

Third United Nations Conference on the Law of the Sea

1973-1982

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185th Plenary meeting

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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 Carib-

bean 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.

⁴See *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 April⁶ and 27

⁵General Assembly resolution 2749 (XXV).

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

August⁷ 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 Conven-

tion, as well as from commenting on such statements or positions of other States, in accordance with article 310. This does not prejudice 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 co-operation, 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 inter-related 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

⁸See *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 contin-