovery of his development costs as set out in subparagraph (*j*).

(*g*) (i) If the contractor engages in mining, transporting polymetallic nodules and production of processed metals, "contractor's gross proceeds" means the gross revenues from the sale of the processed metals and any other

monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(ii) In all cases other than those specified in subparagraphs (*g*) (i) and (*n*) (iii), "contractor's gross proceeds" means the gross revenues from the sale of the semi-processed metals from the polymetallic nodules recovered from the area covered by the contract, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(*h*) "Contractor's development costs" means:

(i) all expenditures incurred prior to the commencement of commercial production which are directly related to the development of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract in all cases other than that specified in subparagraph (*n*), in conformity with generally recognized accounting principles, including, *inter alia*, costs of machinery, equipment, ships, processing plant, construction, buildings, land, roads, prospecting and exploration of the area covered by the contract, research and development, interest, required leases, licences and fees; and

(ii) expenditures similar to those set forth in (i) above incurred subsequent to the commencement of commercial production and necessary to carry out the plan of work, except those chargeable to operating costs.

(*i*) The proceeds from the disposal of capital assets and the market value of those capital assets which are no longer required for operations under the contract and which are not sold shall be deducted from the contractor's development costs during the relevant accounting year. When these deductions exceed the contractor's development costs the excess shall be added to the contractor's gross proceeds.

(*j*) The contractor's development costs incurred prior to the commencement of commercial production referred to in subparagraphs (*h*) (i) and (*n*) (iv) shall be recovered in ten equal annual instalments from the date of commencement of commercial production. The contractor's development costs incurred subsequent to the commencement of commercial production referred to in subparagraphs (*h*) (ii) and (*n*) (iv) shall be recovered in 10 or fewer equal annual instalments so as to ensure their complete recovery by the end of the contract.

(*k*) "Contractor's operating costs" means all expenditures incurred after the commencement of commercial production in the operation of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract, in conformity with generally recognized accounting principles, including, *inter alia*, the annual fixed fee or the production charge, whichever is greater; expenditures for wages, salaries, employee benefits, materials, services, transporting, processing and marketing costs, interest, utilities, preservation of the marine environment, overhead and administrative costs specifically related to operations under the contract; and any net operating losses carried forward or backward as specified herein. Net operating losses may be carried forward for two consecutive years except in the last two years of the contract, in which case they may be carried backward to the two preceding years.

(*l*) If the contractor engages in mining, transporting of polymetallic nodules and production of processed and semi-processed metals, "development costs of the mining sector" means the portion of the contractor's development costs which is directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles, and the financial rules, regulations and procedures of the Authority, including, *inter alia*, application fee, annual fixed fee and, where applicable, costs of prospecting and exploration of the area covered by the contract and a portion of research and development costs.

(*m*) "Return on investment" in any accounting year means the ratio of attributable net proceeds in that year to the development costs of the mining sector. For the purpose of computing this ratio the development costs of the mining sector shall include expenditures on new or replacement equipment in the mining sector less the original cost of the equipment replaced.

(*n*) If the contractor engages in mining only:

(i) "attributable net proceeds" means the whole of the contractor's net proceeds;

(ii) "contractor's net proceeds" shall be as defined in subparagraph (*f*);

(iii) "contractor's gross proceeds" means the gross revenues from the sale of the polymetallic nodules, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority;

(iv) "contractor's development costs" means all expenditures incurred prior to the commencement of commercial production as set forth in subparagraph (*h*) (i), and all expenditures incurred subsequent to the commencement of commercial production as set forth in subparagraph (*h*) (ii), which are directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles;

(v) "contractor's operating costs" means the contractor's operating costs as in subparagraph (*k*) which are directly related to the mining of the resources of the area covered by the contract in conformity with generally recognized accounting principles;

(vi) "return on investment" in any accounting year means the ratio of the contractor's net proceeds in that year to the contractor's development costs. For the purpose of computing this ratio, the contractor's development costs shall include expenditures on new or replacement equipment less the original cost of the equipment replaced.

(*o*) The costs referred to in subparagraphs (*h*), (*k*), (*l*) and (*n*) in respect of interest paid by the contractor shall be allowed to the extent that, in all the circumstances, the Authority approves, pursuant to article 4, paragraph 1, of this Annex, the debt-equity ratio and the rates of interest as reasonable, having regard to existing commercial practice.

(*p*) The costs referred to in this paragraph shall not be interpreted as including payments of corporate income taxes or similar charges levied by States in respect of the operations of the contractor.

7. (*a*) "Processed metals", referred to in paragraphs 5 and 6, means the metals in the most basic form in which they are customarily traded on international terminal markets. For this purpose, the Authority shall specify, in its financial rules, regulations and procedures, the relevant international terminal market. For the metals which are not traded on such markets, "processed metals" means the metals in the most basic form in which they are customarily traded in representative arm's-length transactions.

(*b*) If the Authority cannot otherwise determine the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract referred to in paragraph 5 (*b*) and 6 (*b*), the quantity shall be determined on the basis of the metal content of the nodules, processing recovery efficiency and other relevant factors, in accordance with the rules, regulations and procedures of the Authority and in conformity with generally recognized accounting principles.

8. If an international terminal market provides a representative pricing mechanism for processed metals, polymetallic nodules and semi-processed metals from the nodules, the average price on that market shall be used. In all other cases, the Authority shall, after consulting the contractor, determine a fair price for the said products in accordance with paragraph 9.

9. (*a*) All costs, expenditures, proceeds and revenues and all determinations of price and value referred to in this article shall be the result of free-market or arm's-length transactions. In the absence thereof, they shall be determined by the Authority, after consulting the contractor, as though they were the result of free-market or arm's-length transactions, taking into account relevant transactions in other markets.

(*b*) In order to ensure compliance with and enforcement of the provisions of this paragraph, the Authority shall be guided by the principles adopted for, and the interpretation given to, arm's-length transactions by the Commission on Transnational Corporations of the United Nations, the Group of Experts on Tax Treaties between Developing and Developed Countries and other international organizations, and shall, in its rules, regulations and procedures, specify uniform and internationally acceptable accounting rules and procedures, and the means of selection by the contractor of certified independent accountants acceptable to the Authority for the purpose of carrying out auditing in compliance with those rules, regulations and procedures.

10. The contractor shall make available to the accountants, in accordance with the financial rules, regulations and procedures of the Authority, such financial data as are required to determine compliance with this article.

11. All costs, expenditures, proceeds and revenues, and all prices and values referred to in this article, shall be determined in accordance with generally recognized accounting principles and the financial rules, regulations and procedures of the Authority.

12. Payments to the Authority under paragraphs 5 and 6 shall be made in freely usable currencies which are freely available and effectively usable on the major foreign exchange markets or, at the contractor's option, in the equivalents of processed metals at market value. The market value shall be determined in accordance with paragraph 5 (*b*). The freely usable currencies and currencies which are freely available and effectively usable on the major foreign exchange markets shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice.

13. All financial obligations of the contractor to the Authority, as well as all his fees, costs, expenditures, proceeds and revenues referred to in this article, shall be adjusted by expressing them in constant terms relative to a base year.

14. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis, to contractors to further the objectives set out in paragraph 1.

15. In the event of a dispute between the Authority and a contractor over the interpretation or application of the financial terms of a contract, either party may submit the dispute to binding commercial arbitration, unless both parties agree to settle the dispute by other means, in accordance with article 188, paragraph 2.

Article 14. Transfer of date

1. The operator shall transfer to the Authority, in accordance with its rules, regulations and procedures and the terms and conditions of the plan of work, at time intervals determined by the Authority all data which are both necessary for and relevant to the effective exercise of the powers and functions of the principal organs of the Authority in respect of the area covered by the plan of work.

2. Transferred data in respect of the area covered by the plan of work, deemed proprietary, may only be used for the purposes set forth in this article. Data necessary for the formulation by the Authority of rules, regulations and procedures concerning protection of the marine environment and safety, other than equipment design data, shall not be deemed proprietary.

3. Data transferred to the Authority by prospectors, applicants for contracts or contractors, deemed proprietary, shall not be disclosed by the Authority to the Enterprise or to anyone external to the Authority, but data on the reserved areas may be disclosed to the Enterprise. Such data transferred by such persons to the Enterprise shall not be disclosed by the Enterprise to the Authority or to anyone external to the Authority.

Article 15. Training programmes

The contractor shall draw up practical programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all activities in the Area which are covered by the contract, in accordance with article 144, paragraph 2.

Article 16. Exclusive right to explore and exploit

The Authority shall, pursuant to Part XI and its rules, regulations and procedures, accord the operator the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of resources and shall ensure that no other entity operates in the same area for a different category of resources in a manner which might interfere with the operations of the operator. The operator shall have security of tenure in accordance with article 153, paragraph 6.

Article 17. Rules, regulations and procedures of the Authority

1. The Authority shall adopt and uniformly apply rules, regulations and procedures in accordance with article 160, paragraph 2 (*f*) (ii), and article 162, paragraph 2 (*o*) (ii), for the exercise of its functions as set forth in Part XI on, *inter alia*, the following matters:

(*a*) administrative procedures relating to prospecting, exploration and exploitation in the Area;

(*b*) operations:

(i) size of area;
(ii) duration of operations;
(iii) performance requirements including assurances pursuant to article 4, paragraph 6 (*c*), of this Annex;
(iv) categories of resources;
(v) renunciation of areas;
(vi) progress reports;
(vii) submission of data;
(viii) inspection and supervision of operations;
(ix) prevention of interference with other activities in the marine environment;
(x) transfer of rights and obligations by a contractor;
(xi) procedures for transfer of technology to developing States in accordance with article 144 and for their direct participation;
(xii) mining standards and practices, including those relating to operational safety, conservation of the resources and the protection of the marine environment;
(xiii) definition of commercial production;
(xiv) qualification standards for applicants;

(*c*) financial matters:

(i) establishment of uniform and non-discriminatory costing and accounting rules and the method of selection of auditors;
(ii) apportionment of proceeds of operations;
(iii) the incentives referred to in article 13 of this Annex;

(*d*) implementation of decisions taken pursuant to article 151, paragraph 10, and article 164, paragraph 2 (*d*).

2. Rules, regulations and procedures on the following items shall fully reflect the objective criteria set out below:

(*a*) Size of areas:

The Authority shall determine the appropriate size of areas for exploration, which may be up to twice as large as those for exploitation in order to permit intensive exploration operations. The size of area shall be calculated to satisfy the requirements of article 8 of this Annex on reservation of areas as well as stated production requirements consistent with article 151 in accordance with the terms of the contract, taking into account the state of the art of technology then available for sea-bed mining and the relevant physical characteristics of the areas. Areas shall be neither smaller nor larger than are necessary to satisfy this objective.

(*b*) Duration of operations:

(i) Prospecting shall be without time-limit;
(ii) Exploration should be of sufficient duration to permit a thorough survey of the specific area, the design and construction of mining equipment for the area and the design and construction of small and medium-size processing plants for the purpose of testing mining and processing systems;
(iii) The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability. Exploitation should be of sufficient duration to permit commercial extraction of minerals of the area and should include a reasonable time period for construction of commercial-scale mining and processing systems, during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to give the Authority an opportunity to amend the terms and conditions of the plan of work at the time it considers renewal in accordance with rules, regulations and procedures which it has adopted subsequent to approving the plan of work.

(*c*) Performance requirements:

The Authority shall require that during the exploration stage periodic expenditures be made by the operator which are reasonably related to the size of the area covered by the plan of work and the expenditures which would be expected of a *bona fide* operator who intended to bring the area into commercial production within the time-limits established by the Authority. The required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalently in use. The Authority shall establish a maximum time interval, after the exploration stage is completed and the exploitation stage begins, to achieve commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the

termination of the exploration stage and the commencement of the exploitation stage. Accordingly, the interval to bring an area into commercial production should take into account the time necessary for this construction after the completion of the exploration stage, and reasonable allowance should be made for unavoidable delays in the construction schedule. Once commercial production is achieved, the Authority shall within reasonable limits and taking into consideration all relevant factors require the operator to maintain commercial production throughout the period of the plan of work.

(*d*) Categories of resources:

In determining the category of resources in respect of which a plan of work may be approved, the Authority shall give emphasis *inter alia* to the following characteristics:

(i) that certain resources require the use of similar mining methods; and

(ii) that some resources can be developed simultaneously without undue interference between operators developing different resources in the same area.

Nothing in this subparagraph shall preclude the Authority from approving a plan of work with respect to more than one category of resources in the same area to the same applicant.

(*e*) Renunciation of areas:

The operator shall have the right at any time to renounce without penalty the whole or part of his rights in the area covered by a plan of work.

(*f*) Protection of the marine environment:

Rules, regulations and procedures shall be drawn up in order to secure effective protection of the marine environment from harmful effects directly resulting from activities in the Area or from shipboard processing immediately above a mine site of minerals derived from that mine site, taking into account the extent to which such harmful effects may directly result from drilling, dredging, coring and excavation and from disposal, dumping and discharge into the marine environment of sediment, wastes or other effluents.

(*g*) Commercial production:

Commercial production shall be deemed to have begun if an operator engages in sustained large-scale recovery operations which yield a quantity of materials sufficient to indicate clearly that the principal purpose is large-scale production rather than production intended for information gathering, analysis or the testing of equipment or plant.

Article 18. Penalties

1. A contractor's rights under the contract may be suspended or terminated only in the following cases:

(*a*) if, in spite of warnings by the Authority, the contractor has conducted his activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the contract, Part XI and the rules, regulations and procedures of the Authority; or

(*b*) if the contractor has failed to comply with a final binding decision of the dispute settlement body applicable to him.

2. In the case of any violation of the contract not covered by paragraph 1 (*a*), or in lieu of suspension or termination under paragraph 1 (*a*), the Authority may impose upon the contractor monetary penalties proportionate to the seriousness of the violation.

3. Except for emergency orders under article 162, paragraph 2 (*w*), the Authority may not execute a decision involving monetary penalties, suspension or termination until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to him pursuant to Part XI, section 5.

Article 19. Revision of contract

1. When circumstances have arisen or are likely to arise which, in the opinion of either party, would render the contract inequitable or make it impracticable or impossible to achieve the objectives set out in the contract or in Part XI, the parties shall enter into negotiations to revise it accordingly.

2. Any contract entered into in accordance with article 153, paragraph 3, may be revised only with the consent of the parties.

Article 20. Transfer of rights and obligations

The rights and obligations arising under a contract may be transferred only with the consent of the Authority, and in accordance with its rules, regulations and procedures. The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant and assumes all of the obligations of the transferor and if the transfer does not confer to the transferee a plan of work, the approval of which would be forbidden by article 6, paragraph 3 (*c*), of this Annex.

Article 21. Applicable law

1. The contract shall be governed by the terms of the contract, the rules, regulations and procedures of the Authority, Part XI and other rules of international law not incompatible with this Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under this Convention relating to the rights and obligations of the Authority and of the contractor shall be enforceable in the territory of each State Party.

3. No State Party may impose conditions on a contractor that are inconsistent with Part XI. However, the application by a State Party to contractors sponsored by it, or to ships flying its flag, of environmental or other laws and regulations more stringent than those in the rules, regulations and procedures of the Authority adopted pursuant to article 17, paragraph 2 (*f*), of this Annex shall not be deemed inconsistent with Part XI.

Article 22. Responsibility

The contractor shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority. Similarly, the Authority shall have responsibility or liability for any damage arising out of wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, account being taken of contributory acts or omissions by the contractor. Liability in every case shall be for the actual amount of damage.

ANNEX IV

Statute of the Enterprise

Article 1. Purposes

1. The Enterprise is the organ of the Authority which shall carry out activities in the Area directly, pursuant to article 153, paragraph 2 (*a*), as well as the transporting, processing and marketing of minerals recovered from the Area.

2. In carrying out its purposes and in the exercise of its functions, the Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority.

3. In developing the resources of the Area pursuant to paragraph 1, the Enterprise shall, subject to this Convention, operate in accordance with sound commercial principles.

Article 2. Relationship to the Authority

1. Pursuant to article 170, the Enterprise shall act in accordance with the general policies of the Assembly and the directives of the Council.

2. Subject to paragraph 1, the Enterprise shall enjoy autonomy in the conduct of its operations.

3. Nothing in this Convention shall make the Enterprise liable for the acts or obligations of the Authority, or make the Authority liable for the acts or obligations of the Enterprise.

Article 3. Limitation of liability

Without prejudice to article 11, paragraph 3, of this Annex, no member of the Authority shall be liable by reason only of its membership for the acts or obligations of the Enterprise.

Article 4. Structure

The Enterprise shall have a Governing Board, a Director-General and the staff necessary for the exercise of its functions.

Article 5. Governing Board

1. The Governing Board shall be composed of fifteen members elected by the Assembly in accordance with article 160, paragraph 2 (*c*). In the election of the members of the Board, due regard shall be paid to the principle of equitable geographical distribution. In submit-

ting nominations of candidates for election to the Board, members of the Authority shall bear in mind the need to nominate candidates of the highest standard of competence, with qualifications in relevant fields, so as to ensure the viability and success of the Enterprise.

2. Members of the Board shall be elected for four years and may be re-elected; and due regard shall be paid to the principle of rotation of membership.

3. Members of the Board shall continue in office until their successors are elected. If the office of a member of the Board becomes vacant, the Assembly shall, in accordance with article 160, paragraph 2 (*c*), elect a new member for the remainder of his predecessor's term.

4. Members of the Board shall act in their personal capacity. In the performance of their duties they shall not seek or receive instructions from any government or from any other source. Each member of the Authority shall respect the independent character of the members of the Board and shall refrain from all attempts to influence any of them in the discharge of their duties.

5. Each member of the Board shall receive remuneration to be paid out of the funds of the Enterprise. The amount of remuneration shall be fixed by the Assembly, upon the recommendation of the Council.

6. The Board shall normally function at the principal office of the Enterprise and shall meet as often as the business of the Enterprise may require.

7. Two thirds of the members of the Board shall constitute a quorum.

8. Each member of the Board shall have one vote. All matters before the Board shall be decided by a majority of its members. If a member has a conflict of interest on a matter before the Board he shall refrain from voting on that matter.

9. Any member of the Authority may ask the Board for information in respect of its operations which particularly affect that member. The Board shall endeavour to provide such information.

Article 6. Powers and functions of the Governing Board

The Governing Board shall direct the operations of the Enterprise. Subject to this Convention, the Governing Board shall exercise the powers necessary to fulfil the purposes of the Enterprise, including powers:

(*a*) to elect a Chairman from among its members;

(*b*) to adopt its rules of procedure;

(*c*) to draw up and submit formal written plans of work to the Council in accordance with article 153, paragraph 3, and article 162, paragraph 2 (*j*);

(*d*) to develop plans of work and programmes for carrying out the activities specified in article 170;

(*e*) to prepare and submit to the Council applications for production authorizations in accordance with article 151, paragraphs 2 to 7;

(*f*) to authorize negotiations concerning the acquisition of technology, including those provided for in Annex III, article 5, paragraph 3 (*a*), (*c*) and (*d*), and to approve the results of those negotiations;

(*g*) to establish terms and conditions, and to authorize negotiations, concerning joint ventures and other forms of joint arrangements referred to in Annex III, articles 9 and 11, and to approve the results of such negotiations;

(*h*) to recommend to the Assembly what portion of the net income of the Enterprise should be retained as its reserves in accordance with article 160, paragraph 2 (*f*), and article 10 of this Annex;

(*i*) to approve the annual budget of the Enterprise;

(*j*) to authorize the procurement of goods and services in accordance with article 12, paragraph 3, of this Annex;

(*k*) to submit an annual report to the Council in accordance with article 9 of this Annex;

(*l*) to submit to the Council for the approval of the Assembly draft rules in respect of the organization, management, appointment and dismissal of the staff of the Enterprise and to adopt regulations to give effect to such rules;

(*m*) to borrow funds and to furnish such collateral or other security as it may determine in accordance with article 11, paragraph 2, of this Annex;

(*n*) to enter into any legal proceedings, agreements and transactions and to take any other actions in accordance with article 13 of this Annex;

(*o*) to delegate, subject to the approval of the Council, any non-discretionary powers to the Director-General and to its committees.

Article 7. Director-General and staff of the Enterprise

1. The Assembly shall, upon the recommendation of the Council and the nomination of the Governing Board, elect the Director-General of the Enterprise who shall not be a member of the Board. The Director-General shall hold office for a fixed term, not exceeding five years, and may be re-elected for further terms.

2. The Director-General shall be the legal representative and chief executive of the Enterprise and shall be directly responsible to the Board for the conduct of the operations of the Enterprise. He shall be responsible for the organization, management, appointment and dismissal of the staff of the Enterprise in accordance with the rules and regulations referred to in article 6, subparagraph (*l*), of this Annex. He shall participate, without the right to vote, in the meetings of the Board and may participate, without the right to vote, in the meetings of the Assembly and the Council when these organs are dealing with matters concerning the Enterprise.

3. The paramount consideration in the recruitment and employment of the staff and in the determination of their conditions of service shall be the necessity of securing the highest standards of efficiency and of technical competence. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable geographical basis.

4. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any government or from any other source external to the Enterprise. They shall refrain from any action which might reflect on their position as international officials of the Enterprise responsible only to the Enterprise. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

5. The responsibilities set forth in article 168, paragraph 2, are equally applicable to the staff of the Enterprise.

Article 8. Location

The Enterprise shall have its principal office at the seat of the Authority. The Enterprise may establish other offices and facilities in the territory of any State Party with the consent of that State Party.

Article 9. Reports and financial statements

1. The Enterprise shall, not later than three months after the end of each financial year, submit to the Council for its consideration an annual report containing an audited statement of its accounts and shall transmit to the Council at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

2. The Enterprise shall publish its annual report and such other reports as it finds appropriate.

3. All reports and financial statements referred to in this article shall be distributed to the members of the Authority.

Article 10. Allocation of net income

1. Subject to paragraph 3, the Enterprise shall make payments to the Authority under Annex III, article 13, or their equivalent.

2. The Assembly shall, upon the recommendation of the Governing Board, determine what portion of the net income of the Enterprise shall be retained as reserves of the Enterprise. The remainder shall be transferred to the Authority.

3. During an initial period required for the Enterprise to become self-supporting, which shall not exceed ten years from the commencement of commercial production by it, the Assembly shall exempt the Enterprise from the payments referred to in paragraph 1, and shall leave all of the net income of the Enterprise in its reserves.

Article 11. Finances

1. The funds of the Enterprise shall include:

(*a*) amounts received from the Authority in accordance with article 173, paragraph 2 (*b*);

(*b*) voluntary contributions made by States Parties for the purpose of financing activities of the Enterprise;

(*c*) amounts borrowed by the Enterprise in accordance with paragraphs 2 and 3;

(*d*) income of the Enterprise from its operations;

(*e*) other funds made available to the Enterprise to enable it to commence operations as soon as possible and to carry out its functions.

2. (*a*) The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of a State Party, the Enterprise shall obtain the approval of that State Party. The total amount of borrowings shall be approved by the Council upon the recommendation of the Governing Board.

(*b*) States Parties shall make every reasonable effort to support applications by the Enterprise for loans on capital markets and from international financial institutions.

3. (*a*) The Enterprise shall be provided with the funds necessary to explore and exploit one mine site, and to transport, process and market the minerals recovered therefrom and the nickel, copper, cobalt and manganese obtained, and to meet its initial administrative expenses. The amount of the said funds, and the criteria and factors for its adjustment, shall be included by the Preparatory Commission in the draft rules, regulations and procedures of the Authority.

(*b*) All States Parties shall make available to the Enterprise an amount equivalent to one half of the funds referred to in subparagraph (*a*) by way of long-term, interest-free loans in accordance with the scale of assessments for the United Nations regular budget in force at the time when the assessments are made, adjusted to take into account the States which are not members of the United Nations. Debts incurred by the Enterprise in raising the other half of the funds shall be guaranteed by all States Parties in accordance with the same scale.

(*c*) If the sum of the financial contributions of States Parties is less than the funds to be provided to the Enterprise under subparagraph (*a*), the Assembly shall, at its first session, consider the extent of the shortfall and adopt by consensus measures for dealing with this shortfall, taking into account the obligation of States Parties under subparagraphs (*a*) and (*b*) and any recommendations of the Preparatory Commission.

(*d*) (i) Each State Party shall, within sixty days after the entry into force of this Convention, or within thirty days after the deposit of its instrument of ratification or accession, whichever is later, deposit with the Enterprise irrevocable, non-negotiable, non-interest-bearing promissory notes in the amount of the share of such State Party of interest-free loans pursuant to subparagraph (*b*).

(ii) The Board shall prepare, at the earliest practicable date after this Convention enters into force, and thereafter at annual or other appropriate intervals, a schedule of the magnitude and timing of its requirements for the funding of its administrative expenses and for activities carried out by the Enterprise in accordance with article 170 and article 12 of this Annex.

(iii) The States Parties shall, thereupon, be notified by the Enterprise, through the Authority, of their respective shares of the funds in accordance with subparagraph (*b*), required for such expenses. The Enterprise shall encash such amounts of the promissory notes as may be required to meet the expenditure referred to in the schedule with respect to interest-free loans.

(iv) States Parties shall, upon receipt of the notification, make available their respective shares of debt guarantees for the Enterprise in accordance with subparagraph (*b*).

(*e*) (i) If the Enterprise so requests, States Parties may provide debt guarantees in addition to those provided in accordance with the scale referred to in subparagraph (*b*).

(ii) In lieu of debt guarantees, a State Party may make a voluntary contribution to the Enterprise in an amount equivalent to that portion of the debts which it would otherwise be liable to guarantee.

(*f*) Repayment of the interest-bearing loans shall have priority over the repayment of the interest-free loans. Repayment of interest-free loans shall be in accordance with a schedule adopted by the Assembly, upon the recommendation of the Council and the advice of the Board. In the exercise of this function the Board shall be guided by the relevant provisions of the rules, regulations and procedures of the Authority, which shall take into account the paramount importance of ensuring the effective functioning of the Enterprise and, in particular, ensuring its financial independence.

(*g*) Funds made available to the Enterprise shall be in freely usable currencies or currencies which are freely available and effectively usable in the major foreign exchange markets. These currencies shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice. Except as provided in paragraph 2, no State Party shall maintain or impose restrictions on the holding, use or exchange by the Enterprise of these funds.

(*h*) "Debt guarantee" means a promise of a State Party to creditors of the Enterprise to pay, *pro rata* in accordance with the appropriate scale, the financial obligations of the Enterprise covered by the guarantee following notice by the creditors to the State Party of a default by the Enterprise. Procedures for the payment of those obligations shall be in conformity with the rules, regulations and procedures of the Authority.

4. The funds, assets and expenses of the Enterprise shall be kept separate from those of the Authority. This article shall not prevent the Enterprise from making arrangements with the Authority regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid by either on behalf of the other.

5. The records, books and accounts of the Enterprise, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Council.

Article 12. Operations

1. The Enterprise shall propose to the Council projects for carrying out activities in accordance with article 170. Such proposals shall include a formal written plan of work for activities in the Area in accordance with article 153, paragraph 3, and all such other information and data as may be required from time to time for its appraisal by the Legal and Technical Commission and approval by the Council.

2. Upon approval by the Council, the Enterprise shall execute the project on the basis of the formal written plan of work referred to in paragraph 1.

3. (*a*) If the Enterprise does not possess the goods and services required for its operations it may procure them. For that purpose, it shall issue invitations to tender and award contracts to bidders offering the best combination of quality, price and delivery time.

(*b*) If there is more than one bid offering such a combination, the contract shall be awarded in accordance with:

(i) the principle of non-discrimination on the basis of political or other considerations not relevant to the carrying out of operations with due diligence and efficiency; and

(ii) guidelines approved by the Council with regard to the preferences to be accorded to goods and services originating in developing States, including the land-locked and geographically disadvantaged among them.

(*c*) The Governing Board may adopt rules determining the special circumstances in which the requirement of invitations to bid may, in the best interests of the Enterprise, be dispensed with.

4. The Enterprise shall have title to all minerals and processed substances produced by it.

5. The Enterprise shall sell its products on a non-discriminatory basis. It shall not give non-commercial discounts.

6. Without prejudice to any general or special power conferred on the Enterprise under any other provision of this Convention, the Enterprise shall exercise such powers incidental to its business as shall be necessary.

7. The Enterprise shall not interfere in the political affairs of any State Party; nor shall it be influenced in its decisions by the political character of the State Party concerned. Only commercial considerations shall be relevant to its decisions, and these considerations shall be weighed impartially in order to carry out the purposes specified in article 1 of this Annex.

Article 13. Legal status, privileges and immunities

1. To enable the Enterprise to exercise its functions, the status, privileges and immunities set forth in this article shall be accorded to the Enterprise in the territories of States Parties. To give effect to this principle the Enterprise and States Parties may, where necessary, enter into special agreements.

2. The Enterprise shall have such legal capacity as is necessary for the exercise of its functions and the fulfilment of its purposes and, in particular, the capacity:

(*a*) to enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(*b*) to acquire, lease, hold and dispose of immovable and movable property;

(*c*) to be a party to legal proceedings.

3. (*a*) Actions may be brought against the Enterprise only in a court of competent jurisdiction in the territory of a State Party in which the Enterprise:

(i) has an office or facility;
(ii) has appointed an agent for the purpose of accepting service or notice of process;
(iii) has entered into a contract for goods or services;
(iv) has issued securities; or
(v) is otherwise engaged in commercial activity.

(*b*) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Enterprise.

4. (*a*) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

(*b*) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature.

(*c*) The Enterprise and its employees shall respect local laws and regulations in any State or territory in which the Enterprise or its employees may do business or otherwise act.

(*d*) States Parties shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by them to entities conducting commercial activities in their territories. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by States Parties for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis.

(*e*) States Parties may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities.

5. The Enterprise shall negotiate with the host countries in which its offices and facilities are located for exemption from direct and indirect taxation.

6. Each State Party shall take such action as is necessary for giving effect in terms of its own law to the principles set forth in this Annex and shall inform the Enterprise of the specific action which it has taken.

7. The Enterprise may waive any of the privileges and immunities conferred under this article or in the special agreements referred to in paragraph 1 to such extent and upon such conditions as it may determine.

ANNEX V

Conciliation

SECTION 1. CONCILIATION PROCEDURE PURSUANT TO SECTION 1 OF PART XV

Article 1. Institution of proceedings

If the parties to a dispute have agreed, in accordance with article 284, to submit it to conciliation under this section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

Article 2. List of conciliators

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary. The name of the conciliator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such conciliator shall continue to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

Article 3. Constitution of conciliation commission

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

(*a*) Subject to subparagraph (*g*), the conciliation commission shall consist of five members.

(*b*) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in article 2 of this Annex, one of whom may be its national, unless the parties otherwise agree. Such appointments shall be included in the notification referred to in article 1 of this Annex.

(*c*) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (*b*) within twenty-one days of receipt of the notification referred to in article 1 of this Annex. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointments in accordance with subparagraph (*e*).

(*d*) Within thirty days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in article 2 of this Annex, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (*e*).

(*e*) Within thirty days of the receipt of a request under subparagraph (*c*) or (*d*), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in article 2 of this Annex in consultation with the parties to the dispute.

(*f*) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(*g*) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint conciliators separately.

(*h*) In disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply subparagraphs (*a*) to (*f*) in so far as possible.

Article 4. Procedure

The conciliation commission shall, unless the parties otherwise agree, determine its own procedure. The commission may, with the consent of the parties to the dispute, invite any State Party to submit to it its views orally or in writing. Decisions of the commission regarding procedural matters, the report and recommendations shall be made by a majority vote of its members.

Article 5. Amicable settlement

The commission may draw the attention of the parties to any measures which might facilitate an amicable settlement of the dispute.

Article 6. Functions of the commission

The commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

Article 7. Report

1. The commission shall report within twelve months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the

matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

Article 8. Termination

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of three months has expired from the date of transmission of the report to the parties.

Article 9. Fees and expenses

The fees and expenses of the commission shall be borne by the parties to the dispute.

Article 10. Right of parties to modify procedure

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this Annex.

SECTION 2. COMPULSORY SUBMISSION TO CONCILIATION PROCEDURE PURSUANT TO SECTION 3 OF PART XV

Article 11. Institution of proceedings

1. Any party to a dispute which, in accordance with Part XV, section 3, may be submitted to conciliation under this section, may institute the proceedings by written notification addressed to the other party or parties to the dispute.

2. Any party to the dispute, notified under paragraph 1, shall be obliged to submit to such proceedings.

Article 12. Failure to reply or to submit to conciliation

The failure of a party or parties to the dispute to reply to notification of institution of proceedings or to submit to such proceedings shall not constitute a bar to the proceedings.

Article 13. Competence

A disagreement as to whether a conciliation commission acting under this section has competence shall be decided by the commission.

Article 14. Application of section 1

Articles 2 to 10 of section 1 of this Annex apply subject to this section.

ANNEX VI

Statute of the International Tribunal for the Law of the Sea

Article 1. General provisions

1. The International Tribunal for the Law of the Sea is constituted and shall function in accordance with the provisions of this Convention and this Statute.

2. The seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

3. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

4. A reference of a dispute to the Tribunal shall be governed by the provisions of Parts XI and XV.

SECTION 1. ORGANIZATION OF THE TRIBUNAL

Article 2. Composition

1. The Tribunal shall be composed of a body of twenty-one independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

Article 3. Membership

1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal could be regarded as a national of more than one State shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.

Article 4. Nominations and elections

1. Each State Party may nominate not more than two persons having the qualifications prescribed in article 2 of this Annex. The members of the Tribunal shall be elected from the list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the States Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held within six months of the date of entry into force of this Convention.

4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the States Parties convened by the Secretary-General of the United Nations in the case of the first election and by a procedure agreed to by the States Parties in the case of subsequent elections. Two thirds of the States Parties shall constitute a quorum at that meeting. The persons elected to the Tribunal shall be those nominees who obtain the largest number of votes and a two-thirds majority of the States Parties present and voting, provided that such majority includes a majority of the States Parties.

Article 5. Term of office

1. The members of the Tribunal shall be elected for nine years and may be re-elected; provided, however, that of the members elected at the first election, the terms of seven members shall expire at the end of three years and the terms of seven more members shall expire at the end of six years.

2. The members of the Tribunal whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.

4. In the case of the resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of that letter.

Article 6. Vacancies

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4 of this Annex, and the date of the election shall be fixed by the President of the Tribunal after consultation with the States Parties.

2. A member of the Tribunal elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 7. Incompatible activities

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with

the exploration for or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

2. No member of the Tribunal may act as agent, counsel or advocate in any case.

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 8. Conditions relating to participation of members in a particular case

1. No member of the Tribunal may participate in the decision of any case in which he has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court or tribunal, or in any other capacity.

2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.

3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.

4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

Article 9. Consequence of ceasing to fulfil required conditions

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

Article 10. Privileges and immunities

The members of the Tribunal, when engaged in the business of the Tribunal, shall enjoy diplomatic privileges and immunities.

Article 11. Solemn declaration by members

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

Article 12. President, Vice-President and Registrar

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.

2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

3. The President and the Registrar shall reside at the seat of the Tribunal.

Article 13. Quorum

1. All available members of the Tribunal shall sit; a quorum of eleven elected members shall be required to constitute the Tribunal.

2. Subject to article 17 of this Annex, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard to the effective functioning of the chambers as provided for in articles 14 and 15 of this Annex.

3. All disputes and applications submitted to the Tribunal shall be heard and determined by the Tribunal, unless article 14 of this Annex applies, or the parties request that it shall be dealt with in accordance with article 15 of this Annex.

Article 14. Sea-Bed Disputes Chamber

A Sea-Bed Disputes Chamber shall be established in accordance with the provisions of section 4 of this Annex. Its jurisdiction, powers and functions shall be as provided for in Part XI, section 5.

Article 15. Special chambers

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.

2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.

3. With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.

4. Disputes shall be heard and determined by the chambers provided for in this article if the parties so request.

5. A judgment given by any of the chambers provided for in this article and in article 14 of this Annex shall be considered as rendered by the Tribunal.

Article 16. Rules of the Tribunal

The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

Article 17. Nationality of members

1. Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.

2. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of the parties, any other party may choose a person to participate as a member of the Tribunal.

3. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal.

4. This article applies to the chambers referred to in articles 14 and 15 of this Annex. In such cases, the President, in consultation with the parties, shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members specially chosen by the parties.

5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be considered as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by articles 2, 8 and 11 of this Annex. They shall participate in the decision on terms of complete equality with their colleagues.

Article 18. Remuneration of members

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in any year the total sum payable to any member as special allowance shall not exceed the amount of the annual allowance.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.

4. The members chosen under article 17 of this Annex, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. The salaries, allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account the work load of of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be determined at meetings of the States Parties, on the proposal of the Tribunal.

7. Regulations adopted at meetings of the States Parties shall determine the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The salaries, allowances, and compensation shall be free of all taxation.

Article 19. Expenses of the Tribunal

1. The expenses of the Tribunal shall be borne by the States Parties and by the Authority on such terms and in such a manner as shall be decided at meetings of the States Parties.

2. When an entity other than a State Party or the Authority is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

SECTION 2. COMPETENCE

Article 20. Access to the Tribunal

1. The Tribunal shall be open to States Parties.

2. The Tribunal shall be open to entities other than States Parties in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case.

Article 21. Jurisdiction

The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

Article 22. Reference of disputes subject to other agreements

If all the parties to a treaty or convention already in force and concerning the subject-matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal.

Article 23. Applicable law

The Tribunal shall decide all disputes and applications in accordance with article 293.

SECTION 3. PROCEDURE

Article 24. Institution of proceedings

1. Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by written application, addressed to the Registrar. In either case, the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith notify the special agreement or the application to all concerned.

3. The Registrar shall also notify all States Parties.

Article 25. Provisional measures

1. In accordance with article 290, the Tribunal and its Sea-Bed Disputes Chamber shall have the power to prescribe provisional measures.

2. If the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum, the provisional measures shall be prescribed by the chamber of summary procedure formed under article 15, paragraph 3, of this Annex. Notwithstanding article 15, paragraph 4, of this Annex, such provisional measures may be adopted at the request of any party to the dispute. They shall be subject to review and revision by the Tribunal.

Article 26. Hearing

1. The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President. If neither is able to preside, the senior judge present of the Tribunal shall preside.

2. The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.

Article 27. Conduct of case

The Tribunal shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 28. Default

When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its decision, the Tribunal must satisfy itself not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and law.

Article 29. Majority for decision

1. All questions shall be decided by a majority of the members of the Tribunal who are present.

2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

Article 30. Judgement

1. The judgement shall state the reasons on which it is based.

2. It shall contain the names of the members of the Tribunal who have taken part in the decision.

3. If the judgement does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.

4. The judgement shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the parties to the dispute.

Article 31. Request to intervene

1. Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.

2. It shall be for the Tribunal to decide upon this request.

3. If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened.

Article 32. Right to intervene in cases of interpretation or application

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all States Parties forthwith.

2. Whenever pursuant to article 21 or 22 of this Annex the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to the agreement.

3. Every party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgement will be equally binding upon it.

Article 33. Finality and binding force of decisions

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.

2. The decision shall have no binding force except between the parties in respect of that particular dispute.

3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

Article 34. Costs

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

SECTION 4. SEA-BED DISPUTES CHAMBER

Article 35. Composition

1. The Sea-Bed Disputes Chamber referred to in article 14 of this Annex shall be composed of eleven members, selected by a majority of the elected members of the Tribunal from among them.

2. In the selection of the members of the Chamber, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured. The Assembly of the Authority may adopt recommendations of a general nature relating to such representation and distribution.

3. The members of the Chamber shall be selected every three years and may be selected for a second term.

4. The Chamber shall elect its President from among its members, who shall serve for the term for which the Chamber has been selected.

5. If any proceedings are still pending at the end of any three-year period for which the Chamber has been selected, the Chamber shall complete the proceedings in its original composition.

6. If a vacancy occurs in the Chamber, the Tribunal shall select a successor from among its elected members, who shall hold office for the remainder of his predecessor's term.

7. A quorum of seven of the members selected by the Tribunal shall be required to constitute the Chamber.

Article 36. Ad hoc chambers

1. The Sea-Bed Disputes Chamber shall form an *ad hoc* chamber, composed of three of its members, for dealing with a particular dispute submitted to it in accordance with article 188, paragraph 1 (*b*). The composition of such a chamber shall be determined by the Sea-Bed Disputes Chamber with the approval of the parties.

2. If the parties do not agree on the composition of an *ad hoc* chamber, each party to the dispute shall appoint one member, and the third member shall be appointed by them in agreement. If they disagree, or if any party fails to make an appointment, the President of the Sea-Bed Disputes Chamber shall promptly make the appointment or appointments from among its members, after consultation with the parties.

3. Members of the *ad hoc* chamber must not be in the service of, or nationals of, any of the parties to the dispute.

Article 37. Access

The Chamber shall be open to the States Parties, the Authority and the other entities referred to in Part XI, section 5.

Article 38. Applicable law

In addition to the provisions of article 293, the Chamber shall apply:

(*a*) the rules, regulations and procedures of the Authority adopted in accordance with this Convention; and

(*b*) the terms of contracts concerning activities in the Area in matters relating to those contracts.

Article 39. Enforcement of decisions of the Chamber

The decisions of the Chamber shall be enforceable in the territories of the States Parties in the same manner as judgements or orders of the highest court of the State Party in whose territory the enforcement is sought.

Article 40. Applicability of other sections of this Annex

1. The other sections of this Annex which are not incompatible with this section apply to the Chamber.

2. In the exercise of its functions relating to advisory opinions, the Chamber shall be guided by the provisions of this Annex relating to procedure before the Tribunal to the extent to which it recognizes them to be applicable.

SECTION 5. AMENDMENTS

Article 41. Amendments

1. Amendments to this Annex, other than amendments to section 4, may be adopted only in accordance with article 313 or by consensus at a conference convened in accordance with this Convention.

2. Amendments to section 4 may be adopted only in accordance with article 314.

3. The Tribunal may propose such amendments to this Statute as it may consider necessary, by written communications to the States Parties for their consideration in conformity with paragraphs 1 and 2.

ANNEX VII

Arbitration

Article 1. Institution of proceedings

Subject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2. List of arbitrators

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in maritime affairs and enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

2. If at any time the arbitrators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such arbitrator shall continue to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before that arbitral tribunal.

Article 3. Constitution of arbitral tribunal

For the purpose of proceedings under this Annex, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(*a*) Subject to subparagraph (*g*), the arbitral tribunal shall consist of five members.

(*b*) The party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in article 2 of this Annex, who may be its national. The appointment shall be included in the notification referred to in article 1 of this Annex.

(*c*) The other party to the dispute shall, within thirty days of receipt of the notification referred to in article 1 of this Annex, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (*e*).

(*d*) The other three members shall be appointed by agreement between the parties. They shall be chosen preferably from the list and shall be nationals of third States unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (*e*), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned sixty-day period.

(*e*) Unless the parties agree that any appointment under subparagraphs (*c*) and (*d*) be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for the Law of the Sea who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in article 2 of this Annex within a period of thirty days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(*f*) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(*g*) Parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties.

(*h*) In disputes involving more than two parties, the provisions of subparagraphs (*a*) to (*f*) shall apply to the maximum extent possible.

Article 4. Functions of arbitral tribunal

An arbitral tribunal constituted under article 3 of this Annex shall function in accordance with this Annex and the other provisions of this Convention.

Article 5. Procedure

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case.

Article 6. Duties of parties to a dispute

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, in accordance with their law and using all means at their disposal, shall:

(*a*) provide it with all relevant documents, facilities and information; and

(*b*) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

Article 7. Expenses

Unless the arbitral tribunal decides otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares.

Article 8. Required majority for decisions

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

Article 9. Default of appearance

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

Article 10. Award

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

Article 11. Finality of award

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

Article 12. Interpretation or implementation of award

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute.

Article 13. Application to entities other than States Parties

The provisions of this Annex shall apply *mutatis mutandis* to any dispute involving entities other than States Parties.

ANNEX VIII

Special arbitration

Article 1. Institution of proceedings

Subject to Part XV, any party to a dispute concerning the interpretation or application of the articles of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may submit the dispute to the special arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

Article 2. Lists of experts

1. A list of experts shall be established and maintained in respect of each of the fields of (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping.

2. The lists of experts shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Inter-Governmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization, or in each case by the appropriate subsidiary body concerned to which such organization, programme or commission has delegated that function.

3. Every State Party shall be entitled to nominate two experts in each field whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity. The names of the persons so nominated in each field shall constitute the appropriate list.

4. If at any time the experts nominated by a State Party in the list so constituted shall be fewer than two, that State Party shall be entitled to make further nominations as necessary.

5. The name of an expert shall remain on the list until withdrawn by the State Party which made the nomination, provided that such expert shall continue to serve on any special arbitral tribunal to which that expert has been appointed until the completion of the proceedings before that special arbitral tribunal.

Article 3. Constitution of special arbitral tribunal

For the purpose of proceedings under this Annex, the special arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(*a*) Subject to subparagraph (*g*), the special arbitral tribunal shall consist of five members.

(*b*) The party instituting the proceedings shall appoint two members to be chosen preferably from the appropriate list or lists referred to in article 2 of this Annex relating to the matters in dispute, one of whom may be its national. The appointments shall be included in the notification referred to in article 1 of this Annex.

(*c*) The other party to the dispute shall, within thirty days of receipt of the notification referred to in article 1 of this Annex, appoint two members to be chosen preferably from the appropriate list or lists relating to the matters in dispute, one of whom may be its national. If the appointments are not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointments be made in accordance with subparagraph (*e*).

(*d*) The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be a national of a third State, unless the parties otherwise agree. If, within thirty days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of the President, the appointment shall be made in accordance with subparagraph (*e*), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 30-day period.

(*e*) Unless the parties agree that the appointment be made by a person or a third State chosen by the parties, the Secretary-General of

the United Nations shall make the necessary appointments within thirty days of receipt of a request under subparagraphs (*c*) and (*d*). The appointments referred to in this subparagraph shall be made from the appropriate list or lists of experts referred to in article 2 of this Annex and in consultation with the parties to the dispute and the appropriate international organization. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(*f*) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(*g*) Parties in the same interest shall appoint two members of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal.

(*h*) In disputes involving more than two parties, the provisions of subparagraphs (*a*) to (*f*) shall apply to the maximum extent possible.

Article 4. General provisions

Annex VII, articles 4 to 13, apply *mutatis mutandis* to the special arbitration proceedings in accordance with this Annex.

Article 5. Fact finding

1. The parties to a dispute concerning the interpretation or application of the provisions of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may at any time agree to request a special arbitral tribunal constituted in accordance with article 3 of this Annex to carry out an inquiry and establish the facts giving rise to the dispute.

2. Unless the parties otherwise agree, the findings of fact of the special arbitral tribunal acting in accordance with paragraph 1, shall be considered as conclusive as between the parties.

3. If all the parties to the dispute so request, the special arbitral tribunal may formulate recommendations which, without having the force of a decision, shall only constitute the basis for a review by the parties of the questions giving rise to the dispute.

4. Subject to paragraph 2, the special arbitral tribunal shall act in accordance with the provisions of this Annex, unless the parties otherwise agree.

ANNEX IX

Participation by international organizations

Article 1. Use of terms

For the purposes of article 305 and of this Annex, "international organization" means an intergovernmental organization constituted by States to which its member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

Article 2. Signature

An international organization may sign this Convention if a majority of its member States are signatories of this Convention. At the time of signature an international organization shall make a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States which are signatories, and the nature and extent of that competence.

Article 3. Formal confirmation and accession

1. An international organization may deposit its instrument of formal confirmation or of accession if a majority of its member States deposit or have deposited their instruments of ratification or accession.

2. The instruments deposited by the international organization shall contain the undertakings and declarations required by articles 4 and 5 of this Annex.

Article 4. Extent of participation and rights and obligations

1. The instrument of formal confirmation or of accession of an international organization shall contain an undertaking to accept the rights and obligations of States under this Convention in respect of matters relating to which competence has been transferred to it by its member States which are Parties to this Convention.

2. An international organization shall be a Party to this Convention to the extent that it has competence in accordance with the declarations, communications of information or notifications referred to in article 5 of this Annex.

3. Such an international organization shall exercise the rights and perform the obligations which its member States which are Parties would otherwise have under this Convention, on matters relating to which competence has been transferred to it by those member States. The member States of that international organization shall not exercise competence which they have transferred to it.

4. Participation of such an international organization shall in no case entail an increase of the representation to which its member States which are States Parties would otherwise be entitled, including rights in decision-making.

5. Participation of such an international organization shall in no case confer any rights under this Convention on member States of the organization which are not States Parties to this Convention.

6. In the event of a conflict between the obligations of an international organization under this Convention and its obligations under the agreement establishing the organization or any acts relating to it, the obligations under this Convention shall prevail.

Article 5. Declarations, notifications and communications

1. The instrument of formal confirmation or of accession of an international organization shall contain a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to the organization by its member States which are Parties to this Convention.

2. A member State of an international organization shall, at the time it ratifies or accedes to this Convention or at the time when the organization deposits its instrument of formal confirmation or of accession, whichever is later, make a declaration specifying the matters governed by this Convention in respect of which it has transferred competence to the organization.

3. States Parties which are member States of an international organization which is a Party to this Convention shall be presumed to have competence over all matters governed by this Convention in respect of which transfers of competence to the organization have not been specifically declared, notified or communicated by those States under this article.

4. The international organization and its member States which are States Parties shall promptly notify the depositary of this Convention of any changes to the distribution of competence, including new transfers of competence, specified in the declarations under paragraphs 1 and 2.

5. Any State Party may request an international organization and its member States which are States Parties to provide information as to which, as between the organization and its member States, has competence in respect of any specific question which has arisen. The organization and the member States concerned shall provide this information within a reasonable time. The international organization and the member States may also, on their own initiative, provide this information.

6. Declarations, notifications and communications of information under this article shall specify the nature and extent of the competence transferred.

Article 6. Responsibility and liability

1. Parties which have competence under article 5 of this Annex shall have responsibility for failure to comply with obligations or for any other violation of this Convention.

2. Any State Party may request an international organization or its member States which are States Parties for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned shall provide this information. Failure to provide this information within a reasonable time or the provision of contradictory information shall result in joint and several liability.

Article 7. Settlement of disputes

1. At the time of deposit of its instrument of formal confirmation or of accession, or at any time thereafter, an international organization shall be free to choose, by means of a written declaration, one or more of the means for the settlement of disputes concerning the interpretation or application of this Convention, referred to in article 287, paragraph 1 (*a*), (*c*) or (*d*).

2. Part XV applies *mutatis mutandis* to any dispute between Parties to this Convention, one or more of which are international organizations.

3. When an international organization and one or more of its member States are joint parties to a dispute, or parties in the same interest, the organization shall be deemed to have accepted the same procedures for the settlement of disputes as the member States; when, however, a member State has chosen only the International Court of Justice under article 287, the organization and the member State concerned shall be deemed to have accepted arbitration in accordance with Annex VII, unless the parties to the dispute otherwise agree.

Article 8. Applicability of Part XVII

Part XVII applies *mutatis mutandis* to an international organization, except in respect of the following:

(*a*) the instrument of formal confirmation or of accession of an international organization shall not be taken into account in the application of article 308, paragraph 1;

(*b*) (i) an international organization shall have exclusive capacity with respect to the application of articles 312 to 315, to the extent that it has competence under article 5 of this Annex over the entire subject-matter of the amendment;

(ii) the instrument of formal confirmation or of accession of an international organization to an amendment, the entire subject-matter over which the international organization has competence under article 5 of this Annex, shall be considered to be the instrument of ratification or accession of each of the member States which are States Parties, for the purposes of applying article 316, paragraphs 1, 2 and 3;

(iii) the instrument of formal confirmation or of accession of the international organization shall not be taken into account in the application of article 316, paragraphs 1 and 2, with regard to all other amendments;

(*c*) (i) an international organization may not denounce this Convention in accordance with article 317 if any of its member States is a State Party and if it continues to fulfil the qualifications specified in article 1 of this Annex;

(ii) an international organization shall denounce this Convention when none of its member States is a State Party or if the international organization no longer fulfils the qualifications specified in article 1 of this Annex. Such denunciation shall take effect immediately.

DOCUMENT A/CONF.62/123

Report of the Credentials Committee

[*Original: English*]
[*9 December 1982*]

1. The Credentials Committee held its 17th meeting on 9 December 1982.

2. The Committee had before it a memorandum by the Executive Secretary of the Conference, dated 8 December 1982, indicating that the present meetings were understood as a continuation of the eleventh session of the Conference and credentials valid for all sessions or for the eleventh session without limitation of dates were accordingly valid for the final part of the eleventh session. The Committee was informed that as of 8 December 1982, communications had been received concerning 133 States, as well as the United Nations Council for Namibia, participating in the final part of this session.

3. Credentials in the form provided for by rule 3 of the rules of procedure of the Conference have been submitted to the Executive Secretary by the following States: Algeria, Angola, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Chad, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador,* Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar,* Malawi,* Malaysia, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar,* Republic of Korea, Romania, Rwanda, St. Lucia,* Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

4. The appointment of the representatives of Belgium, Burundi, Cape Verde, Djibouti, Samoa and Upper Volta had been communicated to the Executive Secretary by cables from the Ministries of Foreign Affairs, the Prime Minister's office, or the Permanent Mission to the United Nations.

5. The Executive Secretary informed the Committee that, subsequent to the preparation of the Executive Secretary's memorandum, credentials in due form had been received from Belize and Maldives.

6. The Executive Secretary further informed the Committee that cables had also been received from Guinea-Bissau and Zaire.

7. The Chairman proposed that, in the light of past practice, the Committee should accept the credentials referred to in paragraphs 3 and 4 above and that, as an exceptional measure and subject to later validation, it should accept the communications referred to in paragraphs 5 and 6 above in lieu of formal credentials.

8. The representative of Hungary made a statement to the effect that in the opinion of his delegation only the Government of the People's Republic of Kampuchea is entitled to sign the Final Act of the Conference and the Convention. The Chairman stated that the Committee was not competent to

*Denotes delegations with valid credentials but had not yet registered with the Secretariat.

deal with the question of who may sign the Convention. The Japanese delegation stated that the Committee's function was to examine the question of credentials rather than representation.

9. The representative of China stated that in his view the Government of Democratic Kampuchea is the sole legitimate government.

10. The Chairman noted that the views expressed would be reflected in the report of the Committee. Subject to these views, summarized in paragraphs 8 and 9 above, the Committee decided to approve the following draft resolution:

"*The Credentials Committee*,

"*Taking into account* the views expressed during the debate,

"*Accepts* the formal credentials of the representatives that have been received;

"*Accepts*, as an exceptional measure and subject to later validation, the communications referred to in paragraphs 5 and 6 above in lieu of formal credentials."

DOCUMENT A/CONF.62/L.152

Report of the Chairman of the Drafting Committee

[*Original: English*]
[*15 September 1982*]

1. The final inter-sessional meeting of the Drafting Committee was held in Geneva from 12 July to 20 August 1982, pursuant to the decision taken by the Conference at its 182nd plenary meeting on 30 April 1982.[55] During that meeting the Drafting Committee fulfilled its mandate by completing all the remaining work assigned to it by the Conference.

2. On the basis of resolution 36/79, adopted by the General Assembly at its thirty-sixth session, the Conference was authorized to extend its work beyond 30 April 1982, in consultation with the Secretary-General, for the purpose of completing its work. At formal meetings of the Drafting Committee held on 16 and 18 August 1982, it was decided, in consultation with the Secretary-General, to extend the inter-sessional meeting of the Drafting Committee from Friday, 20 August until Wednesday, 25 August 1982, in order to complete the Drafting Committee's programme of work.

3. Throughout the meeting the language groups, the co-ordinators and the Drafting Committee maintained an intensive schedule, including regular meetings in the early morning hours, luncheon periods, evenings and weekends.

4. During the last inter-sessional meeting of the Drafting Committee there were 232 meetings of the language groups, 42 meetings of the co-ordinators of the language groups under the direction of the Chairman of the Drafting Committee, 7 informal meetings of the Drafting Committee and 2 formal meetings of the Drafting Committee. Representatives of over 50 countries participated in those meetings.

5. In accordance with the timetable proposed at the 182nd plenary meeting of the Conference,[56] the Drafting Committee gave priority to Parts XVI, XVII, annexes III, IV, VI, VII, VIII and IX, preamble, article 1 and draft resolution II, and then considered pending items on all parts of the Convention.

6. During the final inter-sessional meeting the Drafting Committee had to carry out an enormous volume of work under severe time pressures.[57] Annex III, article 13, offers a representative example of the type of problem which the Drafting Committee dealt with during that session. The language groups' proposals on that highly technical article amounted to some 366 pages, including proposals correcting translation errors, as well as recommendations clarifying, refining and lightening the text or seeking to ensure linguistic concordance. All those proposals had to be reviewed carefully and co-ordinated by the co-ordinators of the language groups, under the direction of the Chairman, before being considered by the Drafting Committee as a whole. It should also be noted that the language groups had to reconsider resolution II, which had been revised by the Conference in plenary meeting.

7. As an indication of the number of issues addressed, the Drafting Committee formulated approximately 2,800 further recommendations during the inter-sessional meeting as compared to a total of approximately 3,000 recommendations which it had submitted for all its earlier sessions.

8. The Drafting Committee now submits a series of recommendations to the Conference in informal plenary meeting on Part III, articles 36 and 37, Parts XVI and XVII, annexes III, IV, VI, VII, VIII, IX, preamble, article 1 and resolution II. These recommendations are set out in addenda 1 to 22 to this report.

9. The Drafting Committee will meet on the morning of 22 September 1982 to process proposals approved by the co-ordinators of the language groups of the Drafting Committee[58] but not ready in final form during the Geneva session, in order to ensure against errors and omissions in that part of the report.

[55] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

[56] *Ibid.*, document A/CONF.62/L.142/Rev.1.

[57] At the 14th meeting of the General Committee at the fourth session of the Conference the Chairman of the Drafting Committee had observed that "he hoped that every effort would be made to avoid referring drafting problems to the Committee at the last moment under great pressure. The Drafting Committee should not be asked to accomplish its work hurriedly" (*Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V).

[58] CG/WP.69–72

DOCUMENT A/CONF.62/L.153

Letter dated 20 September 1982 from the representative of Venezuela to the Secretary-General

[*Original: Spanish*]
[*21 September 1982*]

I have the honour to transmit to you the text of note No. GM-215 of today's date, addressed to you by Dr. José Alberto Zambrano Velasco, Minister for Foreign Affairs of Venezuela, the original of which will be sent to you later:

"Republic of Venezuela
"Ministry of Foreign Affairs
"GM-215
"Caracas, 20 September 1982

"Sir,

"As you are aware, Venezuela participated diligently and with dedication, during eight years of work, in the search for the common objective of adopting a universally acceptable Convention on the Law of the Sea. For the reasons expressed at the appropriate time by the Chairman of the delegation of Venezuela, our country found it impossible to associate itself with the adopted text in its entirety.

"In the light of the foregoing statement, which is motivated by considerations dictated by national interest, and with due regard to the various circumstances, my Government regrets having to withdraw its original offer to act as host at Caracas for the signature of the Final Act and the opening of the Convention for signature.

"In taking the difficult decision of which I am informing you, the Government of Venezuela hopes that it will find understanding among the participants in the Conference. At the same time, it wishes to express its gratitude to all the countries that supported the initiative to make Venezuela the site of the final meetings of the Conference, which was and is a source of pride for our country.

"I take this opportunity to express to you, Sir, the assurances of my highest and most distinguished consideration.

"(*Signed*) José Alberto ZAMBRANO VELASCO
Minister for Foreign Affairs
of Venezuela"

I take this opportunity once again to express to you, Sir, the assurances of my highest consideration.

(*Signed*) A. MARTINI URDANETA
Ambassador
Representative of Venezuela
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.155

Letter dated 24 September 1982 from the representative of the Federal Republic of Germany to the President of the Conference

[*Original: English*]
[*27 September 1982*]

The delegation of the Federal Republic of Germany, referring to the letter dated 28 April 1982 from the representatives of Chile, Colombia, Ecuador and Peru (A/CONF.62/L.143)[59] and to the written statement by the delegation of Colombia dated 29 April 1982 (A/CONF.62/WS/32),[59] would like to state that there is a fundamental balance between the rights and duties of coastal and other States in the adopted text of the United Nations Convention on the Law of the Sea (A/CONF.62/L.122) relating to zones of coastal State jurisdiction.

The relevant provisions of the Convention recognize, beyond and adjacent to the territorial sea, specific resource-related rights and jurisdiction of the coastal State in the exclusive economic zone, while all States continue to enjoy in that zone the high seas freedoms of navigation and over-flight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

My delegation has the honour to request that this letter be circulated as an official document of the Conference.

(*Signed*) E. F. JUNG
Representative of the Federal Republic of Germany
to the Third United Nations Conference
on the Law of the Sea

[59] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

DOCUMENT A/CONF.62/L.156

Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea: Note by the Secretariat

[*Original: English*]
[*24 September 1982*]

1. Pursuant to General Assembly resolution 35/116 of 10 December 1980, the Secretary-General reported[60] to the thirty-sixth session of the General Assembly on the question of the establishment of the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea. Paragraph 7 of that report recorded that the secretariat of the Third United Nations Conference on the Law of the Sea, in co-operation with the Office of Legal Affairs of the United Nations Secretariat, would take such action as was necessary to invite contributions to the endowment of the Fellowship.

2. The Secretary-General, by letter FI 323 (19) dated 26 January 1982, and the Special Representative of the Secretary-General to the Third United Nations Conference on the Law of the Sea, by letter LE 113 (3-8) dated 5 February 1982, drew attention to resolution 36/79 adopted on 9 December 1981 inviting Governments of States participating in the Conference, as well as universities, philanthropic foundations and other interested national and international institutions and organizations, to contribute to the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea in the form recommended by the Secretary-General in his report.

3 The following pledges and contributions have been received: 18 March 1982, pledge for $500 from Mr. Elliot Richardson; 19 March 1982, pledge for $10,000 from the Government of the United Arab Emirates; contribution received on 13 September 1982; 28 May 1982, pledge for $15,000 from the Government of the Democratic Socialist Republic of Sri Lanka; 25 August 1982, contribution for $500 from the Government of the Philippines.

[60] A/36/697.

DOCUMENT A/CONF.62/L.157

Letter dated 24 September 1982 from the representative of Japan to the President of the Conference

[*Original: English*]
[*27 September 1982*]

The delegation of Japan, referring to the letter dated 28 April 1982 from the representatives of Chile, Colombia, Ecuador and Peru (A/CONF.62/L.143)[59] and to the written statement by the delegation of Colombia dated 29 April 1982 (A/CONF.62/WS/32)[59] would like to note the fundamental balance between the rights and duties of coastal and other States in the adopted text of the Convention on the Law of the Sea relating to zones of coastal State jurisdiction.

The relevant provisions of the Convention recognize, beyond and adjacent to the territorial sea, specific resource-related rights and jurisdiction of the coastal State in the exclusive economic zone, while all States continue to enjoy in that zone the high seas freedoms of navigation and over-flight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

The delegation of Japan has the honour to request that this letter be circulated as an official document of the Conference.

(*Signed*) N. KUMAGAI
Representative of Japan
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.158

Letter dated 24 September 1982 from the representative of the United States of America to the President of the Conference

[*Original: English*]
[*27 September 1982*]

The delegation of the United States of America, referring to the letter dated 28 April 1982 from the representatives of Chile, Colombia, Ecuador and Peru (A/CONF.62/L.143)[59]

and to the written statement by the delegation of Colombia dated 29 April 1982 (A/CONF.62/WS/32),[59] wishes to note the fundamental balance between the rights and duties of coastal and other States in the adopted text of the Convention on the Law of the Sea relating to zones of coastal State jurisdiction.

The relevant provisions of the Convention recognize, beyond and adjacent to the territorial sea, specific resource-related rights and jurisdiction of the coastal State in the exclusive economic zone, while all States continue to enjoy in that zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

The United States delegation has the honour to request that this letter be circulated as an official document of the Conference.

(*Signed*) T. A. CLINGAN, Jr.
Representative of the United States
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.159

Letter dated 24 September 1982 from the representative of France to the President of the Conference

[*Original: French*]
[*27 September 1982*]

Referring to the letter dated 28 April 1982 from the representatives of Chile, Colombia, Ecuador and Peru (A/CONF.62/L.143)[59] and to the written statement by the delegation of Colombia dated 29 April 1982 (A/CONF.62/WS/32),[59] I wish to note the fundamental balance between the rights and duties of coastal and other States in the adopted text of the Convention on the Law of the Sea relating to zones of coastal State jurisdiction.

The relevant provisions of the Convention recognize, beyond the territorial sea, and contiguous zone, specific resource-related rights and jurisdiction of the coastal State in the exclusive economic zone, while all States continue to enjoy in that zone the high seas freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea.

The French delegation requests that this letter be circulated as an official document of the Conference.

(*Signed*) C. CHAYET
Representative of France
to the Third United Nations Conference
on the Law of the Sea

DOCUMENT A/CONF.62/L.160

Report of the Chairman of the Drafting Committee on behalf of the President and the Chairmen of the First, Second and Third Committees

[*Original: English*]
[*18 October 1982*]

RECOMMENDATIONS OF THE DRAFTING COMMITTEE

1. At three informal plenary meetings, two held on 22, 23 and 24 September 1982, consideration was given to the recommendations of the Drafting Committee on: preamble; Part I; Part II, articles 10, 19, 22, 26; Part III, articles 34, 36, 37, 42, 45; Part IV, article 47; Part V, articles 61, 62, 63, 66, 69, 70, 71, 74; Part VI, articles 76, 77, 79, 83, 85; Part VII, articles 91, 94, 96, 109; Part IX, article 122; Part X, article 127; Part XI, articles 133, 137, 138, 142, 144, 150, 151, 155, 156, 160, 161, 162, 168, 171, 188, 189; Part XII, articles 194, 200, 201, 202, 208, 211, 212, 216, 217, 218, 219, 220, 221, 223, 227, 230, 231, 232, 235, 236; Part XIII, articles 240, 241, 244, 246, 249, 252, 253, 254, 261, section 5, title, article 263; Part XIV, articles 266, 267, 268, 269, 271, 275, 276, 277; Part XV, articles 286, 288, 294, 297; Part XVI; Part XVII, articles 308 to 317, articles 319 and 320; annex I; annex II, articles 2, 3, 5, 6; annexes III, IV; annex V, articles 2 and 3; annexes VI, VII, VIII and IX; resolution I, paragraphs 5 (*h*) and (*i*), paragraphs 8 and 9; resolution II.

2. The recommendations of the Drafting Committee, approved during the informal plenary meetings, are set out in the addenda to the report of the Drafting Committee, A/CONF.62/L.152/Add.1 to 26, as amended by document A/CONF.62/L.152/Add.27.

PROPOSALS SUBMITTED TO AND APPROVED BY THE INFORMAL PLENARY

3. At the informal plenary meeting held on 24 September 1982, the following amendments of a drafting nature to docu-

ment A/CONF.62/L.78[61] were submitted to and were approved by the informal plenary:

(*a*) Article 56, paragraph 1 (*a*), lines 2 and 3: replace "of the sea-bed and subsoil and the superjacent waters" by "of the waters superjacent to the sea-bed and of the sea-bed and its subsoil";

(*b*) Article 218, paragraph 4: replace "Any proceedings initiated" by "Any proceedings instituted";

(*c*) Article 283, paragraph 2: replace "a settlement" by "the settlement";

(*d*) Annex V, article 10, title: should read "*Right of parties to modify procedure*".

TITLES

4. In response to a question on the function of titles, I submit as Chairman of the Drafting Committee that, on the basis of the consultations I have had with the co-ordinators of the language groups of the Drafting Committee, the titles given to parts, sections and articles of the Convention be considered as helpful for an understanding of the structure of the draft and for promoting ease of reference.

[61] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV.

DOCUMENT A/CONF.62/WS/34

Statement by the delegation of Turkey dated 15 November 1982

[*Original: English*]
[*15 November 1982*]

In connection with the views expressed by the Greek delegation in the written statement contained in document A/CONF.62/WS/26 of 4 May 1982,[59] the delegation of Turkey wishes to make the following statement:

The scope of the régime of straits used for international navigation and the rights and duties of States bordering the straits are clearly defined in the provisions contained in Part III of the United Nations Convention on the Law of the Sea. With the limited exceptions provided in articles 35, 36, 38, paragraph 1, and 45, all straits used for international navigation are subject to the régime of transit passage.

In the written statement referred to above, Greece is attempting to create a separate category of straits, i.e. "spread out islands that form a great number of alternative straits" which is not envisaged in the Convention nor in international law. Thereby Greece wishes to retain the power to exclude some of the straits which link the Aegean Sea to the Mediterranean from the régime of transit passage. Such arbitrary action is not permissible under the Convention nor under the rules and principles of international law.

It seems that Greece, failing in the Conference in its efforts to ensure the application of the régime of archipelagic States to the islands of the continental States, is now trying to circumvent the provisions of the Convention by a unilateral and arbitrary statement of understanding.

The reference in the Greek written statement to article 36 is of particular concern as it is an indication of Greece's intentions to exercise discretionary powers not only over straits, but also over the high seas.

With regard to the air routes, the Greek statement is contrary to the International Civil Aviation Organization (ICAO) rules according to which air routes are established by ICAO regional meetings with the consent of all interested parties and approved by the ICAO Council.

In view of the above considerations, the delegation of Turkey finds the Greek views expressed in document A/CONF.62/WS/26 legally unfounded and totally unacceptable.

DOCUMENT A/CONF.62/WS/35

Statement by the delegation of Argentina dated 8 December 1982

[*Original: Spanish*]
[*9 December 1982*]

On 30 April 1982, at the 182nd plenary meeting,[59] the Conference, on your initiative, adopted together the text of the United Nations Convention on the Law of the Sea and of four resolutions. Argentina voted in favour because it wanted to fulfil the commitment of the Group of 77 to adopt the text of the Convention as soon as possible.

On that occasion, however, the Argentine delegation placed on record its formal reservation concerning resolution III, reiterating the reservation it had expressed on 31 March in the informal plenary, to the effect that the resolution was unacceptable to Argentina and that if separate votes had been taken on the individual documents, it would have voted against it.

It was not possible to do that because all the texts were submitted as a "package", thus precluding separate voting. The wording of resolution III, particularly that of paragraph 1 (*b*), completely invalidates the principles contained in paragraph 2 of the former Transitional Provision with regard to territories concerning which a dispute exists.

In this connection the Argentine Republic wishes specifically to place on record its position that resolution III in no way affects the "Question of the Malvinas (Falkland) Islands", which is governed by the following specific resolutions of the General Assembly: 2062 (XX), 3160 (XXVIII), 31/49 and 37/9, adopted within the framework of the decolonization process.

In this connection and bearing in mind that the Malvinas and the South Sandwich and South Georgia Islands form an integral part of Argentine territory, the Argentine Government declares that it neither recognizes nor will recognize the title of any other State or the exercise by it of any right relating to the exploration and exploitation of resources which are

alleged to be protected in resolution III. Consequently, it likewise does not nor will not recognize and will consider null and void any activity or measure that may be carried out or adopted without its consent with regard to this question, which the Argentine Government considers to be of major importance.

The Argentine Government will accordingly interpret the occurrence of acts of the kind mentioned above as contrary to the above-mentioned resolutions adopted by the United Nations, the patent objective of which is the settlement of the sovereignty dispute concerning the islands by peaceful means—through bilateral negotiations—and through the good offices of the Secretary-General of the United Nations.

For all these reasons the Argentine Government deeply regrets that it will be unable to sign in Jamaica the Final Act of the Conference or the Convention. Nothing would have pleased my Government more than to be able to do this, since the Convention is the product of efforts made in good will by many countries for many years to achieve a balanced international system in this field.

I request that this communication be issued as a document of the Conference.

DOCUMENT A/CONF.62/WS/36

Note by the Secretariat

[Original: English]
[18 February 1983]

Pursuant to the announcement made by the President of the Conference at the 185th plenary meeting on 6 December 1982, the statements of representatives and observers who were unable to take the floor or who had delivered an abridged version of their text are contained in the annex to this document.

ANNEX

Statements of representatives and observers

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BOTSWANA

[Original: English]

Mr. President, the decision in New York by the eleventh session of the Third United Nations Conference on the Law of the Sea to bring negotiations to an end by the adoption of the Convention came as a relief for many nations. My delegation is particularly pleased that we are gathered here, in this beautiful Jamaican town of Montego Bay, to translate into reality that historic decision.

As we prepare to take the final step in this process of treaty-making and progressive development of international law, it is fitting that we should pause to congratulate ourselves. When negotiations started, it seemed as though we were once again walking the road of failure. The sheer numbers of participants and the equally numerous conflicting interests made success appear impossible. The failures of the past were frequently cited by many to illustrate the imponderables ahead in what appeared to be an over-ambitious exercise. It is therefore with great satisfaction that we are gathered here, not in a mood of despair but to put the finishing touches on the product of nearly a decade of negotiations.

The untiring efforts by the distinguished delegates over a period of over eight years testify to the dedication of the international community to bring order to maritime activities. It is because of this dedication that we have finally adopted a comprehensive law of the sea convention.

In speaking of the success of the Conference, I am not unmindful of the frustrations and disappointments of many delegations, my own included. I would be misleading the Conference, and indeed future generations, if I created the impression that we have produced and agreed on a perfect Convention. Perfection is a rare occurrence in the affairs of men. But it must remain the ultimate objective in our endeavours, for the nearer we move to perfection, the closer we will be to justice.

We set out to reform the existing law of the sea as part of the international endeavour to bring about the new international economic order. But the adopted Convention has fallen short of the expectations of many nations. The land-locked and the geographically disadvantaged States have the least to celebrate. Our demand for an equal share in the economic zone were drowned in the exclusivity of the zone. In return for that exclusivity, we have been relegated to the position of possible participants in the surplus. The right of transit has equally been subjected to terms and conditions capable of subverting it.

The foregoing observations make it clear that the signing of the Convention will not necessarily bring justice to the exploitation of marine resources. It is only a beginning. The good will and good faith of the more fortunate countries will be put to a test in the implementation of the Convention.

An overwhelming majority of the States that participated in the formulation of the Convention are developing countries. Many of these will derive substantial benefits from the provisions of the Convention in the form of wide economic zones subject to their jurisdiction. Many of these States have neither the military might to meet the security needs of their wide zones nor the financial capacity and technological know-how to exploit these zones. For these countries also there are obstacles ahead. There will be temptation for the powerful nations to take advantage of their weaknesses. These poor nations will still have to rely on the financial assistance from, and the technology of, the industrialized nations. The multinational corporations will be there in their ruthless character. The reality of the new international economic order may well remain a distant mirage for many developing coastal States.

The lofty ideal of the common heritage of mankind has been the source of inspiration for many nations in the past decade of negotiations. The new international economic order must recognize the common heritage of mankind as an integral part of that order. The common heritage must be exploited for humanity as a whole. It is therefore our sincere hope that in the actual implementation of the treaty, the industrial nations shall not, for a moment, overlook that ideal.

The exploitation of the sea-bed will necessarily pose grave economic dangers for the land-based producers. No adequate safeguards have been provided for these producers, despite their desperate appeals. Only vague provisions have found their way into the Convention. The land-based producers will therefore be watching, with particular interest, the implementation of these provisions.

I have spoken at length on the weaknesses of the Convention and the problems of its future implementation because my delegation believes that the signing of the Convention will not guarantee economic justice. The dedication shown by the international commu-

nity in the negotiations will have to be matched by dedication to do justice to one another in the exploitation of marine resources.

Although my delegation is not entirely satisfied with the outcome of the negotiations, it is our view that the Convention we are about to open for signature is the best that could be achieved under the circumstances. My delegation expresses the hope that all nations will, within the specified time, sign and ratify the Convention. There will always be time and room for improvement. It is our view, that the Convention represents the best framework for future development of the law of the sea.

Before concluding, my delegation would like to join many others in paying tribute to the memory of the late Hamilton Shirley Amerasinghe. It was through his wise leadership that the Conference started off and progressed on a sound footing.

My delegation would also like to pay tribute to you, Mr. President, for having led the Conference through the most difficult period with such commendable skill.

We thank also members of the Secretariat, whose devotion to duty and efficiency made life easy for us all.

Last, but by no means least, our gratitude goes to the government and people of Jamaica. Their hospitality and their beautiful country will be cherished in our memories for many years to come. We are happy indeed that Jamaica has been chosen as the seat of the Authority.

Ivory Coast

[*Original: French*]

Mr. President, Mr. Special Representative of the Secretary-General of the United Nations, distinguished Ministers, Ambassadors, delegates, ladies and gentlemen, I am both happy and moved to be representing the Government and people of the Ivory Coast at this solemn ceremony.

First of all, on behalf of the Ivory Coast I should like to turn to our Jamaican friends and brothers and express sincere thanks to the Government and people of Jamaica, which have offered us hospitality whose warmth and generosity we appreciate all the more since the holding of this session in this country was decided on at a very late date and very quickly prepared.

The Ivory Coast feels that there could be no place more appropriate than Jamaica to sign the United Nations Convention on the Law of the Sea and later to be the headquarters of the future International Sea-Bed Authority. Surrounded on all sides by the ocean, it contributes in a very decisive way to the dynamism and coherence of our Group of 77; it has always been active and effective in the negotiations on the law of the sea; it is in an ideal geographical position for the meeting of North and South, offering every encouragement to cultural blending and to respect for differences. Jamaica is thus offering our Convention every chance of success by serving as the headquarters for its bodies and instruments. I am pleased to recall here that since 1974 the Ivory Coast, with the group of African States, has been rightly supporting the candidacy of this beautiful country as the seat of the International Sea-Bed Authority.

That is why, dear friends and brothers of Jamaica, we are happy to congratulate you on the wise choice of your country and at the same time fraternally to salute you.

Together with my joy at being here among all these friends and brothers I feel deep emotion about this event we are all experiencing today. Words, I am afraid, cannot express the solemn importance of the approaching ceremony when we shall be signing the Final Act of the Third United Nations Conference on the Law of the Sea (A/CONF.62/121) and the United Nations Convention on the Law of the Sea (A/CONF.62/122), adopted in New York on 30 April 1982 at the 182nd plenary meeting of the Conference.[a]

This is one of those exceptional events which gives us a rare opportunity to live intensely a great historic moment: it is one of those great appointments with history, foreshadowing a future of solidarity, a future that will be better for everyone and that the people of our own time will be immensely proud and rightly honoured to bequeath to future generations.

May the hope for this approaching reconciliation of man with other men and with himself and for this regained solidarity and fraternity soon replace the terrifying images that the world presents in this latter part of the twentieth century.

Even if we wish to be resolutely optimistic about the world of today, our attention inevitably focuses on the deteriorating condition of life on our planet. The first thing that meets our eyes is the spectre of generalized crisis, implacable and with no end in sight, with its succession of problems and destructive changes for mankind.

Every day that passes sees the tragedy go on and become worse and the world choking to death. The crisis is feeding on itself, not subsiding. Looking at a world which seems to have lost its soul, we see widespread unemployment averaging at least 10 per cent of the working population, monetary disorder, a trail of bankruptcies and financial crashes, and the hasty adaptation of policies to changes in the economy. All countries, even the supposedly sound and dynamic ones, are affected: for example, for the current financial year, the Organization for Economic Co-operation and Development forecasts for Japan, the champion when it comes to strong and sustained growth, a growth rate of 2 per cent, whereas the Japanese Government had counted on a growth rate of 5.2 per cent and had found even that particularly disturbing. In the countries of the East, slower growth and difficulties in adapting national development plans to a troubled economic situation are becoming increasingly frequent.

In the developing world, the new industrial States are affected even more by the crisis. Generally speaking, the third world is facing bankruptcy, and it is being kept afloat only through a false solidarity between us and the industrialized nations, to whom we are becoming increasingly in debt, to such a point that our complete insolvency would ruin them.

Even if we leave out a number of murderous conflicts, the political unrest, the disasters and famine devastating some of our countries, we must see that the third world is being severely affected by the very unequal trading of its own goods for industrialized products. Commodity prices, on which the life of millions, even billions, of human beings depends, are deliberately being exposed by the developed countries to the free and unjust forces of speculation.

Clearly, in such circumstances, the recession is causing a relentless fall in the c.i.f. prices of our main export products. In the Ivory Coast, we have thus been losing, every year since the crisis began, almost two thirds of the value of our exports of coffee and cocoa, compared to the pre-crisis "boom". Since, on the import side, manufactured products from the rich countries are sold to us at steep and continually rising prices, the result is the systematic impoverishment of our developing States, in solidarity as in the Ivory Coast, with their peasants, and a continued deterioration in our terms of trade with our developed partners.

Africa, in particular, had no need of that: per capita income there has declined in 15 States; in 19 others it has increased only by under 1 per cent, and agricultural output, which had fallen 7 per cent in the 1960s, has since then declined at twice that rate, which is clearly a matter for concern.

Food self-sufficiency, a source of health, security and savings of foreign exchange, all things which our countries need so badly, is steadily deteriorating everywhere in the third world, with very few exceptions.

Every nation, or rather every sub-region, is retiring within itself, as the crisis grows worse, seeking the solution that will produce the optimum result for it, nationally or regionally, thereby passing on its economic and social problems to others. That is why third-world exports of processed products that compete with those of industrialized countries are held up, or even blocked, by the industrialized countries which, conversely, go so far in their assistance to our countries as to discourage the substitution of our own products for imports in order to preserve fruitful markets for themselves.

Once men themselves turn away from brotherhood and let their selfishness prevail, it is scarcely surprising, in such sad circumstances, that international trade in goods should fall by an annual average of some 2 per cent, as was the case last year.

Those at the end of the line are, of course, the poorest States, that is, the overwhelming majority of the States in the world, and it is they that are worst affected. Thus, it is obvious that one deep and tragic effect of the crisis is an increasingly marked decline in the independence of the developing countries, already fragile, and in the quality of life throughout the world.

[a] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVI.

The French philosopher La Bruyère said, "There is a kind of shame in being happy in the presence of misery." What would the author of *Les Caractères* think if Providence made it possible for him to cast his penetrating gaze on the misery of our times?

Has the time not come to prevent our earth from dying? The remedies that have been proposed, tried out and applied by the great of our planet, even when they seemed reasonable, indeed indispensable in certain cases, have nowhere been on the scale required to cope with the ills that they are supposed to cure. Mankind has, since, the establishment in 1945 of the present world economic order, shown itself truly incapable of meeting the challenges of this astonishing shrinking of the globe and the resulting magnification of political, economic, social and human problems to world dimensions.

Not everything is so gloomy and so desperate, however. From the sea comes brighter news: when the new international maritime order of which our United Nations Convention on the Law of the Sea is the kingpin flourishes, there is every reason to hope that a new world order, more just, more humane and more fraternal, is on the way.

The President of the Republic of the Ivory Coast, Mr. Félix Houphouët-Boigny, stated this clearly on 7 October 1982 in his message to the nation on the occasion of the Fifth International Day of the Sea. He said: "I am happy that this message, which sums up the actions taken towards a new international maritime order, allows us to entertain some hope for a brighter future in our present grey world."

A fresh, restorative, air is indeed blowing from the ocean!

We are here proposing, at last, a remedy that seems to be on the same scale as the ills from which mankind is suffering, one that suggests a comprehensive, world-wide solution—the only kind that ought to be envisaged in a world crisis of such magnitude. And this remedy is being proposed to mankind by the united third world and all the peoples of goodwill. It presages the advent of an era of peace, of new solidarity, of restored brotherhood among men, in regard to the sea and thanks to the sea.

What a tremendous transformation this is! Only a short while ago the sea that is today the bearer of such great hopes was primarily a source of conflict among the Powers. In this respect we need only recall the Phoenicians, the Greeks, the Carthaginians and the Romans, for whom domination of the seas and of maritime trade was the source of power and prosperity. Following the Arab epoch, the Christian West in its turn founded its power and economic development on the domination of the seas, first with the Hanseatic League in the Baltic and later with the maritime republics of Genoa and Venice. From the fifteenth century, the great discoveries gave even further importance to domination of the sea, as they gave an extraordinary impetus to seafaring.

This pursuit of maritime supremacy led, in turn, to a situation of constant conflict on the sea. Out of this was born a law of the sea based on the principle of the freedom of the seas, which was to govern international maritime relations from the seventeenth century to our day. Its first theoretician was the Dutchman Hugo Grotius, in the sixteenth century.

In fact, from the beginning this doctrine was an instrument for the maintenance of the predominance of the most powerful maritime nations. The Great Britain of the seventeenth century understood this, and, in 1651, through Cromwell's Navigation Act, rejected this principle of the freedom of the seas, which, in fact, enabled the dominant maritime powers of the time to maintain their supremacy.

Thus it comes as no surprise that the new nations, discovering the considerable role of the sea in their development process, rejected, like England in the seventeenth century, this pseudo-freedom of the seas which really served only to maintain their dependence.

As the third world first saw itself deprived of its freedom of action by the unjust application of the *Mare liberum* doctrine to the sea as a vector of world trade, it is in the field of maritime transport that the first stage of the international community's historic action will occur, at the prompting of the third world, with the establishment of the reign of justice and peace on the seas, for the benefit of all nations.

Hence, in April 1974 in Geneva, under the auspices of the United Nations Conference on Trade and Development (UNCTAD), a Code of Conduct for Liner Conferences was adopted. Although this is still not applicable as an international instrument having the force of law, its essential principles have been introduced since 1974 into the maritime legislation of many third-world countries, particularly in West and Central Africa.

I need not recall here the very favourable results achieved in the implementation of the rules of the UNCTAD code in our harmonized global maritime policies, among them the indispensable measures accompanying this process, namely more rational shipping services, technical and manpower training, agreement on the distribution of liner traffic in accordance with the 40/40/20 formula. And what can we say about the difficult path we are all treading together, within UNCTAD, towards ensuring just as equitable a distribution between developing and industrialized countries of world bulk traffic, which constitutes almost 80 per cent of world cargo tonnage and in which the third world, which generates most of the flow of trade, has an insufficient share?

The new law of the sea, whose universal and irreversible advent we are going to solemnize here in Jamaica, was devised precisely in order to strengthen our already large legal arsenal of maritime policies.

This has been made possible with the movement to reconquering the seas which has been gathering strength from the 1960s to the 1980s thanks to the genius and boldness of the men who from now on are going to use, explore and exploit the oceans in all their dimensions, and not just for international trade links, as in the past—on the surface, in deep water, on the ocean floor, the sea-bed and in the subsoil thereof. Thus the oceans will be made the necessary and decisive element in the approach to the major problems which men, all men, in the North and in the South, will face in the coming centuries—food, energy, mineral resources, life-style—against a background of the insistent problem of inequality in the present distribution of the riches of the planet between North and South.

We should add to this the parallel efforts being made under United Nations auspices by the third world and the international community to give concrete form to the concept of "the sea for all people and for peace" and to achieve the objective of better and greater maritime well-being for each nation.

The sea had to be made the prime sphere for man's reconciliation with himself, particularly by introducing the concept of the common heritage of mankind, under which the *res nullius* of conflicts and of squatters is resolutely rejected.

We had to banish for ever the idea of the sea as an area of conflict and as private property for the exclusive profit of some maritime Powers, and finally open the way to the concept of the sea as something to be shared and developed for all, in peace and solidarity.

We had, therefore, to remodel from top to bottom the legal framework inherited from Grotius which had governed the ocean spaces for almost four centuries, as well as the treaties resulting from the first two United Nations Conferences of the law of the sea.

From this emerged the four objectives that the third world and all peoples of good will have tried to pursue in the particular field of the renewal of the law of the sea through the Third United Nations Conference on the Law of the Sea: one, to build a new law that really serves the general interest—that, in other words, is as attentive to the concerns of the great Powers as to those of the developing nations which constitute the vast majority of the States in the world, particularly since the 1960s; two, to build a new law of the sea rejecting power as a basis and intended to institute the reign of justice and law, as recognized by all or the majority of nations; three, to build a definitive law, going beyond the abstract concept of the sovereign equality of States and taking into account that the affirmation and specific establishment of objective, real equality among States must be based on precise rules and well-defined machinery and must constitute the essential prerequisite for the advent of the ideal represented by sovereign equality; four, to instil deeply and everywhere the spirit of genuine fraternity into the new law of the sea, so as to bring about the effective establishment among States of the new forms of trustful, dynamic, fruitful and mutually beneficial co-operation that would guarantee that the interests of each country would be taken into consideration.

The new law of the sea that we are going to solemnize at the end of this session meets these concerns very well.

President Houphouët-Boigny was not mistaken when he stated on 7 October last:

> "By approving this Convention at the United Nations in New York on 30 April 1982, the international community wanted, in the sphere of the sea, so vital for the future of all nations and especially the developing nations, to replace the law of the strongest by the practice of lawful solutions in the settlement of disputes; it wanted to set up a new and more balanced global order in place of obsolete, unsuitable and unjust norms, thereby conferring upon the oceans the role of a real future bastion of world peace, if I may express myself in this way."

This places us right at the heart of this appointment with history that we mentioned earlier.

Because it has made it possible, in a single legal document, to deal with the oceans, which cover 71 per cent of the globe's surface, and to incorporate all their aspects and their dimensions; because it challenges four centuries of unfair maritime legal practices, well rooted in custom; because it involves the entire international community through all political systems, all regions of the world and all types of States, capitalist or socialist, industrialized or developing, coastal or land-locked, this colossal undertaking has no parallel in history. It will remain for ever, for that reason alone, one of the glories of the men of our time.

This historic dimension of the new law of the sea does not concern its form alone, nor is it just the result of the environment that we have just described: it is the product above all of the content of the new Convention, which replaces pseudo-freedom by equitable sharing, ingrained selfishness by fraternity and universal solidarity, and gives them concrete form through specific machinery.

The new Convention is historic in its content because, in opposition to the hegemony of the strongest, it also calls for joint progress towards more and better well-being for all men and all peoples and because it makes it possible, through regained fraternity, to restore the primacy of freedom and equality.

And if our new Convention is historic because of its new style—I would even say because of the new morality that it establishes—it is historic also because of the almost complete unanimity that it has elicited in the human community. For the first time since the establishment of the United Nations, almost all the peoples of the earth came together to build an immense, beneficial and practical project. Only the sea could bring about this true miracle, this source of so much hope.

Finally, the new Convention is historic because of the style of the endeavours that led to its adoption, in which consensus and a balance of interests were the aims at all times. If, despite everything, some States—perhaps even all States—were not completely satisfied with the outcome of the negotiations, it is none the less true that everything was done, throughout the consultations, to reconcile divergent interests and to take due account of the special concerns of individual nations or groups of interests. This led to the devising of novel solutions like the concept of the exclusive economic zone, one of the major contributions made by Africa and the third world to the renewal of contemporary sea law, which made it possible to guarantee at once the interests of coastal States, certain demands of their land-locked neighbouring States, the need to respect technical freedom of navigation and the desire to preserve the marine environment. The same goes for the pragmatic arrangements granted in favour of pioneer investors by the entire Assembly in a great surge of solidarity and realism.

The overall outcome, in all areas of the new Convention, although it cannot claim perfection, meets by and large the aspirations of the entire international community, whether great powers or young nations.

This means that the sea has become the only real platform for a new universal world order which maintains a better balance between North and South.

It also means that from now on nothing on the seas will ever be the same, and that we are truly at the dawn of a new era, which offers for mankind a fantastic future for the coming decades. That future can only be mastered by States of the North and South that are motivated by genuine political will to add to their development process a maritime dimension, within national and regional development strategies, that have a clear view of the prospects offered by the oceans, that show themselves capable of transcending the selfishness that comes from technological strength and are prepared to work hand in hand, on the basis of mutually beneficial co-operation, the only way of saving mankind from the catastrophe which may result from maintaining and widening the gap which dangerously separates, on the seas as elsewhere, the third world, that is three quarters of the world, from the rest.

How proud and how joyful we of this age must be at having achieved what some considered to be utopian, or even a chimera.

We, as Africans, may be proud and joyful at having made our modest contribution to this universal undertaking.

As a representative of an African country, I would like to take this opportunity to pay a tribute to the States of the third world and all nations of good will who, in the face of all the manifold divergent interests which we have mentioned, were able throughout the Conference to display remarkable unity, realism and diplomatic instinct, without which the new maritime order would certainly never have come into being.

But, if I am to remain faithful to the spirit of justice and fraternity which permeated the new international maritime order, I must also pay a tribute to those industrialized States, and there are many of them, which, looking beyond their immediate interests and in spite of their deep-rooted maritime traditions, were able to obliterate the past and associate themselves with the new maritime order proposed by the States of the third world.

Finally, I want to pay a tribute to the work done by the first President of the Conference, Mr. Amerasinghe, who, having devoted all his time and strength to this cause, may today, in his eternal rest, contemplate this colossal task to which he contributed so powerfully.

I want to extend that tribute to President Koh, who helped us to complete our work by his great diplomatic talents, which we have all been able to appreciate during the latter sessions of the Conference, particularly during the consideration of the fundamental question of preparatory investments.

Before concluding, I would like to make an earnest appeal on behalf of my Government to those countries which did not vote in favour of the draft convention on 30 April or which, for the time being, do not intend to sign it. We appeal to them in all friendship, but more insistently, because the entire international community feverently wants them to accede to the Convention. Our achievement will be impressive only if it is global, and the spirit of fraternity will be real only if it embraces all the peoples of the earth. After all, the Convention, like any other universal legal rule, will achieve its true worth only when it is applied by all.

Nevertheless, the abstentions and the negative votes recorded on 30 April 1982 in no way diminish the historic nature of the Convention. The Ivory Coast earnestly hopes that soon all friendly countries who are still hesitant about the new Convention "will by their signatures affirm their unreserved commitment to respecting the general interest, to renouncing power as the basis of law, to giving practical effect to the concept of sovereign equality, to genuinely concerted action in a spirit of true fraternity and real equality as the only instrument in the settlement of disputes". In a word, the Ivory Coast hopes that all will accept completely the rule of "give and take" which prevailed during the negotiations and which is the only guarantee of justice, solidarity and peace.

This is the price of our common survival. We know that without peace we cannot survive in a century in which mankind is not hunted everywhere and subjected to humiliation but, with every step he takes, is faced with the prospect of nuclear apocalypse.

Peace has never been compatible with injustice and selfishness. Where injustice and selfishness reign, there can be no peace.

Let us, then, all accede without reservation to the United Nations Convention on the Law of the Sea, the only significant, successful, universal example of the North-South dialogue, which is destined to be the driving force of a more humane and just world order.

All of us together must heed the call of the seas to replace force by true law, forcible conquest by peaceful agreement, selfishness by fraternity, and to substitute a policy made for men in the service of what Aristotle called their noblest goals for a short-sighted policy defined by André Suares as the art of living with the help and at the expense of others.

The North-South conflict will then assume less tragic proportions. "The final solution to this conflict," said President Félix Houphouet-Boigny in a premonitory statement, "will come from a settlement reached in friendship and equality and in the common interest", and, he added "the sea is indeed the place for this dialogue and this harmony".

NIGERIA

[Original: English]

Mr. President, I have listened very attentively and with understanding to the previous statements made before me. It is very gratifying to be part of the process of evolving the new constitution of the oceans. I feel very proud to be part of the process. Without counting our blessings, every country represented here today should be proud of the achievements of the Conference and the prestige it has given to the United Nations as an institution for the development of peace through world law.

In order to give a proper evaluation of the achievements of the Conference, it is pertinent to refer to the ground norms. By paragraph

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

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

In compliance with this mandate, the Secretary-General prepared a set of draft rules of procedure which were considered, restructured and amended and, consequently, adopted by the Conference. In view of the experience of the late President of the Conference, Mr. Shirley Amerasinghe, in contemporary multilateral negotiations in the United Nations, the President presented a Declaration, incorporating the "gentleman's agreement" (previously approved by the United Nations General Assembly) at the Conference, and it was endorsed by the Conference at its 19th plenary meeting in 1974. The Declaration is as follows:

"Bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a convention on the law of the sea which will secure the widest possible acceptance, the Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus have been exhausted".

The substantive task of the Conference, set by the General Assembly of the United Nations in 1973, was "to adopt a comprehensive convention dealing with all matters relating to the law of the sea" i.e., traditional law of the sea (territorial waters, continental shelf, contiguous zone, exclusive economic zone, straits, archipelagos and archipelagic waters, enclosed and semi-enclosed seas, etc.), prevention and control of pollution and preservation of the marine environment, scientific research and transfer of marine technology, the mining of the sea-bed and ocean floor beyond national jurisdiction. All these are an integrated whole.

With regard to the exploration and exploitation of the sea-bed and the subsoil thereof beyond the limits of national jurisdiction, the exploration and exploitation were to be "shared equitably by all States taking into account the particular interests and needs of developing countries". In 1967, Mr. Arvid Pardo of Malta aroused the world to the prospect of the ocean's riches being appropriated by the technologically advanced few, raising the banner to make these resources "the common heritage of mankind".[b] In 1969, the United Nations General Assembly passed a "moratorium" resolution, calling on States and persons to refrain from all activities of exploitation, pending the establishment of an international régime with competence over the area (General Assembly resolution 2574 (XXIV)). The Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, resolution 2749 (XXV), adopted by the General Assembly in 1970, specifically declared the resources of the sea-bed to be beyond national jurisdiction as the "common heritage of mankind".

It is within these parameters, i.e., the mandate on the rules to govern the deliberation of the Conference and the substantive issues that the negotiations that had gone on for about a decade should be judged. At the conclusion of all substantive negotiations and when the draft convention was ready for adoption, some delegations expressed an anxiety about some provisions in the draft convention, as a result of which they either abstained or even voted against the draft. Their anxiety centred mostly on the provision of Part XI, which deals with sea-bed mining. Mining is part of the package deal, no doubt; it is even regarded as the most important part of the package by some delegates, but certainly it is not the whole package and, as such, it should not be an issue that will make or break the Convention. It should be on record, in the first place, that the draft convention, i.e., the entire package, does not totally reflect the positions of the Group of 77 to which my delegation belongs. It can also not be said that the draft convention adequately protects the interests of the Group of 77. It does not; but we have agreed to accept it in a spirit of compromise, a spirit which the Group had demonstrated throughout the negotiating stages of the Conference.

[b] *Official Records of the General Assembly, Twenty-second Session, First Committee*, 1516th meeting.

It had been argued that the system of exploration and exploitation is unsatisfactory because the parallel system has numerous forms of discrimination in favour of the Enterprise in terms of financial advantages, lower operating costs, availability of sites already prospected, mandatory transfer of technology and spécial privileges under the production limitation formula (see art. 150) as well as a number of other unspecified advantages. The answer to this is that without all these advantages, it is impossible to put the Enterprise on the same footing with the private companies. Without these concessions, the private companies, with their wealth of scientific know-how and their technology, will be at an advantage over the Enterprise and thus make the private companies and the Enterprise unequal partners in the parallel system (see art. 153).

The Review Conference provisions of the draft were also criticized. The idea of the review of the system was not a position of the Group of 77; it was a *quid pro quo* to reassure the developing countries that if they accepted the parallel system instead of the unitary system, which was their original position, the developed countries would finance the Enterprise and transfer technology to the International Sea-Bed Authority and developing countries which could afford to acquire it, i.e., pay for it. It was also agreed that after a period of 20 years, there should be a review in order to evaluate the system in order to decide whether it was to continue as it was or whether to change the process. The Group of 77 had fulfilled its part of the bargain; it is bad faith for certain developed countries, instead of fulfilling their own part, to complain as if the bargaining was one-sided (see art. 155).

With regard to the composition and decision-making system in the Council, the provisions of article 161 give the industrialized countries the best of all the worlds. The five chambers are represented on the Council as follows:

(*a*) Countries which have invested heavily in scientific research and development of marine technology (4 seats);

(*b*) Major producers (4 seats);

(*c*) Major consumers (4 seats);

(*d*) Landlocked and geographically disadvantaged developing States (6 seats);

(*e*) Equitable geographic distribution (18 seats).

From this, it is plain that the seats for the highly industrialized States in the Council are guaranteed and that they have adequate voice, since they can qualify under any of (*a*), (*b*), (*c*) and (*e*) chambers above. On decision-making procedure, the Group of 77 had advocated a two-thirds majority on issues of substance, but this has been completely whittled down in the new draft to the disadvantage of the Group (see art. 161 (8)).

It was further affirmed that the profitability of the ventures had been undermined by the financial terms of the contract in the draft. It is submitted that this view is misconceived. On the contrary, the financial terms of the contract were worked out mostly on the basis of figures and projections provided by industrialized countries. Under the existing text, the contractors have been allowed extremely liberal terms, keeping in view the risks involved and the incentives needed to attract investments, much better than those available to private companies in other fields of financial investment and industrial endeavour (see art. 171 and annex III).

It is rather jaundiced to focus all attention on Part XI of the text as if sea-bed mining were the only subject of the Convention. Sea-bed mining is only a part and it is only when sea-bed mining is considered in the context of the other compromises that constitute the package deal that you get the true picture.

To buttress this argument, I shall refer to some examples of the elements that constitute the package deal. The provision in article 3 is that the breadth of the territorial sea shall not exceed 12 nautical miles. When it comes into force, this landmark provision will be of immense benefit to international navigation and shipping and to the big naval Powers of the world. This may discourage the growing tendency towards very extensive territorial seas, up to 200 miles, a tendency which had been accelerated by the obsolescence of the 3-mile, 4-mile or 6-mile rule. In addition, the 200-mile economic zone concept was developed in Part V of the text to meet some of the new concerns regarding protection of fisheries which the 200-mile territorial sea claims had aimed at.

This notwithstanding, those coastal States that advocated 200-mile territorial seas and included such a rule in their municipal legislation, or even in their constitution, felt that they had made very substantial concessions in accepting those compromises. Their willingness to make such concessions was dependent on reasonable packages in other parts

of the Convention, including, or perhaps first and foremost, in Part XI on the international sea-bed area and the exploitation thereof. By these remarks on the territorial sea issue, I have not intended to express any opinion on the validity or otherwise under international law of a claim for a territorial sea of 200 miles or more but only to refer to a political and historical reality from the annals of the Third United Nations Conference on the Law of the Sea.

Another example is the status of warships in the territorial seas of other States. Due to the frightening developments in military arsenal, it was felt by many that certain restrictions in the right of passage of foreign naval vessels in the territorial sea were needed. But the principle of innocent passage remains. The main beneficiaries are the big naval Powers—the industrialized countries. Again, this result was part of the total package deal.

Among other examples even more conspicuous are the new doctrines developed for transit passage through straits in article 38 and so on, as well as the right of passage through archipelagic water in articles 52 to 54. Difficult and protracted negotiations led to these compromises. They are accomplishments that should be welcomed by all. But these results were certainly based on the attainment of a satisfactory total package where the international area and its exploitation always played a major role.

If I may revert briefly to Part V on the exclusive economic zone. Article 55, which provides for a specific legal régime of the economic zone, is a masterly compromise which it took a long time to hammer out. It was a proposal from the Group of 77, but when negotiations started it was realized that it had more in it for the industrialized countries than for the proponents. The compromise that emerged was arrived at mainly to meet the concerns of the two super-Powers and other maritime nations. All of us who participated in these sometimes very heated negotiations may testify to the importance which was attached to aiming at a compromise package covering all aspects of concern for this compromise to take effect.

With regard to the land-locked and geographically disadvantaged States, referred to, *inter alia*, in articles 69, 70, 124 and so on, a number of the provisions of Part XI bear witness to the fact that the Convention constitutes an entire package where fundamental changes in one part may have its effect on other essential parts of the package. I may here refer to articles 140 and 148, on the participation of land-locked and geographically disadvantaged States in activities in the area, and article 161, on the Council, composition, procedure and voting.

In Part XIII, on marine scientific research, main concessions were made to meet the concerns of the super-Powers on the freedom of research. Negotiations with one of the super-Powers were conducted up to the very end of the ninth session in the belief that the main elements of the package deal had more or less been formulated and implicitly acknowledged. Part XVII, on the final clauses, particularly article 309, on reservations and exceptions, provides that no reservations shall be made to this Convention. This principle was included at the strong insistence of, among others, the United Nations representative, on the assumption that the main elements of the package deal were forthcoming and that no deviations from that package deal should be allowed based, as it seemed, on a package adopted by consensus.

Passage of ships through straits (art. 34) and the question of removal of disused installations in the exclusive economic zones are compromises, too (art. 60 (3)). It is in the same spirit of compromise that the Conference evolved the principle of a limited coastal State consent régime for scientific research in the exclusive economic zone and continental shelf. Another area is guaranteed right of navigation and overflight. These are benefits to the big Powers.

The Conference, having wedded itself to this principle of concessions and a package deal in all the texts, submitted that fundamental changes in one part of the text, i.e., Part XI, which was regarded as unsatisfactory, would not only disturb the delicately balanced package within this part of the Convention alone but the delicate balance of the whole Convention, that is, of the entire package deal. In order to bring everybody on board, the Group of 77, in its characteristic manner of trying to keep the package intact, even though the package was not satisfactory to them either, made a significant concession at the last session. This was in respect of the protection of interim investments. This was very magnanimous, in that it was almost like encouraging the industrialized States to have a parallel system of operation side by side with operations within the Convention, even if they decided not to sign the Convention. We had reached the limit.

The new Convention, in balancing the interests of States, be they developed or developing, with free market economy or State-controlled, big or small Powers, reflects the principle of the new international economic order. It is also an example of a just redistribution of wealth and power. This is why Nigeria will sign this great Convention. This is why other nations, too, should sign it.

It is not prudent to overdramatize the sea-bed mining provisions of the Convention. Only 59 of 320 articles and 2 of the 9 annexes in the Convention directly concern sea-bed mining. The remaining articles and annexes deal with other areas defining the ocean space areas, rules for innocent passage by ships in the territorial seas and for passage through straits, the right of coastal States over their 200-mile economic zones, the rules governing fishing and mineral development, rights of coastal States in continental shelves, high-seas fishing rights, control and prevention of pollution and preservation of the marine environment and other regulations.

No national legislation, no mini-treaty, no agreement entered into by the "reciprocating nations" under any nation's municipal mining laws would provide a good title as long as a global Convention exists under the Third United Nations Conference on the Law of the Sea, adopted in accordance with its rules and procedures.

Mr. President, if we have all come this far, we have reached the last nautical mile. If there are areas which give concern, it is my view that it is better to try to stay within the Convention, i.e., to be a signatory, and canvass to get these areas reviewed rather than stay outside the Convention. Mini-treaties are not the answer to effective participation. They will only create confusion and conflicts. It is in this spirit that my delegation commends the Convention to my colleagues. Progress must begin somewhere, and it is my view that this is an appropriate juncture.

United Republic of Cameroon

[*Original: English*]

Mr. President, permit me, first of all, to convey to the Government and great people of this beautiful Caribbean island of Jamaica the warm fraternal greetings of President Paul Biya, the Government and people of Cameroon. In those greetings are entrenched sentiments of felicitations for the honour bestowed on Jamaica by the international community, not only in regard to these historic ceremonies but also for the decision to establish in this country a permanent international machinery, with the implied mandate of contributing to the global effort towards attaining what John F. Kennedy aptly described as "a new world of law where the strong are just and the weak secure and the peace preserved forever". I believe this must be an even greater moment for our fraternal friend Dr. Kenneth Rattray and his dynamic, hard-working and agreeable Jamaican delegation. Their years of effort appear to have been dearly rewarded by our very presence here.

This venue is appropriate because of the multiracial and multicultural nature of this nation. Jamaica is a workshop on peaceful coexistence among peoples: out of many, indeed, one people. I come from a nation that has also embraced the same lofty ideal. At the crossroads of various migrations and settlements, Cameroonians live each passing day with the imperative of infusing a durable sense of community or nation into a curious conglomeration of peoples condemned to survive together in a cruel world. With the background experience of our two nations, and of many others on my native continent, Africa, we, too, have something to tell the world about the great frontiers of peace and progress that await a united people in a country and, why not, the peoples of a larger community of nations united in a common cause for international peace and the security embodied in social progress for all mankind.

My delegation wishes to thank the nationals, the Mayor and those in authority here in Montego Bay for their superb Jamaican tradition of welcome and continuing hospitality. We all looked forward to coming here to enjoy the privilege of the historic moment and its location. We deeply appreciate your contribution in making our stay truly memorable. You are reinforcing the thesis that on an occasion like this, a developing country exhibits greater encyclopedic knowledge of the best quality of hospitality to be accorded to members of the international society!

Eight years and 11 sessions ago, we assembled in the Venezuelan capital, Caracas, juggling with excitement and enthusiasm, determined to put finality to centuries of debate and conflict regarding the validity of norms of conduct in the ocean space. We were undaunted by either the complexity of the issues or the nationalism with which States teased a fragile international society. It is gratifying that our

optimism, though shaken at times, proved in the end to have been justified. Today, we have a new Convention on the Law of the Sea!

In the so-called Middle Ages and in the succeeding formative centuries, a proposal to embark on the monumental task which we undertook at this critical phase of an eventful twentieth century would have been dismissed as the unrealistic fantasy of political lunatics—this even among the leading jurists and political thinkers of the times: William Welwood, Hugo Grotius, Selden, Sir Philip Medows, Vattel and the rest of them—King Edgar the Peaceful, who claimed to be "sovereign of the Britannic Ocean"; King Edward III, who demanded, prematurely perhaps, the title of "King of the Seas"; the Stuart kings of England; the rulers of Venice, of Genoa and of Pisa; King Alfonso V of Portugal; these, among other imperial actors, might have ordered sardonic lyrics to be composed in our condemnation.

No! They could not understand, because they did not have our hot lines of communication with the lessons of global warfare and of economic and social depression. They did not have the dark clouds of nuclear holocaust hovering menacingly over their daily lives. In that period of history, technology, such as existed, was still the happy servant of man. They did not, like us, promote such advancements in science and technology as outpaced their intellectual ability to cope with the resultant changes. No, it was not an age like ours, in which every significant step taken treads history. Their scorn would have been understandable; just as we may be justified in recognizing the limited scope of the relevance of their conflict of thought and belligerency to our contemporary preoccupations.

We thus assemble in Montego Bay today to present to a concerned world the fruits of our labours, of our dedication to the cause of international peace through the rule of law. We register a new Convention on the Law of the Sea which is a product of universal consensus and compromise among nations from every political, economic and social system on this globe.

The new Montego Bay Convention is a complex package of compromises, not a documented response to the needs and interests of one State or a group of States. To analyse it out of the context of interrelationships between the components of that package would be unproductive and mischievous, to put it mildly.

For my delegation, as it must be true for others, we are here with the constructive objective of signing the United Nations Convention on the Law of the Sea, demonstrating the commitment of our nation, joining in with others to celebrate a great historic event. We do not consider this to be an appropriate moment to enter into unproductive polemics concerning either the interpretation of the Convention or the justification of its existence. As a plenipotentiary Conference, we have no apologies to make for the quality of our product. On the contrary, we are proud that we demonstrated mature restraint and understanding through the years, ensuring that every delegation, from every corner of the globe, had more than a fair chance to have its views and interests taken into account. The Convention was adopted under a universally agreed procedure and a gentleman's agreement arrived at.

It is my delegation's view that in the continuing process of absorbing the reality of the new legal order, we should all constantly be mindful of the basic truths attached to the mandate of the Conference and indeed of our generation. One of the critical phenomena is the close interrelationship between the various issues relating to the ocean space. The Montego Bay Convention is a deliberate package of compromises, the individual components of which cannot simply be treated as if they exist in isolation one from the other.

The consequence of this appears clear to us: that individual States may not pick and choose to be bound by convenient aspects of its provisions. This is particularly true for any who may wish to reject one or more of the 17 parts, selecting only certain rights established under the rest of the Convention or, in an attempt to take cover under the status of a non-signatory, claiming such rights from outdated sectional or non-universally recognized law.

A second feature is that the Third United Nations Conference on the Law of the Sea was not a mere codification conference like the United Nations Conference on the Law of the Sea, which produced the short-lived 1958 Geneva Convention.

The representatives of the African nations made it clear from the outset of our endeavours that so-called customary international law emanating from the European maritime experience could not juridically form the basis for codification or even progressive development of any law which is intended to bind us directly.

This Convention represents for the first time a truly universal law and must be seen as such. Any features of it that bear resemblance, in content or form, to any custom, agreements or treaties recognized by any region or subregion or among maritime nations sharing common interests must be viewed as purely coincidental.

The consensus texts adopted as a Convention on 30 April 1982 did not constitute a declaration of customary international law; it created a new conventional international legal instrument declaring the only valid law for the ocean space.

The true legal alternatives for an individual State are equally clear: either it becomes a signatory, enjoying prescribed rights and assuming prescribed obligations, or it stays outside the universal law now adopted, by opting to abstain from signature and consequently divorcing its case from any legal foundation regarding any claims of right.

Of greater importance at this time is the marked attention that must be drawn to the need to ensure dissemination of information on the new sea law, to the world in general and to the developing countries in particular. Governments and parliaments everywhere must know the content and implications of the Convention; they truly need this aid in their planning. They must not be exposed solely to the statements and writings of a few obstinate cynics who mischievously masquerade their unproductive opinions as information on fact.

The journalistic grandchildren of the same sensation-seeking opponents of the results of the San Francisco Conference that launched the United Nations Organization are trumpeting sonnets of doom at the birth of yet another legal order. The voice of truth must be raised high enough to drown their pernicious cries. Go tell them of our success; tell them also that we are united in the intention to make this Convention work for mankind. A legal status for the oceans has been clearly defined—it provides the only basis for decisions by the new International Tribunal on the Law of the Sea and the International Court of Justice. Tell them that too!

If this is a time for contentment, it is also a time for reinforced commitment on the part of nations to use the new Convention as an effective instrument for the positive construction of international peace. Pope Pius XII pointed out that "a fundamental point for the pacification of human society is juridical order". The true test for us all, and indeed for generations to come, will be the degree to which Governments and international institutions show a firm commitment to the preservation of the integrity of this new universal law at the point of its enforcement and application.

The Convention can only serve the interests of mankind as a whole if States collectively bring to it a new mentality for effectively applying the moralities demanded by its provisions. There is a broad underlying morality prescribing a respect for the rule of law and that nations consciously establish conditions under which justice and respect for the obligations arising from a peace-oriented treaty like this one can be maintained. This morality draws breath from the force of interdependence among States and among peoples, as well as from the nature of our common destiny.

The moralities of which I speak are not limited to this broad truth. There are various important provisions in the Convention's packages, the effective functioning of which will depend upon the degree to which States apply both appropriate morality and political will.

I speak, first, of the provisions that relate to the participation of land-locked and geographically disadvantaged nations in the fulness of the benefits accorded by this Convention. The endeavours of the Conference addressed the economic and geographical circumstances of all concerned. Among the important considerations embodied in the consensus was the fundamental element of meeting the nutritional needs of the populations of the respective States. At a time when conferences are being held to examine the major problem of malnutrition, it would be tragic to ascribe permanent status to some nations among the eternal poor, by shutting off access to protein and other valuable nutrients in the seas. Many, if not all, of these nations in the developing world have unfortunate geographical characteristics not from choice; they must not constantly be treated as if it were otherwise. The central objectives must never be lost. The poverty of a nation incites the lewd ambitions of the powerful rich and is usually provocative not only of international instability but also of breaches to international peace and security.

Secondly, I speak of provisions creating an institutional framework for reviewing and minimizing the adverse effects of resource exploitation in the deep sea-beds on the export earnings and industrial development of developing country land-based producers. The morality demands of sea-bed miners and developed land-based producers alike the pursuit of only such practices as are consistent with the general objective of ensuring that benefits of activities in the Area do

accrue to mankind as a whole. We have emphasized, since Caracas in 1974, the truth that compensation may not be enough if a national industry has to close down and consequently with it the dignity and employment possibilities of bread-earners in many families. It is our hope that lasting solutions will be found through realistic commodity agreements.

Thirdly, I speak of the proper use of the voting mechanism proposed for the Council of the International Sea-Bed Authority. The Chairman of the First Committee, introducing the breakthrough on the subject, pointed out the delicate nature of the system, which made it susceptible to misuse. It was designed to facilitate decisions that took into consideration the vital interests of all. Properly used, there can be no doubt that it is far superior and more acceptable universally than any other system so far devised elsewhere. Yet as with other provisions, it will need the moral fortitude of the leaders of each generation to the design prohibitive sanctions against mischief, misuse and a paralysis of the system.

Fourthly, I speak of the proper use of rights of passage granted in respect of the territorial sea. The legal principle of sovereign equality of States is often rendered weak by political and economic inequalities. The morality calls for the mutual respect of the order which grants these rights, especially of the modalities prescribed for such passage.

Fifthly, I speak of the use of the deep sea-bed exclusively for peaceful purposes. The concept of peace rejects conditions of war or conflict. It appeals to the conscience of States to formulate their policies inspired by the ideal of international peace and security.

Sixthly, I speak once again of the need for an accelerated programme of training of nationals from developing countries in the different fields of mineral exploitation in the deep sea-beds. A few years ago, I made a strong appeal to States for participation in such an enterprise. The principle of effective participation by developing countries cannot be sustained if, when the new institutions of the International Sea-Bed Authority are established, the technicians be drawn almost exclusively from the industrialized countries, while special posts of clerks, secretaries, lawyers and administrators are reserved to be shared between developing and developed countries.

When we last posed the question, the verbal response of the industrialized world was encouraging, but the idea seems to be lost between the request for a study by the United Nations Secretary-General and a substantive step taken to implement such a programme. We note with interest and gratitude the modest but valuable first step taken by the International Ocean Institute in Malta, to introduce governmental agents to the subject of the consequences of the law of the sea. This is hardly enough and I wish to appeal once again for the establishment of a programme imaginatively designed to meet this need before the Authority formally comes into being. The Preparatory Commission may study this under its broad mandate, but it is the initiative of States that is most needed at this time.

These are only examples; others address rational utilization of living resources, their conservation and the like, the sharing of benefits of the continental shelf beyond the exclusive economic zone, etc. They all call for a certain morality for their effective implementation.

It is not the intention of my delegation to encourage indolence on the part of developing countries. Many, like mine, do or should understand the nature of dehydrated benevolence masquerading as aid in the field of development. Self-reliance development is a critical norm in the United Republic of Cameroon's national programme. It is our belief that the fortunes of African peoples lie, in the first instance, on what we ourselves make of what we have. Regional and subregional institutions have and are still being set up to address various categories of problems. It is my sincere hope that in Africa and elsewhere in the developing world, immediate steps will be taken to ensure co-operation and avoid undue duplication in our approach to the exercise of rights and benefits accruing from the Convention. A North-South dialogue may be very desirable, but it cannot properly be a substitute for a South-South self-help endeavour. Co-operation and common strategy in the field of scientific research along our coastlines is important, and so are the desirable joint ventures that are possible in the domain of fisheries and ocean transport. The training of manpower, also, need not wastefully be undertaken by the creation of institutions of higher learning in every single one of our nations. It is our hope that, in due course, regional bodies in the developing world (for us, the Organization of African Unity) will be seized with this aspect of the action. The Lagos Plan of Action for the Implementation of the Monrovia Strategy for the Economic Development of Africa[c] already lays emphasis on co-operation and joint effort. Its implementation is of the essence in the programme.

The Convention also establishes a Preparatory Commission, whose primary function will be that of a forerunner of the new International Sea-Bed Authority. The Commission must stick strictly to its mandate and it will be undesirable to attempt to make it another forum for renegotiating any part of the Convention. Changes in regard to any provisions of the new Convention must be made pursuant to the procedures it prescribes.

I believe, however, that in the elaboration of the detailed rules and regulations regarding Part XI, importance should be attached to providing such details as would remove any equivocation or uncertainties in the broad rules contained in the Convention, including its annexes. The Preparatory Commission will have experts who should advise on the practical means of implementing the objectives now expressed in legal form. In that process the Commission need not shy from proposing ideas for filling any lacunae or for enhancing the attainment of such objectives, while maintaining consistency with the provisions of the Conference.

We have noted with deep regret the announcements of certain Governments not to become parties to this Convention. To the developing countries among them, we ask no more than that, having made the point of protest, they return to the sheltering umbrella of universal law.

To the United States of America, our strong appeal goes out to the conscience of a people born in spectacular revolution and whose idea for social and economic development have inspired many a nation. That nation cannot now afford the discomforts of isolation, especially over a treaty the negotiation of which accorded central priority to its declared vital interests. We would prefer to believe that a decision to stay out at this time is motivated by a desire for further reflection and perhaps adjustment. The founding fathers, whose courage gave birth to the viability of that nation, left a spirit of accommodation and norms of common human survival.

It is clearly from this background that inspired declarations have been credited to many of America's leaders regarding the institution of universal law: I have already alluded to John F. Kennedy's dream of a just, secure and peaceful world.

Woodrow Wilson had this to say: "What we seek is the reign of law based upon the consent of the governed and sustained by the organized opinion of mankind".

Dwight D. Eisenhower said: "The world no longer has a choice between force and law; if civilization is to survive, it must choose the rule of law".

Richard M. Nixon said: "Men face essentially similar problems of disagreement and resort to force in their personal and community lives as nations now do in the divided world. And, historically, man has found only one effective way to cope with this aspect of human nature—the rule of law".

We also heard the brilliant words which came from the great Franklin D. Roosevelt: "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little".

We believe that the old American tradition, which appears to be the declared objective of the present Administration in Washington, will produce yet another declarative landmark of the same inspired thought.

It is difficult for me to forget the dual capacity in which I have participated in the work of this Conference over the past 13 years. Apart from representing my nation, I also had the honour and privilege of serving as Chairman of the First Committee.

In closing, therefore, I wish to seize this opportunity to express my gratitude to those without whom my heavy assignment as Chairman of the First Committee would have been impossible.

I wish to record my gratitude to the group of African States which drafted me to the Chairmanship. I feel particularly proud that in their support, they never lured me into debauchery in my duties or to any form of regional bias. Co-ordinator Mr. Joe Warioba and his team acted with dignity in all the private consultations. I thank the various leaders and chairmen of the Group for their wise counsel and encouragement when the nature of my duties demanded this.

To the members of other regional groups, I owe the same sense of gratitude for the understanding shown and co-operation liberally given, sooner than later in most cases.

[c] See A/S-11/14, annex I.

To the Collegium, I will always cherish the fraternal feeling which prevailed in times of trial, especially when misunderstanding crept into the work programmes of the Conference. To Hamilton Shirley Amerasinghe, then to Tommy Koh, to Alex Yankov, Ken Rattray, Alan Beesley and Andrés Aguilar I owe the gratitude of a true and respectful friend. My sentiments of friendship and gratitude extend to Constantin Stavropoulous and his successor Bernardo Zuleta, special representatives of the United Nations Secretary-General.

The First Committee had an excellent team of devoted men who worked virtually endlessly behind the scenes. I speak of Sri Lanka's Chris Pinto, who headed the informal meetings of the Committee in the earlier sessions. It is to him that we must give credit for the basic structure upon which I elaborated the first informal negotiating text. He remained a friend and trusted consultant to me to the very last.

I speak of Norway's Jens Evensen, who graciously acted as my personal co-ordinator in the preparation of the informal composite negotiating text. Political strategy might have dictated that he assume another posture, but he too remained a trusted adviser and communicator to the end. He also was to accept, among others, the role of presenting the alternative to the unhelpful Green Book; an alternative which was unfortunately not exploited by those who needed the effort most.

I speak with fraternal affections of Singapore's Tommy Koh, who under my pressure reluctantly undertook but made an excellent job of elaborating the financial arrangements contained in Part XI of the Convention. His mandate of reducing the concept to readable provisions was more than fufilled. I was to call on his assistance again as a go-between over the final phase of negotiations on outstanding issues relating to the Council. During his Presidency, our fraternal relations continued and were further strengthened. Success was fostered by our unprecedented co-operation. Mr. President, I wish to extend, without the obligations of formality, my deepest appreciation for your guidance and the fine quality of leadership you have shown.

I speak of Fiji's Satya Nandan, who worked selflessly to achieve a balance in the negotiations leading to consensus on production limitations. Born in the leadership of the Second Committee, he received his truest baptism in the First Committee's negotiating group 1.

I was proud to observe that when the Conference needed a replacement for its departed President, it was to three members of the First Committee "think-tank", Chris, Tommy and Satya, that we turned for choice!

I speak of my distinguished friends, members of the Bureau of the First Committee. Vice-Chairmen: Harry Wuensche, a trusted friend; Thompson Flores, a tough delegate but trusted adviser; Toru Nakagawa and before him Takeo Iqushi who brought their oriental wisdom and friendship to bear on the work of the Bureau; John Bailey and Keith Brennan who brought the cricket tradition of patience and commitment to the negotiating effort. Keith undertook many productive silent and non-glamorous tasks for the Chair that must await time to be put on paper. John was always part of the personification of optimism and hope.

There are many others, among them my African brother Frank Njenga, another convert from the Second Committee; Dr. Jagota, introducing the finest elements of Asian wisdom to the Chairman of a working group and his contributions as a delegate; Dr. Zondal, amiable and of fine mind; to all of whom I express, on behalf of the First Committee and my own behalf, sincere gratitude for their various levels of contribution.

I speak also of co-ordinators of regional and interest groups who virtually became honorary members of the Bureau: Peru's Alvaro de Soto of the Group of 77, skilful negotiator, whose advice and co-operation never included pressure to achieve improper results on my part. In him I found a friend. My brother Joe Warioba of the group of African States and a list of Chairmen and other leaders; the commitment of France's Marie-Annie Martin-Sané and Roger Jeannel; the Soviet negotiating team of Igor Yakovlev and Uri Kazmin; United Kingdom's Archer and Michael Wood; United States' Elliot Richardson, Leigh Ratiner and George Aldrich—the list is so long and my allowed speaking time is so short. I want to thank them all and to commend all those who participated in the First Committee negotiations as the principal architects of Part XI as it now is.

It is not out of mere formality that I include in my expression of gratitude members of the secretariat team that helped me throughout: Jean-Pierre Lévy, Ali El-Hussein, Roy Lee, Mati Lal Pal, Nii Allotey Odunton, Susan Davie, Mary Fisk, and the host of them. They were as fine and dedicated a team as any and their professional integrity remained intact as far as I was concerned.

For the rest, Mr. President, we look to the future with hope and a prayer. There is a simple prayer that runs through a song I learned in my childhood:

"Bless this house, O Lord we pray
Make it fit by night and day".

My prayer is:

Bless this Convention O Lord we pray
Make it fit by night and day
May it be an instrument of international stability
To each nation a means of subsistence and mobility
But most of all may it stimulate co-operation among
States for the creation and maintenance of
conditions of lasting international peace and
security as well as well-being for all of mankind.

YUGOSLAVIA

[*Original: English*]

Mr. President, allow me to begin my statement by saying that it gives me much personal pleasure to be here in Jamaica, a country to which I was accredited as the first Ambassador of the Socialist Federal Republic of Yugoslavia in 1968. I am happy to note that since then our two non-aligned countries have been maintaining friendly relations, which is reflected in the successful bilateral co-operation, and also evidenced in our co-operation at the Third United Nations Conference on the Law of the Sea.

The Yugoslav delegation has, therefore, welcomed with pleasure the offer of the Government of Jamaica, the country in which the seats of the Preparatory Commission and of the International Sea-Bed Authority will be located, to host the Conference for the signing of the Final Act and the opening of the Convention for signature. I wish to thank the Government and people of Jamaica for the warm hospitality extended to us.

This Conference has traversed an arduous road since the first substantive negotiations held in Caracas in 1974. Thanks to the patient and persistent negotiations we have, in our opinion, concluded successfully our task, being fully conscious of the significance of mutual concessions and compromises made for the sake of a viable global legal order applicable to world seas and oceans and, we trust, for the benefit of the world community as a whole.

The Yugoslav delegation has, from the very outset, supported the concept of the common heritage of mankind. It has taken an active part in the negotiations for legal regulation of that principle and for the establishment of an international régime for the sea-bed and ocean floor, including appropriate international machinery. Thus, for the first time in the history of international law, relations between States in the area beyond the limits of national jurisdiction are based on the principle of common heritage of mankind. The developing countries, desirous of ensuring the broadest co-operation on the basis of a new Convention, have agreed to the establishment of the so-called parallel system for the exploitation of resources in the international area. Another unilateral concession has been made by the developing countries in draft resolution II governing preparatory investments in pioneer activities relating to polymetallic nodules.

The Yugoslav delegation shares the position of the Group of 77 that this is the upper limit of concessions, otherwise the very essence of the principle of the common heritage of mankind would become meaningless. Consequently, although no one is fully satisfied, the achieved solution has, nevertheless, opened a possibility for co-operation between the developed and developing countries. For these reasons I wish to join those delegations who made an appeal to States which have not yet found it possible to join the consensus to do so as soon as possible. I also share the views characterizing as illegal all tendencies and unilateral actions trying to bypass the provisions of the Convention concerning the deep-sea mining in the area.

The provisions on the transfer of technology to the Enterprise "under fair and reasonable conditions" and the provisions on the initial financing of the Enterprise are, in fact, the essence of the parallel system. Furthermore, it is obvious that the International Sea-Bed Authority must efficiently manage the common heritage of mankind if we do not wish to bring it into question.

From the very beginning, Yugoslavia has supported the principle of the exercise of full and permanent sovereignty by all States over their national resources and has taken a firm stand that this principle should be applied in the progressive development of the international law of the sea. As a matter of fact the exclusive economic zone—up to 200 nauti-

cal miles (as a *sui generis* institute within the legal régime established in the Convention)—has already become an institute of customary international law, being widely applied by coastal States in practice, and constitutes a significant result of this Conference.

Yugoslavia is situated at the coast of a narrow and semi-enclosed sea and, due to its geographic position, it has limited possibilities in establishing its own exclusive economic zone. Open to international co-operation, Yugoslavia will continue to promote it with all the neighbouring countries bordering the Adriatic Sea and with countries in the Mediterranean region as well.

The Yugoslav delegation supports provisions of the Convention which regulate that within the exclusive economic zone the freedoms of navigation and overflight and the freedoms of laying submarine cables and pipelines exist as well as other freedoms of the high seas which the coastal State shall respect in exercising the rights and jurisdiction in that zone with respect to other States. Yugoslavia attaches special significance to freedoms of navigation in, and overflight of, routes through the high seas or through the exclusive economic zone in straits used for international navigation which are wider than the territorial seas of the States bordering the strait, to which the provision of article 36 of the Convention applies.

Yugoslavia has accepted the present solution in the Convention recognizing the right of the land-locked and geographically disadvantaged States to share the surplus of the allowable catch established by the coastal State in its exclusive economic zone. Yugoslavia recognizes the priority of the demands of developing countries to the surplus of coastal States in the region and subregion. This, however, does not exclude bilateral co-operation among developing States of different regions and subregions in this field.

The Yugoslav delegation has reluctantly accepted the provisions on the breadth of the continental shelf beyond 200 nautical miles, considering, like many other countries, that such an extension is detrimental to the zone of the common heritage of mankind. We have accepted the compromise that the coastal States with extensive continental shelves shall, in good faith, make payments or contributions in kind from the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles through the Authority to the States parties to this Convention, taking into account the interests and needs of the developing States.

The Yugoslav delegation considers that the inclusion in the Convention of the section on the settlement of disputes constitutes an important achievement in the development of international law, reflecting the reality of the prevailing international relations.

It is important to emphasize the fact that the Conference throughout the entire period adopted decisions on essential questions by consensus. The vote was requested only at the time of the adoption of the Convention and resolutions I to IV. In the preparation of the Convention and in its adoption mutual understanding was established among developed and developing countries. This, *inter alia*, suggests a possibility for the establishment of fruitful co-operation in the implementation of the Convention as well. Certain specific interests did not hamper the action-oriented unity aimed at the realization of basic common economic-political objectives. This particularly applies to the Group of 77, which maintained, throughout the Conference, its unity and initiative on all essential questions on the agenda. The general assessment that the Convention opens a new era in the relations among States, in an area covering two thirds of the globe, is not an exaggeration.

Analysis of the provisions of the Convention, its annexes and resolutions adopted at the 182nd plenary meeting,[a] held on 30 April 1982, has shown that they are in compliance with the national interests and constitutional principles of Yugoslavia and the basic lines of its international policy, as a non-aligned and developing country. It is true that some solutions differ to a certain extent from our initial position. This is an unavoidable result of negotiations and compromises made in search of consensus. Taking all this into account we share the expressed determination of the widest majority to have the Convention become, as soon as possible, an effective international code of legal order governing international seas. Consequently the Yugoslav delegation has been authorized to sign the Final Act and the Convention as soon as it is open for signature. In the same spirit the Federal Executive Council will initiate the procedure for ratification in conformity with the Constitution and laws of Yugoslavia.

The Yugoslav delegation attaches special importance to the preparations for the implementation of the Convention, particularly those parts related to the international régime and the system of exploitation of the Area, which constitutes the common heritage of mankind. All organs of the United Nations system as well as national and regional institutions should make an effort to prepare for the implementation of the Convention and the realization of its objectives when it enters into force. In this connection we welcome and support numerous activities aimed at that end, especially programmes concerning financing, technology transfer, training of required profiles of experts for the exploitation and management of marine resources.

Concrete results achieved in the economic activity in the international zone would, thereby, be in the interests of the developing countries, as well as in the interests of land-based producers, thus contributing to their accelerated overall economic development. This, at the same time, would benefit mankind as a whole and would open promising prospects for the global negotiations and for the strategy for development, based on the guidelines of the new international economic order.

Yugoslavia welcomes the agreement which made it possible for the United Nations Council for Namibia to be among the signatories of the Convention on behalf of Namibia, as well as the national liberation movements which have been participating in the Third United Nations Conference on the Law of the Sea, to sign the Final Act in their capacity as observers. This fact represents one more proof of the support of the democratic world community to the struggle of peoples of Namibia and of Palestine to liberate their homeland from foreign occupation and to establish their own independent States on the basis of the principle of self-determination and of safeguarding their legitimate rights over their natural resources.

In conclusion, I wish whole-heartedly to join preceding speakers who recalled with gratitude the dedication and outstanding contribution made by the first President of the Third United Nations Conference on the Law of the Sea, Mr. Hamilton Shirley Amerasinghe. At the same time the Yugoslav delegation would like to express to you, Mr. President, its sincere appreciation for the efforts made and wisdom manifested in ensuring a successful outcome of this highly significant codification project of the United Nations as well as to the Collegium.

This success is twofold: it constitutes an important achievement of international law in one of the most complex and broadest fields of relations among States and peoples as well as a reaffirmation of the role of the United Nations so much needed in the present-day world.

Finally, the Yugoslav delegation wishes to thank all officials of the Conference, particularly the special representative of the Secretary-General, Mr. Zuleta, and the secretariat of the Conference for their efforts, co-operation and diligence throughout this long period of negotiations which culminated in this successful and solemn conclusion of a highly important undertaking.

Thank you.

United Nations Environment Programme

[Original: English]

Mr. Chairman, let me say that it is indeed a special pleasure to be able to share with Governments and the United Nations family of agencies the sense of pride and achievement for a successful conclusion to a decade of painstaking work designed to bring order to those two thirds of the planet's surface which for generations have eluded jurisdiction.

The patience, determination and commitment displayed by Governments is a credit to the seriousness of purpose and to our growing appreciation and understanding of the need to protect our ocean space. At a time when doubts have been expressed as to the effectiveness of the United Nations and its ability to respond to the growing burden of critical issues, the United Nations Convention on the Law of the Sea stands as a spectacular example of the true meaning of the United Nations in harmonizing actions of States and reconciling differences in position. This Convention is thus likely to have the most far-reaching implications, not only for our, but for successive, generations to which the United Nations Charter has made a special commitment.

The United Nations Environment Programme (UNEP) is proud to be a part of this common effort to secure the future viability of our planet. But as we ponder the challenges facing us today, let me touch upon a few of the achievements of the Conference from the environmental perspective with the twin objectives of identifying present and future areas of environmental concerns, and of suggesting how UNEP may assist States in dealing with them. In short: What has been achieved? And where do we go from here?

A. *Environmental achievements in the United Nations Convention on the Law of the Sea*

With its broad mandate to co-ordinate environmental activities within and outside the United Nations system, the United Nations Environment Programme is vitally interested in all questions dealing both with environmental protection or pollution prevention and with the conservation and management of the living resources of the oceans.

As you know, the adoption of the United Nations law of the sea Convention falls within the tenth anniversary year of the United Nations Conference on the Human Environment held in Stockholm in 1972. In this connection, it seems eminently fitting that one of the major principles of the Stockholm Declaration, namely principle 21 that "States have the obligation to protect and preserve the marine environment", has been elevated to the level of a binding treaty commitment in Part XII of the new Convention and elsewhere. We at UNEP are pleased to note that the Third United Nations Conference on the Law of the Sea recognized the need for an integrated approach in dealing with environmental problems and in this connection has included in the sections on both environmental standard-setting and enforcement provisions dealing with pollution from all sources: pollution from land-based sources, from sea-bed activities, from activities in the area, from vessels, and pollution from or through the atmosphere.

A second general area in the new Convention of major concern to UNEP, with its broad environmental overview mandate, is that of conservation and management of living resources. The Convention provides for greatly expanded coastal State jurisdiction and control over living resources throughout the new 200-mile exclusive economic zone, thereby giving coastal States a proprietary interest in these offshore resources and a direct incentive to see to their wise conservation and management. UNEP stands ready to work both with other interested international bodies and with the coastal States concerned to achieve these objectives.

This is not the time to try to catalogue all the provisions of the new Convention of interest to UNEP. It might be added, nevertheless, that a third area of particular concern to UNEP is that of the protection and preservation of the environment of the international area. There are some welcome provisions on this subject in the Convention itself, but we see it as vital that the Preparatory Commission for the International Sea-Bed Authority be able to draw on the best available environmental and scientific expertise in drafting its rules and regulations.

B. *Present and future role of the United Nations Environment Programme*

Whereas activities and future plans of UNEP relevant to issues connected with the elaboration of the Convention were spelt out in section I of document A/CONF.62/112,[d] entitled "Initial views of the United Nations Environment Programme with regard to the implementation of the work of the Third United Nations Conference on the Law of the Sea", let me highlight a few of those efforts which I believe may be useful for the effective implementation of the new Convention.

First, let me recall a few of the ongoing activities of UNEP relating to the new régime for the oceans. The best known of these is undoubtedly UNEP's Regional Seas Programme, which at present includes 10 regions and more than 120 States and deals with marine environmental problems in an integrated way through a combination of co-operation among Governments of the region concerned and co-ordination of technical work through the United Nations system. For each region in the programme, the substantive aspects of the work to be done are outlined in an "Action Plan", formally adopted by Governments, which typically includes assessment, management, legal, institutional and financial components.

UNEP's effort in the Mediterranean, where the first Regional Action Plan was approved in 1975, is well known and widely recognized as a landmark in the protection of the marine environment. In 1976, during the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea, in Barcelona, the Mediterranean States signed the Convention for the Protection of the Mediterranean Sea against Pollution, together with two Protocols on ocean dumping and on co-operative measures to combat pollution by oil and other harmful substances; these instruments came into force in 1978. In 1980, the Mediterranean States adopted a third Protocol on controlling land-based sources of pollution, and in 1982 a fourth Protocol on specially protected areas in the Mediterranean was concluded.

Meanwhile, similar efforts have been under way in the nine other areas for which action plans have been adopted or are in preparation, namely, the Caribbean region, the East African region, the East Asian region, the Kuwait Action Plan region, the Red Sea and Gulf of Aden region, the South-East Pacific region, the South-West Atlantic region, the South-West Pacific region and the West and Central African region. Regional conventions and protocols, which follow in structure the model of the Mediterranean Convention and Protocols, have been adopted in four of those regions (the Kuwait Action Plan region, the Red Sea and Gulf of Aden region, the South-East Pacific region and the West and Central African region). A Caribbean Convention and one Protocol have been prepared for adoption in March 1983, and negotiations are to begin next January on a regional convention and two related protocols for the South Pacific region.

Apart from the Regional Seas Programme, there are a number of other ongoing UNEP programme activities which relate to protection and preservation of ocean space as a part of the total environment. UNEP has, for example, undertaken a study on the environmental law aspects of offshore mining and drilling within the limits of national jurisdiction. The General Assembly noted the conclusion of that study and recommended that Governments should consider the guidelines contained therein when formulating national legislation or undertaking negotiations for the conclusion of international agreements for the prevention of pollution of the marine environment caused by offshore mining and drilling within the limits of national jurisdiction.

Another activity which is relevant to the new legal régime for the oceans concerns actions in connection with the principles of conduct in the field of the environment for the guidance of States in the conservation and harmonious utilization of natural resources shared by two or more States, which has been under way at UNEP since 1979. These have long been noted by the General Assembly and their use by States as guidelines has recently been reiterated.

Another example is the high priority assigned by UNEP's 1981 Senior Level Meeting on Environmental Law, held at Montevideo, Uruguay, from 28 October to 6 November, to the development of global guidelines for principles aimed at controlling land-based sources of marine pollution.

As regards living resources, it might also be mentioned that UNEP participated in the preparation of the World Conservation Strategy, launched in March 1980, within the framework of which UNEP is now preparing a plan of action for the conservation of marine mammals.

Time does not permit an extensive listing of UNEP's activities in connection with the marine environment, and I would now like to close by outlining four future initiatives for protection and preservation of the marine environment which we would like to commend to States for their consideration:

First, States at the Third United Nations Conference on the Law of the Sea have identified certain specific tasks to be carried out by UNEP in the areas of monitoring, assessment and others, which UNEP stands ready to undertake, taking into account the resources available to it, and with mutual co-operation among States in collaboration with the United Nations system.

Secondly, in the short and medium term, we would like to encourage States to augment their activities for the protection and preservation of the world's oceans and seas. In promoting and assisting such efforts by States, UNEP will give particular attention to problems of pollution from land-based sources and from offshore mining and drilling, which have not yet received sufficient international attention. UNEP is prepared to assist the International Sea-Bed Authority, as appropriate, when it draws up rules and regulations for the conduct of sea-bed mining activities in the international area in ensuring that environmental considerations are taken into account.

Thirdly, questions such as liability and compensation (including ensuring adequate recourse) for environmental injury will be the subject of future progressive development of the law under UNEP auspices.

Fourthly, new activities, such as deep sea-bed mining, should be monitored and evaluated on an ongoing basis to determine necessary environmental protection measures.

UNEP will do its utmost with the resources available to it to assist Governments to mobilize their resources and capabilities to deal effectively with such problems.

[d] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV.

Finally, in closing, let me again reiterate UNEP's congratulations. From the environmental perspective, this new Convention represents a major landmark, dealing as it does, *inter alia*, with potential major environmental problems.

INTERNATIONAL OIL POLLUTION COMPENSATION FUND

[*Original: English*]

The International Oil Pollution Compensation Fund (IOPC Fund) would like to express its congratulations to the United Nations and participating Governments for finalizing the United Nations Convention on the Law of the Sea which the IOPC Fund believes is a significant milestone with respect to many important aspects of the protection and preservation as well as the use of the sea as a common good for all mankind.

As an intergovernmental organization, the Fund is based on the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, adopted in Brussels on 18 December 1971. It is designed to provide compensation for the often enormous economic damage caused by tanker spills. It came into existence in October 1978. It has now 26 member States in all parts of the world.

The IOPC Fund has followed closely the discussions of the Third United Nations Conference on the Law of the Sea and especially the discussions with regard to Part XII of the Convention, the sections dealing with the protection and the preservation of the marine environment. It is of the opinion that, as the only intergovernmental organization to provide compensation for oil pollution damage on a world-wide basis, it has an important role to play in the carrying out of the ideas laid down in Part XII. Article 235 of the Convention appears to be an invitation to all States to join the IOPC Fund and share with its present member States the benefits of membership in this organization as well as to continue developing amendments to the existing régimes dealing with compensation for oil pollution damage on the basis of the experience gained so far with the operations of the IOPC Fund. Article 235 of the Convention is understood by this organization as an invitation to make its good services available to the world community, within the framework of the work of the International Maritime Organization, to provide the means to fight the economic consequences of tanker spills.

The International Oil Pollution Compensation Fund wishes to take the opportunity of being allowed to make a statement at this signing ceremony to offer its assistance to all participating Governments and to promise its willingness to take an active role in the implementation of Part XII of the United Nations Convention on the Law of the Sea and especially its article 235.

PERMANENT COMMISSION FOR THE SOUTH PACIFIC

[*Original: Spanish*]

The Permanent Commission for the South Pacific, whose members are Chile, Colombia, Ecuador and Peru and which was established with the aim of attaining the ends set forth in the historic Santiago Declaration of 1952,[e] is pleased to note the universal recognition of the sovereignty and jurisdiction of the coastal State inside the 200-nautical-mile limit laid down in the United Nations Convention on the Law of the Sea as bounding the area under national jurisdiction.

It also notes with satisfaction that the basic principles of the Santiago Declaration have been incorporated in and amplified by the United Nations Convention on the Law of the Sea, in line with the declaration by the Governments of the South Pacific System of their "obligation to secure the necessary conditions of subsistence for their peoples and to provide them with the means for their economic development", and their duty "to provide for the conservation and protection of their natural resources and to regulate the exploitation of those resources".

The South Pacific System's favourable experience and substantial contribution to the development of the United Nations Convention on the Law of the Sea provide the foundations for a new phase in its achievements, starting with the Cali Declaration,[f] signed in 1981 by the Ministers for Foreign Affairs of the four member States of the Permanent Commission of the Conference on the Use and Conservation of the Marine Resources of the South Pacific, in which they reiterate "the firm political support of their Governments for the Permanent Commission for the South Pacific and stress the desirability of revitalizing and strengthening the Commission so that, bearing in mind its present geographical scope and the prospects opened up by new legal rules and institutions, it may continue to be an effective bond of solidarity between its member countries and the appropriate regional body for the defence of their maritime interests . . .".

In consequence, the Permanent Commission for the South Pacific has been instructed by the Governments of its member States to carry out an evaluation of its structure, instruments and functions with a view to adapting them to meet the new requirements of the region in the matter of co-operation among its member countries and with the international agencies responsible for maritime affairs, so that it may satisfactorily serve as the region's machinery for the concerted implementation of their present maritime policies.

Finally, the Commission expresses its satisfaction at the diligent and constructive work done by the eminent specialists from Chile, Colombia, Ecuador and Peru in the development of the Convention on the Law of the Sea.

INTERNATIONAL OCEAN INSTITUTE

[*Original: English*]

Mr. President, it is a great privilege for the International Ocean Institute to be here on this historic occasion. The successful conclusion of the Third United Nations Conference on the Law of the Sea and the signing of the United Nations Convention on the Law of the Sea is one of the outstanding creative events of our generation, perhaps of our century.

We owe a debt of gratitude to all those who have dedicated their lives to the momentous task of this Conference. We want to remember in particular Hamilton Shirley Amerasinghe, who was the President not only of the Third United Nations Conference on the Law of the Sea but also the President of the International Ocean Institute.

We want also to thank Mr. T. Koh, who has taken his place and who has so vigorously completed the task.

Finally, we would like to mention Mr. Arvid Pardo, who has been known to most of us as the "Father of the Third United Nations Conference on the Law of the Sea". Certainly, we all owe him a great debt of gratitude.

The International Ocean Institute is an international non-governmental organization with headquarters in Malta. The Institute was established officially in 1972, in co-operation with the United Nations Development Programme and the Government and the University of Malta. Paul Hoffman, then the Administrator of UNDP, was our Honorary President. Informally, our activities go back to 1968 when preparations began for the first PACEM IN MARIBUS Conference. Many of the delegates to the Third United Nations Conference on the Law of the Sea who are here today were present.

The Institute is governed by a Board of Trustees, and was presided over by Hamilton Shirley Amerasinghe until his death. Ambassador Jorge Castañeda and Anton Vratusa, President of the Federal House of the Assembly of Yugoslavia, are two of the outstanding members of the Board present at this Conference. The new President of the International Ocean Institute is Ambassador Layachi Yaker of Algeria. The second governing body is the Planning Council, whose Chairman is Elisabeth Mann Borgese. We are proud of the fact that quite a number of delegates to the Third United Nations Conference on the Law of the Sea are members of this Council.

The International Ocean Institute engages in four types of activities:

First, research; the search for new ideas on and for new approaches to the oceans. At an early date, the International Ocean Institute focused its attention on the question how benefits from the new law of the sea could be maximized, especially for developing countries, and how to integrate ocean management and marine resources into development strategies. Research is the basis of our activities, and many of our ideas and concepts have found their way into official fora of policy-making.

Secondly, conferences and seminars; in particular the series of PACEM IN MARIBUS Conferences have brought and will bring together diplomats, legal experts, marine scientists and representatives of industry to discuss the making and implementation of the new order

[e] See *Yearbook of the International Law Commission, 1956*, vol. I.

[f] See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV, document A/CONF.62/L.108.

in the oceans and the increasing importance of the oceans in world economy and politics.

Thirdly, publications: our most important publication is the *Ocean Yearbook*, a comprehensive collection of the economic and ecological data concerning all major marine activities and an analysis of ocean developments in their interaction.

Fourthly, the Training Programme in Ocean Management and Conservation for Participants from Third World Countries: with the help and co-operation of many institutions, Governments and the United Nations it became possible to organize four programmes per year. The Seventh Training Programme, carried out in co-operation with the Government of India, is presently being concluded in Bombay.

The International Ocean Institute has always believed that the United Nations Convention on the Law of the Sea is not merely an instrument to take care of the urgent and important problems of the oceans but that it has an even greater potential. In a way, the oceans have been and are a great laboratory for the building of a new international order and the building of the kind of international institutions that may become a model for those to come in the next century.

In this context, the International Ocean Institute discerns four main areas of development:

First, the updating of national legislation and the building of national infrastructure to implement and complement the United Nations Convention on the Law of the Sea.

Secondly, regional development and co-operation.

Thirdly, the strengthening of the United Nations institutions dealing with the oceans to enable them to assume their new tasks and responsibilities and the integration of their policies in conformity with the principle that all problems of the ocean are closely interrelated and must be considered as a whole.

Fourthly, the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea; in our view, on its work depend the future of the United Nations Convention on the Law of the Sea itself, its universal acceptance and its successful implementation.

For the time being, these are the four major building blocks which we think essential for making the new international order in the oceans. These are the new opportunities that have been created by the United Nations Convention on the Law of the Sea.

In the continuation of its efforts in the coming phase of ocean development, the International Ocean Institute intends to deal in depth with these four major areas through research programmes, conferences, seminars, publications and training programmes.

Sierra Club

[*Original: English*]

The Sierra Club congratulates the United Nations and delegates to the Third United Nations Conference on the Law of the Sea on the successful conclusion and adoption of the Convention on the Law of the Sea. The adoption of the Convention represents a significant accomplishment for the process of multilateral diplomacy and the development of international law for two thirds of the earth's surface. It is the sincere hope of the 300,000 members of the Sierra Club that the treaty will fulfil its promise of promoting and strengthening international peace and co-operation.

The Sierra Club is pleased and honoured to be present at the historic occasion of the signing of the United Nations Convention on the Law of the Sea. Since the very beginning of the negotiations, the Sierra Club has followed closely the progress of the Conference and has worked constructively to promote international understanding and support for the protection and preservation of the oceans and for the conservation and wise management of ocean resources. We note with overall satisfaction those parts of the Convention dealing with the protection and preservation of the marine environment. They are a major contribution to the progressive development and codification of international environmental law.

We are most gratified that for the first time many nations will assume wide-ranging obligations to protect the marine environment, and we believe that the broad acceptance and implementation of the environmental provisions in the Convention will constitute a significant advance in international environmental law. The Convention presents all countries with an important and essential framework for dealing with the major sources of marine pollution and for further addressing the development and implementation of international marine law in the future.

While much has been accomplished, much remains to be done in further elaborating this framework. Of particular concern to us will be the development of the rules and regulations for the protection of the marine environment in the international area from deep sea-bed mining. The Sierra Club has developed special competence in this area, and we remain committed to assisting the Preparatory Commission in this important task.

The course of the new ocean régime lies before us and is ours to shape. We hope all present will reaffirm their commitment to fulfilling its promise.

Other non-governmental organizations

[*Original: English*]

We, the undersigned representatives of non-governmental organizations, wish to record our congratulations to this Conference. The adoption and opening for signature of this United Nations Convention on the Law of the Sea represents a hard-won achievement for the progressive development of international law. More importantly, it demonstrates that the world's nations and peoples remain committed to rule by law and not force. Then, those nations which refuse to persevere in this process or, instead, pursue a deviant unilateralism can only perilously weaken the fabric of world order and the protection of varied national and global interests.

No convention can solve all problems, nor right all wrongs. However, this comprehensive Convention solves many, prevents others and opens the door to further improvements and the orderly management of even more. The collaborative process which this Convention enshrines marks a strong beginning. It must continue.

We also express our appreciation to the Conference leadership, many delegations, and the Secretariat, for permitting and even frequently encouraging our involvement in seeking solutions to obdurate problems. We look forward to continued participation in the challenging tasks of implementation ahead.

(*Signed*)

Barbara Ann Weaver, Commission of the Churches on International Affairs
John Temple Swing, Experiment in International Living, The
Samuel and Miriam Levering, Friends World Committee for Consultation
Milton Johnson, International Association for Religious Freedom
Martin Glassner, International Law Association
Choon-ho Park, International Law Association
Renate Platzöder, International Ocean Institute
Anita K. Yurchyshyn, Sierra Club International
Lee Kimball, Women's International League for Peace and Freedom

DOCUMENT A/CONF.62/WS/37 AND ADD.1 AND 2*

Note by the Secretariat

Pursuant to the announcement made by the President of the Conference at the 185th plenary meeting on 6 December 1982, statements made in the exercise of the right of reply are contained in the present document.

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AUSTRALIA

[*Original: English*]
[*1 August 1983*]

Australia reserves its position with regard to any statement made at the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea at Montego Bay relating to the interpretation of provisions of the United Nations Convention on the Law of the Sea or to the present state of international law.

CHINA

[*Original: Chinese and English*]
[*4 February 1983*]

In his speech at the 191st plenary meeting on 9 December 1982, the representative of Viet Nam groundlessly claimed that the Xisha Islands and the Nansha Islands were Vietnamese territories and insinuated that China had occupied the Xisha Islands by force of arms and threatened to annex the Nansha Islands. The Chinese delegation categorically rejects this utterly false and absurd allegation designed to distort historical facts.

It is a matter of common knowledge that the Xisha Islands and the Nansha Islands are inalienable parts of China's sacred territory, an irrefutable fact fully backed by historical and juridical records. The Vietnamese Government itself affirmed in a note dated 14 September 1958 that those islands belonged to China.

As to the declaration of the Vietnamese Government, dated 12 November 1982, on the baseline of Viet Nam's territorial sea, the spokesman of the Chinese Foreign Ministry has given it a stern refutation on 28 November 1982. The so-called maritime boundary line in the Beibu Gulf claimed by the Vietnamese Government is completely illegal and, therefore, null and void.

[*Original: Chinese/English/French*]
[*25 April 1983*]

The Sino-Vietnamese boundary delimitation convention signed between China and France in 1887 did not in any way delimit the maritime area in the Beibu Gulf. Therefore, no maritime boundary line has ever existed in the sea of the Beibu Gulf. On 26 December 1973, the Vietnamese Government formally admitted this fact to the Chinese Government.

Notwithstanding the fact admitted by Viet Nam itself, the Vietnamese authorities have now staked out a claim to the Xisha Islands and the Nansha Islands, thereby fully revealing their expansionist ambitions *vis-à-vis* those Chinese territories. That is something which the Chinese Government and people will never countenance.

DENMARK

[*Original: English*]
[*6 October 1983*]

Denmark reserves its position with regard to any statement made at the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea at Montego Bay relating to the interpretation of provisions of the United Nations Convention on the Law of the Sea or to the present state of international law.

FEDERAL REPUBLIC OF GERMANY

[*Original: English*]
[*9 March 1983*]

The delegation of the Federal Republic of Germany avails itself of the right of reply to statements of delegations made at the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea in Montego Bay, Jamaica (6-10 December 1982), and, in accordance with the procedure provided for the delivery of those replies, would like to state that it cannot agree with certain opinions expressed by various delegations during the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea. While reserving its judgement on all declarations containing elements of interpretation of the Convention on the Law of the Sea, the Federal Republic of Germany would like to reiterate its position in particular with respect to the following points.

None of the provisions of the Convention, which reflect existing international law, can be regarded as entitling the coastal State to make the innocent passage of any specific category of foreign ships dependent on prior consent or notification. It is also in this sense that the delegation of the Federal Republic of Germany understands the statement by the President of the Conference at the 176th plenary meeting on 26 April 1982.

According to the provisions of the Convention, archipelagic sea-lane passage is not dependent on the designation by the archipelagic State of specific sea-lanes or air routes in so far as there are existing routes through the archipelago normally used for international navigation.

With respect to maritime zones, the Convention provides, beyond and adjacent to the territorial sea, for an exclusive economic zone, where the coastal State has specific resource-related sovereign rights and jurisdiction, while all States continue to enjoy in that zone the high sea freedoms of navigation and overflight and of laying of submarine cables and

* Document A/CONF.62/WS/37/Add.1 contained the statement by Australia, dated 1 August 1983, and the statements by France, dated 12 May and 28 July 1983, and document A/CONF.62/WS/37/Add.2 contained the statement by Denmark, dated 6 October 1983.

pipelines and other internationally lawful uses of the sea (see the letter of the delegation of the Federal Republic of Germany of 24 September 1982 addressed to the President of the Conference, document A/CONF.62/L.155). The exercise of these rights can therefore not be construed as affecting the security of the coastal State or affecting its rights and obligations under international law. Apart from artificial islands, the coastal State has the right in the exclusive economic zone to control the construction, operation and use only of those installations and structures which have economic purposes. Accordingly, the notion of a 200-mile zone of general rights of sovereignty and jurisdiction of the coastal State cannot be sustained either in general international law or under relevant provisions of the Convention.

With respect to the rules of international maritime law in force, the position of the Federal Republic of Germany is evident from its consistent practice in bilateral relations. Accordingly, the Federal Republic of Germany reserves its judgement as to any unilateral claim and interpretation of maritime jurisdiction.

In reply to statements made by several delegations, the delegation of the Federal Republic of Germany would like further to reemphasize the fact that, as a matter of law, States cannot be subject to obligations under the Convention until it has been duly ratified and entered into force for them. While many provisions of the Convention reflect existing rules of international law, the Convention, to a considerable extent, also purports to create new law. In particular those parts which relate to the legal régime of the deep sea constitute in their entirety new contractual law, which can become binding upon States only after ratification. Until then States remain free under existing international law in this field to enact legislation and to take other measures of an interim character.

It should also be retained that Part XI of the Convention and related annexes deal with a specific and new economic issue, with a view to phasing in a new economic resource into the world economy. The relevant provisions therefore cannot constitute a precedent for international negotiations in other economic fields.

Generally it has to be emphasized that the interpretation of provisions contained in the Convention has to be in compliance with the general principle of good faith and of avoidance of abuse of rights.

FRANCE

[Original: French]
[12 May 1983]

In response to certain statements made at the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea at Montego Bay, the French Government wishes to make the following observations, which seem to it to reflect both the letter and the spirit of the new Convention:

1. The limitation of the breadth of the territorial sea to no more than 12 nautical miles is a crucial provision of the Convention, which confirms and codifies a widely observed customary practice. All States must, therefore, respect that limit, which is the only one authorized by international law. The French Government, for its part, does not recognize as territorial sea waters claimed as such beyond a distance of 12 nautical miles from baselines determined by the coastal State in accordance with the Convention.

2. The Convention unequivocally confirms the customary rule according to which all vessels, including warships, may engage in innocent passage in the territorial sea of a foreign State. No article of the Convention authorizes a coastal State to adopt or maintain in force any laws or regulations which would establish prior notification or authorization as a condition for the entry of any foreign vessel into its territorial sea. In addition, in accordance with the Convention, the French Government will not recognize as applicable to it any laws, regulations or other provisions which require such formalities or restrict in any other way the innocent passage of its vessels irrespective of type.

3. The coastal State does not exercise sovereignty over the economic zone but only sovereign rights for economic purposes and jurisdiction with respect to the protection and preservation of the marine environment, marine scientific research, and the deployment and use of artificial islands, installations and structures. Provided they respect such rights and such jurisdiction, all States enjoy in the economic zone the freedom of navigation, the freedom of overflight, the freedom to lay submarine cables and pipelines and the freedom to make other uses of the sea in conditions similar to those applicable to the high seas.

[Original: French]
[28 July 1983]

In response to the written statements submitted at the time of the signing of the United Nations Convention on the Law of the Sea at Montego Bay, the French Government wishes to refer to its statement of 12 May 1983, which it supplements with the following observations:

1. Vessels and aircraft of all States enjoy the same freedoms of navigation and of overflight in the economic zone as they do on the high seas and may carry out any manoeuvres and exercises related to those freedoms.

2. Uninhabited rocks which can sustain human habitation and an economic life of their own are entitled to an economic zone and a continent shelf, as provided for in the Convention.

ITALY

[Original: English]
[7 March 1983]

In reply to statements made during the final part of the eleventh session of the Third United Nations Law of the Sea Conference, as reported in the 185th to 193rd plenary meetings, Italy, while reserving its position on every point not covered here and while recalling all other statements it made at the Conference, wishes to state the following.

First, Italy reserves its position as regards every declaration and statement containing points of interpretation that go beyond the provisions of the Convention.

Secondly, Italy considers that the United Nations Convention on the Law of the Sea is fully regulated by the law of treaties, including article 38 of the Vienna Convention on the Law of Treaties[62] of 23 May 1969. Thus, the Convention does not entail rights and obligations for States which are not parties to it, with the exception of rules that correspond to customary law. Consequently, most of the provisions of Part XI and of annexes II and IV do not correspond to customary law nor do they limit the freedom of States not parties to the Convention to take measures relating to deep sea-bed mining, with due regard to the interests of the States in the exercise of the freedoms of the high seas.

Thirdly, according to the Convention, the coastal State does not enjoy residual rights in the exclusive economic zone. In particular, the rights and jurisdiction of the coastal State in

[62] See *Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference* (United Nations publication, Sales No. E.70.V.5).

such zone do not include the right to obtain notification of military exercises or manoeuvres or to authorize them. Moreover, the right of the coastal State to build and to authorize the construction operations and the use of installations and structures in the exclusive economic zone and on the continental shelf is limited only to the categories of such installations and structures as listed in article 60 of the Convention.

Fourthly, none of the provisions of the Convention, which corresponds on this matter to customary international law, can be regarded as entitling the coastal State to make innocent passage of particular categories of foreign ships dependent on prior consent or notification.

It is the understanding of Italy that this is confirmed by the declaration of the President of the Conference on 26 April 1982.

NETHERLANDS

[Original: English]
[8 April 1983]

The Representative of the Kingdom of the Netherlands to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to declare that the Kingdom of the Netherlands reserves its position with regard to any statement made at the final part of the eleventh session of the Third United Nations Conference on the Law of the Sea, at Montego Bay, which contains elements of interpretation with regard to the provisions of the United Nations Convention on the Law of the Sea.

TURKEY

[Original: English]
[24 February 1983]

In view of some statements made at Montego Bay, the Turkish delegation deems it necessary to state the following.

It should be recognized that the United Nations Convention on the Law of the Sea does not foresee a uniform application of its provisions as a whole and to all seas, as alleged by Mr. Papoulias of Greece in his statement of 9 December 1982, at the 191st plenary meeting. To think otherwise would run counter to the letter and spirit of the Convention. The existence, in the Convention, of special provisions for enclosed and semi-enclosed seas, archipelagic States, geographically disadvantaged States, land-locked States and the principle of equity only testify to this understanding. In other words, a differentiation in the application of the provisions of the Convention in accordance with various geographical circumstances is one of the principal elements of the basic thinking underlying the Convention, although this has not been adequately reflected in its provisions.

In his aforementioned statement, the resident representative of Greece said:

> "Similarly, it should be stressed at this time that all the clauses have been accepted by near consensus, since almost all the countries that abstained in the vote when the Convention was adopted stated that they accepted all the parts of the Convention, with the exception of Part XI, on the sea-bed. If I am not mistaken, the same is true for the four countries that voted against it."

This statement creates a misleading impression of the proceedings of the Conference. It is a well-known fact that at both formal and informal meetings of the Conference, the Turkish delegation raised objections to a number of articles and submitted amendments thereto, and never gave its consent to those which did not accommodate Turkish views. It should be noted in this context that the Turkish objections are not related to Part XI of the sea-bed. This is also true for some other countries who have voted against the Convention, contrary to the impression given by Mr. Papoulias.

It would also be recalled that Turkey had proposed, at the final session of the Conference, an amendment to the Convention which, if adopted, would have permitted reservations to the Convention. The fact that 45 States either voted in favour or abstained indicates that a considerable number of States had difficulties with the Convention. Therefore, to speak of a near consensus constitutes a distortion of the realities concerning the proceedings of the Conference.

In the same statement the representative of Greece said:

> "Given this fact, and also the practice of States, it is clear that these provisions can be, and practically speaking are, considered to be already part of customary international law. Such is the case, for example, of the provision fixing the maximum breadth of the territorial sea at 12 miles, a provision which is already being applied by a substantial majority of countries Members of the United Nations. That also goes for the articles referring to freedom of navigation and the régime with respect to islands, and other articles."

In the first place, it should be noted that the 12-mile limit envisaged in article 3 of the Convention is neither a compulsory limit nor a limit to be applied automatically. The 12-mile limit is the maximum breadth that may be applied within the general limitation imposed by article 300 which embodies the principle of abuse of right. In the narrow seas, on which Turkey is bordered, the extension of the territorial sea in disregard of the special characteristics of these seas and in a manner which would deprive another littoral State of its existing rights and interests creates inequitable results which certainly call for the application of the principle of abuse of right.

In the second place, Turkey is of the opinion that the 12-mile limit for territorial waters has not acquired the character of the rule of customary international law. Indeed, it is not possible to speak of a rule of customary international law in cases where the application of such a rule constitutes an abuse of right.

It should also be mentioned that international custom depends on the consent of States and it is a rule of international law that a State may contract out of a custom in the process of formation. Turkey, in the course of the preparatory stages of the Conference as well as during the Conference, has been a persistent objector to the 12-mile limit. As far as the semi-enclosed seas are concerned, the amendments submitted and the statements made by the Turkish delegation manifest Turkey's consistent and unequivocal refusal to accept the 12-mile limit on such seas.

In view of the foregoing considerations, the 12-mile limit cannot be claimed *vis-à-vis* Turkey.

The reference to freedom of navigation by Mr. Papoulias constitutes a clear contradiction with the Greek attempts to hamper freedom of navigation by giving arbitrary interpretation to some of the provisions of the Convention. In this context, Turkey wishes to confirm the views contained in document A/CONF.62/WS/34. The scope of the régime of straits used for international navigation and the rights and duties of States bordering the straits are clearly defined in the provisions contained in Part III of the United Nations Convention on the Law of the Sea. With the limited exceptions provided in articles 35, 36, 38, paragraph 1, and 45, all straits used for international navigation are subject to the régime of transit passage. Consequently, any attempt to create a separate category of straits, i.e. "spread-out islands that form a great number of alternative straits", is contrary to the Convention and the principles of international law. Turkey wishes to underline that such attempts are legally unfounded and totally unacceptable.

Article 121 on the régime of islands is, in Turkey's opinion, an article of a general nature which does not predetermine the maritime space to be allocated to the islands situated in the areas subject to delimitation. The presence of islands in an area to be delimited is only one of the relevant circumstances to be taken into account in order to arrive at an equitable solution. The maritime spaces of the islands in the areas to be delimited are determined by the application of equitable principles. Hence article 121 is not applicable to the islands located in the maritime areas which are subject to delimitation.

Finally Turkey wishes to reaffirm that unilateral actions pursued by the Greek Cypriot administration, including the extension of territorial waters to 12 miles in 1964, without the participation of the Turkish Cypriot side, are devoid of any legality. As a matter of fact, the Turkish Federated State of Kibris, the co-founder partner of the Republic, in its letter of 8 February 1983 addressed to the Secretary-General of the United Nations, has objected to such unlawful actions and has expressed the view that these actions are not binding on the Turkish Cypriot Community.[63]

United Kingdom of Great Britain and Northern Ireland

[Original: English]
[4 March 1983]

At the final part of the eleventh session of the Conference, statements were made regarding the interpretation or application of the convention concerning the rights of a coastal State with regard to the territorial sea, and in particular the innocent passage of warships and other vessels through the territorial sea, the status and régime of the exclusive economic zone, and in particular the rights and obligations of States other than the coastal State concerned within that zone, the delimitation of maritime boundaries of all kinds and the legal status of the deep sea-bed beyond national jurisdiction and its resources. A number of statements on these and other matters misinterpret the provisions of the convention or their effect. The United Kingdom does not accept these statements and wishes to recall the statement made by the leader of the United Kingdom delegation at the 189th plenary meeting on 8 December 1982 and to reaffirm its position expressed then and on other occasions during the negotiations.

United States of America

[Original: English]
[8 March 1983]

Rights and duties of non-parties

Some speakers discussed the legal question of the rights and duties of States which do not become party to the Convention adopted by the Conference. Some of these speakers alleged that such States must either accept the provisions of the Convention as a "package deal" or forgo all of the rights referred to in the Convention. This supposed election is without foundation or precedent in international law. It is a basic principle of law that parties may not, by agreement among themselves, impair the rights of third parties or their obligations to third parties. Neither the Conference nor the States indicating an intention to become parties to the Convention have been granted global legislative power.

The Convention includes provisions, such as those related to the régime of innocent passage in the territorial sea, which codify existing rules of international law which all States enjoy and are bound by. Other provisions, such as those relating to the exclusive economic zone, elaborate a new concept which has been recognized in international law. Still others, such as those relating to deep sea-bed mining beyond the limits of national jurisdiction, are wholly new ideas which are binding only upon parties to the Convention. To blur the distinction between codification of customary international law and the creation of new law between parties to a convention undercuts the principle of the sovereign equality of States.

The United States will continue to exercise its rights and fulfil its duties in a manner consistent with international law, including those aspects of the Convention which either codify customary international law or refine and elaborate concepts which represent an accommodation of the interests of all States and form part of international law.

Deep sea-bed mining

Some speakers asserted that existing principles of international law, or the Convention, prohibit any State, including a non-party, from exploring for and exploiting the mineral resources of the deep sea-bed except in accordance with the Convention. The United States does not believe that such assertions have any merit. The deep sea-bed mining régime of the Convention adopted by the Conference is purely contractual in character. The United States and other non-parties do not incur the obligations provided for therein to which they object.

Article 137 of the Convention may not as a matter of law prohibit sea-bed mining activities by non-parties to the Convention; nor may it relieve a party from the duty to respect the exercise of high seas freedoms, including the exploration for and exploitation of deep sea-bed minerals, by non-parties. Mining of the sea-bed is a lawful use of the high seas open to all States. United States participation in the Conference and its support for certain General Assembly resolutions concerning sea-bed mining do not constitute acquiescence by the United States in the elaboration of the concept of the common heritage of mankind contained in Part XI, nor in the concept itself as having any effect on the lawfulness of deep sea-bed mining. The United States has consistently maintained that the concept of the common heritage of mankind can only be given legal content by a universally acceptable régime for its implementation, which was not achieved by the Conference. The practice of the United States and the other States principally interested in sea-bed mining makes it clear that sea-bed mining continues to be a lawful use of the high seas within the traditional meaning of the freedom of the high seas.

The concept of the common heritage of mankind contained in the Convention adopted by the Conference is not *jus cogens*. The Convention text and the negotiating record of the Conference demonstrate that a proposal by some delegations to include a provision on *jus cogens* was rejected.

Innocent passage in the territorial sea

Some speakers spoke to the right of innocent passage in the territorial sea and asserted that a coastal State may require prior notification or authorization before warships or other governmental ships on non-commercial service may enter the territorial sea. Such assertions are contrary to the clear import of the Convention's provisions on innocent passage. Those provisions, which reflect long-standing international law, are clear in denying coastal State competence to impose such restrictions. During the eleventh session of the Conference, formal amendments which would have afforded such competence were withdrawn. The withdrawal was accompanied by a statement read from the Chair, and that statement clearly placed coastal State security interests within the context of

[63] *Official Records of the Security Council, Thirty-eighth Year, Supplement of January, February and March 1983*, document S/15603.

articles 19 and 25. Neither of those articles permits the imposition of notification or authorization requirements on foreign ships exercising the right of innocent passage.

Exclusive economic zone

Some speakers described the concept of the exclusive economic zone in a manner inconsistent with the text of the relevant provisions of the Convention adopted by the Conference.

The International Court of Justice has noted that the exclusive economic zone "may be regarded as part of modern international law" (Continental Shelf Tunisia/Libya Judgment (*I.C.J. Reports 1982*, p. 18), para. 100). This concept, as set forth in the Convention, recognizes the interest of the coastal State in the resources of the zone and authorizes it to assert jurisdiction over resource-related activities therein. At the same time, all States continue to enjoy in the zone traditional high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, which remain qualitatively and quantitatively the same as those freedoms when exercised seaward of the zone. Military operations, exercises and activities have always been regarded as internationally lawful uses of the sea. The right to conduct such activities will continue to be enjoyed by all States in the exclusive economic zone. This is the import of article 58 of the Convention. Moreover, Parts XII and XIII of the Convention have no bearing on such activities.

In this zone beyond its territory and territorial sea, a coastal State may assert sovereign rights over natural resources and related jurisdiction, but may not claim or exercise sovereignty. The extent of coastal State authority is carefully defined in the Convention adopted by the Conference. For instance, the Convention, in codifying customary international law, recognizes the authority of the coastal State to control all fishing (except for the highly migratory tuna) in its exclusive economic zone, subject only to the duty to maintain the living resources through proper conservation and management measures and to promote the objective of optimum utilization. Article 64 of the Convention adopted by the Conference recognizes the traditional position of the United States that highly migratory species of tuna cannot be adequately conserved or managed by a single coastal State and that effective management can only be achieved through international cooperation. With respect to artificial islands, installations and structures, the Convention recognizes that the coastal State has the exclusive right to control the construction, operation and use of all artificial islands, of those installations and structures having economic purposes and of those installations and structures that may interfere with the coastal State's exercise of its resource rights in the zone. This right of control is limited to those categories.

Continental shelf

Some speakers made observations concerning the continental shelf. The Convention adopted by the Conference recognizes that the legal character of the continental shelf remains the natural prolongation of the land territory of the coastal State wherein the coastal State has sovereign rights for the purpose of exploring and exploiting its natural resources. In describing the outer limits of the continental shelf, the Convention applies, in a practical manner, the basic elements of natural prolongation and adjacency fundamental to the doctrine of the continental shelf under international law. This description prejudices neither the existing sovereign rights of all coastal States with respect to the natural prolongation of their land territory into and under the sea, which exists *ipso facto* and *ab initio* by virtue of their sovereignty over the land territory, nor freedom of the high seas, including the freedom to exploit the sea-bed and subsoil beyond the limits of coastal State jurisdiction.

Boundaries of the continental shelf and exclusive economic zone

Some speakers directed statements to the boundary provisions found in articles 74 and 83 of the Convention adopted by the Conference. Those provisions do no more than reflect existing law in that they require boundaries to be established by agreement in accordance with equitable principles and in that they give no precedence to any particular delimitation method.

Archipelagic sea lanes passage and transit passage

A small number of speakers asserted that archipelagic sea lanes passage, or transit passage, is a "new" right reflected in the Convention adopted by the Conference. To the contrary, long-standing international practice bears out the right of all States to transit straits used for international navigation and waters which may be eligible for archipelagic status. Moreover, these rights are well established in international law. Continued exercise of these freedoms of navigation and overflight cannot be denied a State without its consent.

One speaker also asserted that archipelagic sea lanes passage may be exercised only in sea lanes designated and established by the archipelagic State. This assertion fails to account for circumstances in which all normal sea lanes and air routes have not been designated by the archipelagic state in accordance with Part IV, including articles 53 and 54. In such circumstances, archipelagic sea lanes passage may be exercised through all sea lanes and air routes normally used for international navigation. The United States regards these rights as essential components of the archipelagic régime if it is to find acceptance in international law.

Consistency of certain claims with provisions of the Convention adopted by the Conference

Some speakers also called attention to specific claims of maritime jurisdiction and to the application of certain provisions of the Convention adopted by the Conference to specific geographical areas. These statements included assertions that certain claims are in conformity with the Convention; that certain claims are not in conformity with the Convention but are nevertheless consistent with international law; that certain baselines have been drawn in conformity with international law; and that transit passage is not to be enjoyed in particular straits due to the purported applicability of certain provisions of the Convention.

The lawfulness of any coastal State claim and the application of any Convention provision or rule of law to a specific geographic area or circumstance must be analysed on a case-by-case basis. Except where the United States has specifically accepted or rejected a particular claim or the application of a rule of law to a specific area, the United States reserves its judgement. This reservation of judgement on such questions does not constitute acquiescence in any unilateral declaration or claim. In addition, the United States reserves its judgement with respect to any matter addressed by a speaker and not included in this right of reply, except where the United States has specifically indicated its agreement with the position asserted.

DOCUMENT A/CONF.62/WS/38

Statement by the delegation of Japan dated 9 February 1983

[*Original: English*]
[*28 February 1983*]

The Government of Japan signed the United Nations Convention on the Law of the Sea on 7 February 1983 at the Ministry of Foreign Affairs of Jamaica. The Government of Japan intends to participate actively in the work of the Preparatory Commission, which is to be established in March. Japan finds, as do other major industrialized countries, the régime concerning deep sea-bed mining as laid down in the Convention to be unsatisfactory, and is prepared to explore the ways and means for improving this aspect of the régime through close consultations with other interested States. The Government of Japan will make the final decision regarding the ratification of the Convention by taking into account all important relevant factors, such as the results of the Preparatory Commission's work and the positions of other States, including industrialized countries, on the question of ratification.

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