

Thank you.

I too must explain at the outset that I have not been taking part in the discussions in the conference and therefore I am not speaking from first-hand information about the progress or lack of progress achieved so far in the attempts and failures to negotiate. But it seems to me that at a seminar such as this, it would not be out of place to draw attention to our view of the fundamental difficulty which confronts those who are taking part in the variety of conferences, meetings under United Nations auspices which have been initiated since the move that came to a head in the Sixth Special Session.

I am speaking now about economic relationships primarily. Before the Sixth Special session, most of the representatives of the developing nations in each forum that presented the opportunity talked about the widening gap between living standards of the advanced nations and the developing nations respectively. We expressed the problem somewhat inadequately in terms of worsening terms of trade and so on. But basically, it seems to us that the representatives of the advanced nations heard what we were saying but had not committed themselves to the implications.

I remember a particular address in the General Assembly by a representative of a developing state that was addressed to the representatives of the advanced countries. The subject, or the theme, was, "Why don't you be frank to your own people?" "Why do you keep letting them believe that they can narrow the gap in living standards and still have their rates of growth unchanged and still have their profits and levels of profits

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on investments unchanged and so on?" "Why don't you say honestly that if they are to give the kind of redistribution which the developing countries are demanding, then they can't have a continuation of the rates of growth they have seen over the early portion of this century, and perhaps earlier?"

So, Madame Chairman, I am asking, speaking as it were from the point of view of a developing country, what it is that can be done to bring the representatives of the major nations in the world of ocean exploitation and use -- we are speaking of the great trading nations, the great maritime nations, the great military nations -- what can be done in this kind of environment to place the representatives of those countries in a position to negotiate. We heard in another place yesterday that there is no will to negotiate in the conference. I wish to say that even if there were a will to negotiate, the negotiations would still fall far short of the new order we have in mind unless there is not a willingness merely to compromise but a general recognition the extent of the compromise that is likely to be needed.

My Prime Minister put it this way and I am now speaking as a Jamaican. My Prime Minister put it this way in another forum: If you, the developed nations, have done what you set out to do at the beginning of the First and the Second Development decades, there would be no significant change in the rate at which the gap widens. Yet you would have satisfied yourselves that you have done all that you have set out to do and you would have sanctified the widening gap. So I wondered whether in the case of the Law of the Sea Conference there is

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not merely this lack of a will to negotiate but a failure to recognize that to handover to international common heritage control the potential resources of the oceans is one of the most painless ways of contributing to that redistribution of resources which all the experts in psychology, population development and social science which all of them believe is necessary if this world community is to survive.

I don't know whether Professor Tinbergen's project is going to have this kind of influence on the thinking of the Law of the Sea Conference, but I stress again, it is not merely the will to negotiate but a clear understanding of the extent of the compromise and the surrender of potential gain which is going to be required and that the new regime in its economic aspects for the oceans can make a very substantial contribution to that redistribution.

YANKOV-1

(Those who are on the first row are like in a student seminar, they are more vulnerable to questions by the Professor. I'm afraid.)

I would like to make some observations on questions that are mentioned in the paper you have distributed, namely about the relationship between the new law of the sea and the new international economic order. I find these questions very pertinent to what we have been doing in this conference namely your question as to how far will the new law of the sea and the machinery to be established realize and embody the new economic order. Will this machinery act as an equilizer among nations,<sup>or</sup> is it stimulating now at this stage more excessive national claims, I would add to this question.

Madame Chairman, I would agree with, if I correctly understood Professor Freymond, that we could argue both ways whether this conference is held too early or too late, but even if we admit that both extremes are right, then we have to challenge about the timing of the conference. I say this because it seems to me that there are some fundamental factors which exercise a strong political<sup>impact</sup> on the will to negotiate because I still maintain, as Sir Egerton Richardson has mentioned, that the question is not of the procedure of this conference or the mechanics of the conference, but of the political will to negotiate.

There are some basic factors which exercise a strong impact. I would mention some of them and they create the psychological and political setup in this conference. Which are these factors? First of all, in my view, it is the

Yankov-2

increasing nationalism or the increasing national claims in an area which, by its nature, purpose and function, is universal, is global because the world oceans are by their functions and purpose meant to be the linkage between nations for navigation, communications and now the search for raw material and energy and then it came the new dimension, the environment protection which is also universal and global. But what I could say in all frankness and speaking in a personal capacity, not committing the Third Committee or my delegation, that national claims are even going stronger, and the more the commissions and experts elaborate about the dimensions of the new uses of the sea, the greater these aspirations and claims become. This is one factor that we have to take into consideration and here I would venture and take the risk to admit that not only developed and rich nations are coming with such excessive claims but what is my personal regret that developing nations who in the long run would be much more interested on a universal and equitable order, they are now the champions of excessive national claims, and they are to suffer first if such an order is established.

The second factor and the second pressure factor is now the increasing search for raw material, mineral resources, energy supply from the world oceans, and we know that in maybe 10 or 20 years time this search will become even more acute because of the new options and new opportunities that the world oceans would offer in this field. Also an important factor is relatively new as an imputation of the technological revolution I would say is the environmental factor. Again this is a very, very great contradiction between excessive national claims for specific national standards and rules and jurisdiction

YANKOV-3

and the need to survival of mankind as a whole, having in mind the global aspects of the environmental problem.

Here again I would not like to be the reactionary here, the bad guy who attacks the developing countries, but I would say again, in all fairness and sincerity, that here in environmental protection problems and the development and promotion of scientific research, developing countries are coming with claims which will hamper the overall <sup>framework of the</sup> protection of the marine environment.

Now the third factor. Is it the existing legal framework, <sup>the</sup> existing system of law, I mean not only the law of the sea, is it prepared for the new, I would say the revolutionary new, framework of the law of the sea. We all know that international law nowadays and for some time to come is based on nation state and sovereignty and jurisdictions and what the international law <sup>is,</sup> is the equilibrium between the national interests and find out the legal means of finding a viable compromise between conflicting national interests. Is this posture ready for the establishment of a new international institution which in a way has to be over the nation, the national systems of law and the traditional national law? I think here that we have to face <sup>this factor</sup> ~~the~~ specter that the new law of the sea, the new merging law of the sea, will find very difficult to overcome the traditional pattern of the existing law and if we have to implant on this posture a new institution, it will not have enough support, this new institution.

YANKOV-4

I have mentioned the other day that such a simple legal problem -- suppose that the institution is established, the international authority with very comprehensive powers, even to undertake exploration and exploitation activities by itself. Then because of this posture, such a problem will arise which is the applicable law in the activities of this institution.

There are labor law relations, penal law relations, there are at stake / civil law relations, responsibility not which has to be decided within the framework of public international law but with civil law implications. These are important problems which we have to solve.

The last point I wanted to mention is the lack of viable dispute settlement framework and institution because at every step, and especially because this will be a new venture, at every step problems will arise between nations and between the authority and the contractors and here it looks to me like somebody who wants to tackle a problem with very outdated traditional means, for instance to reach the moon with the technique, which is very nice in terms of dreaming and idealism but very poor in efficiency and performance, and now we have to concentrate I think on these when we speak about how far will the new law of the sea and the machinery to be established realize and embody the new international economic order. Because even these rules of the economic, the basic principles, of the new economic international order, they are not cristaliyed, they are also in process of being created, and here again, I am afraid that this trend of nationalism, of excessive nationalism, is there. Until this is overcome, I don't see how this international institution will act as an equalizer among nations. It could be just another -- there are suspicions that it could turn to be just another

YANKOV-5

multinational cartel, a multinational institution in which those who are technologically and financially stronger will have the greater portion of the benefits. At least there are such apprehensions. And when you ask in your paper where does it fall -- the institution -- short of realizing the aspirations of the charter of the declaration I find again my answer as to how at this stage of society when so many new countries have emerged and they are justified to claim for their identity and to ask for their share in this world but it is altogether a nationalistic trend in international relations how this could be reconciled with a global international equitable framework and institutional setup.



XXXIII

Brucan-1

I would like to make just one remark. I wanted to make it before it's a little belated. What I want to say is that a redistribution of resources, any redistribution of resources, carried out under the present power structure and present development gaps, will necessarily serve the powerful and the rich. This is why a new international economic order must be really new, really novel and that requires not only redistribution of wealth but also redistribution of power and last but not least of knowledge. Here I include theories, strategies, statistics, models, etc. It's an extremely important item in the whole process.

A recent French sociological investigation has revealed that the executive, the managers, the upper strata of the salaries, have the knowledge to earn always more money than they have salaries while the lower strata are always restricted to their wages exclusively. They don't know how to get more money. This is also valid in international society. Therefore the setting up of a new world order is a very long painful and protracted process that might take us to the end of the century because what we are talking about, if we mean it seriously is the passage of power from those who hold it now

(changed tape)

XXXIV

Borgese-1 (changed tape)

.... implications of the seabed authority. According to him  
these implications are rather small .... However,

....

.... (unintelligible)

...

this may in turn affect and limit also the possibility of bestowing  
these other benefits on the poorer nations. What can we do about  
that? Can we simply, must we sit here in despair and say, well,  
there's nothing that this conference really can contribute, or  
can we think in terms of somehow reintegrating and putting back  
into focus the goal that we started out with.

Richardson-1

I fear that I am only adding to the number of questions being asked this afternoon rather than offering solutions, but this question is addressed to Professor Sohn I think we (unintelligible) ... what Mexico is talking about. I think you will all understand that there is little for Jamaica to gain out of a 200 mile economic zone. We have gone along with it and so have many of the countries in our region because of regional solidarity and we are hoping that standing together we will eventually have some longterm gains that are that will compensate for our surrender of interest.

But I should like to ask at this stage of the juggernaut now is, Professor Sohn, is it possible to interrupt this process and to give the scientists a change to think again about the kind of problems they would like to offer solutions to before the negotiating politicians get together once more. That's one question.

My second question runs like this. We have heard very clearly stated the nature of the suspicion which operates in the minds of the representatives of call them small nations. We do not yet believe that an international regime, and institution created in the United Nations in the United Nations image is going to give us the share in the decision making power that is needed or is going to permit a basis of distribution of the income in ~~xxx~~<sup>this</sup> common heritage that will amount to a contribution to a new economic order. So, the second question is, is it worthwhile isolating this particular question at this stage of the deliberations, trying to have a set of people sit down and ~~yixxxx~~ discuss that before final decisions are taken on the form and the organization of the seabed authority. I don't know to whom the second question is addressed.

XXXVI

SOHN-1

With respect to your first question about whether the scientists contribute to some elucidation of the problems which are still murky in front of the conference, my answer would be reluctantly "no" because whenever now anybody proposes some additional studies be made on something, it is immediately considered he is trying to delay the conference, trying to prevent decisions and it is rather, the present trend is, let's proceed on our knowledge however inadequate rather than wait for some more knowledge.

(unintelligible question by another participant)

Exactly. I think you have put, made the right statement.

The second problem is much more difficult in the sense that I don't believe that the juggernaut has proceeded to the point where still some reasonable things cannot be done. I think the basic outlines of course are clear, that we are going to have a 12 mile territorial sea, 200 mile economic zone, probably some additional jurisdiction over the margin with or without profit-sharing and that is about as far as agreement has been reached at this point. On this seabed authority I think as was pointed out this morning, we have not progressed very far. In a way we might have been further along the line about two years ago than today because we have spent the two years bickering about the method of exploitation rather than the real question that you have been asking, who is really going to control the controllers? It really does not matter whether it is going to be exploited this way or that way, if the real power is lodged in X rather than Y and somehow we have not yet gotten to that point as Professor Riphagen said this morning. This is an issue we might get to in a week or two and we may or may not resolve it before the end of this session of this conference. I have a feeling still that both in this area of the seabed, the final decision of what ..... you are going to establish and who is going to have control over it has not yet been really decided and people still don't have a very clear idea which way to go and any thinking on that subject still might be useful.

SOHN-2

The second point is that even in the economic zone area where the principle has been decided, there are still very important . . . . . It is still not completely impossible to provide some kind of international jurisdiction with respect to the problems like protection of the environment, protection of scientific research, protection of so-called other uses of the ocean as distinguished from the exploitation of the living and non-living resources. So again while the Center is clear there is quite a lot that still could be done if the internationalism could be pushed a little further though I think on that point there is still great reluctance by the coastal states big or small, whether it is the United Kingdom or Trinidad, it doesn't matter because all the coastal states feel more or less the same on that subject, except a few states which value their maritime interests more than they value their coastal interests, and here again if the large majority of the developing countries ~~would~~ <sup>would again</sup> to look at their larger interests in protecting the marine environment, in protecting the most economical uses of the ocean as far as navigation and other things are concerned, you still can have probably a much more reasonable a much more internationalist solution than we are likely to have if things go automatically the way they are going.

Coming again back to your first question, I think maybe my answer was too quick as far as this session of the conference is concerned it's no, assuming you are going to have a third session of this conference, and we are not going to simply disband saying, we have done as much as we can

ACHN-3

it's a lost proposition, let's not waste more time on it. Unless we do that - if we at this session are able to reach sufficient agreement on sufficient number of issues so that people might be hopeful that the next session we really can finish, then you would have time between the two sessions really to do this economic and statistical analyses which might perhaps change some people's minds and make them more enlightened about what is not only the long range but even very often their short-range interests in this area.

XXXVI

HAMBRO-1

I just want to comment a little bit more on that question as I understood the question from Ambassador Richardson. If I understood you correctly you said that the smaller nations do not have sufficient confidence in any international regime not thinking that they will get the adequate<sup>weight</sup>/in international organization. I always thought the other way around. I thought that ~~if~~ it only were the smaller and the poorer nations could get any say in this matter it would be to get the international organization because if you do not get the international regime quite obviously the rich and the powerful and the more technically advanced countries would get a larger piece of the cake again and would get more and more and that's just what I meant when I said that the poor will get poorer and the rich will get richer. So the only way we can do it is that we can get an international organization where as far as I can find out now you are about to have the absolute majority and just look at what is happening now. It's not only that we are seeing already that some of the richer nations start expeditions to get nodules but look at another thing which to my mind is profoundly shocking with all ..... they used the so called principle of the freedom of the sea even for explosion of atomic bombs ~~xxxx~~ over the sea and to cordon off thousands and thousands of square miles of the sea and they say you stay away from here because we use the freedom of the sea to have atomic experiments here and it will be dangerous for you and for human beings and for fish to be in this territory and when you can risk that I think that any kind of international organization, where the small countries would be the absolute majority would be much better.

XXVIII

Borgese-1

I'd just like to return to one of the points that you made because I think it has very particular interest. You state that the developing nations today are in a way recapitulating the national postures or claims that older nations, the developed nations have gone through at a previous period. I think that is a statement that should be examined, should be discussed because is it really possible to recapitulate history or the historic postures of other nations and other times. Can nationalism today be what it was in the 19th century? It seems to me that the nationalism of the new nations is completely different from the nationalism of the older nations. The nationalism of the older nations was a nationalism of conquest. The nationalism of the newer nations is a nationalism of liberation which is diametrically from the older one. I think furthermore that in a world of science and technology, an interdependence is created by these factors. Nationalism just simply cannot be the same that it was in the 19th century, and I think that that has consequences.



XXIX

SOHN-1

I have been challenged by this historical approach and I agree more with Mr. Vargas than with Madame Borgese because the whole development of the law of the sea was always the challenge to the status quo by new nations. You remember the first oldness of the oceans was, in a way Spain and Portugal, and little Britain at that time started challenging and the Netherlands. Then the British became too powerful and the Netherlands started challenging the British. Then later the basic issue that the United States had with the major powers throughout the 19th century even to the first world war was the issue of the big powers trying to monopolize the sea and their use against small countries like at that time the United States, and it's only lately that in fact only after the second world war that suddenly the United States discovered it was one of the leaders of the status quo rather than the challenger to the old system. So this is quite a noble position really for the United States to take if you look at its 200 years of history. Second point I think I would like to deal with is the question that was raised about the crucial question of this afternoon, relationship between the new international economic order and the law of the sea and here I think Mr. Abi Saab has presented the crucial points. Why in this whole enterprise over the last eight years we really did not make a proper balance of profits and losses of the various approaches. People presented various things in terms of geographical areas and so on pointing out, as Ambassador Pardo has pointed out, how much area is to be taken by states as distinguished by international authority, but really nobody has presented very clearly, and I suppose it was not in the interest of

Sohn--2

the developed nations to do it, to show that the point that was made already this afternoon, any way you slice the cake, if you slice it for the benefit of the coastal states, the major developed nations are going to get the biggest chunk of it, whether in terms of just territory, because they have large coastlines, like the United States, Canada, the Soviet Union, Australia, or in terms of resources because most of the resources again happen to be, whether you talk about the fishing resources or the mineral resources in the shelves and the areas that would come under the sovereignty of the major developed countries. Of course there are some developing countries that are benefitting, say Nigeria, Indonesia, a few others but there are very few of them really compared to the majority of 104 developing nations. But here again this group mystic comes in because Argentina is going to benefit from the broad shelf, therefore, all the Latin Americans, regardless of the fact that they benefit from it, go behind them. If one or two African countries benefit from an economic zone, all the other African countries are behind them and so it goes, and we have seen that also from the point of view of some producers of mineral materials that are involved here. If two or three of them might suffer, the fact that the remaining 100 are consumers rather than producers and are going to benefit from lower prices rather than lose from them, nevertheless the 100 are behind the 3 rather than thinking of their own interests. It has become, to a large extent really, an ideological or almost as if class war, you might say or class dispute between the various groups of states rather than one based simply on cold mathematical economic calculations

Sohn-3

Therefore it seems to me a great mistake to say that what the developing countries want to get out of the law of the sea conference and what they are likely to get out of it is going to be really going in the same direction as the new economic order. It might in fact go in the opposite direction, but again somehow the people are in charge of the one and people are not in charge of the other. As very often happens in my own government, one department does something that the other department does something else, even in the same state department which has two different divisions going into different directions and I am afraid it happens to other countries too and I think this is one of the crucial points here that really the tactics and the goals, and even more goals than tactics of the developing country in this area trying to get the best economic international order, the best distribution of resources, completely deny what they are doing really in the law of the sea area. Only superficially it looks the same, but if you simply look at the facts and data and the economics of it, I think you would discover contrary. I remember very early in the game, must have been in 68 or 69, I talked with one of the leaders of the Latin American groups who happens to have a long shoreline, very small coastal shelf, no resources in the shelf or beyond as far as the seabed is concerned, but nevertheless he was a great leader of the movement for a broad national jurisdiction of 200 miles, regardless of the fact that in private he would tell me very clearly that his own foreign office had made the necessary statistic and discovered that however you calculate, they are going to lose economically a lot on it. Still, one

Sohn-4

of the things and therefore I think sometimes trying to emphasize here as we have been doing during this morning and afternoon session that somehow those two things are supposed to coincide. It might be the wrong assumption.

XXX

Borgese-1

From all the last speakers, one would assume that there is a feeling here that the economic zone as such is not necessarily a contribution to the new economic order. The economic zone has certain merits, it has certain defects, whichever way you look at it. It is not by itself a contribution to the new international economic order. Then one asks what is it that we are doing here? Where is the potential? Where can we make a contribution to the new international order? Is it in the area of creating a seabed authority? Now there we might look from a purely economic point of view, we might look from an institutional point of view. I think Professor LaQue has prepared some figures, looking at the problem from an economic point of view. Maybe this is the moment to bring them in.

LaQue-1

I am providing as a possible contribution to the purely economic aspects of what we are discussing, what I choose to call a concrete example to indicate the order of magnitude of the economics that will be involved with the exploitation of deep sea mineral resources beyond the boundaries of an economic zone, however these boundaries may be established. For the basis of my discussion I am making some assertions which I hope you will accept for the purpose of the discussion but which you may feel free to reject in assessing the conclusions that I am reaching. These basic assertions are first that when the boundaries of the economic zone have been established, there will still be left some area capable of being administered by some international authority with respect to the mineral resources. The other assertion is that there will not be any significant exploitation of oil beyond the economic zone, not because it may not be technically feasible to produce oil from great depths. I think it has already been established oil can be produced from a depth of 1000 meters. However, the cost increases more than proportionately with the depth of the operation, and in view of the fact that there are tremendous areas within the present continental shelf and the proposed economic zone that have not yet been even smally explored. It seems safe to assume that it will be a long time before it becomes profitable to go to depths beyond those within the economic zone and the continental shelves for the exploitation of ore. So this then brings us only to the hard minerals, mainly nickel, copper and cobalt, existing in the manganese nodules, which exist, and no doubt, in confidence, will be exploited first

LaQue-2

beyond the economic zone and will be subject to some appropriate international regulation.

I have been rather closely connected with developments in this field for the past 10 years, and I think I have some factual basis for the predictions I am about to make. These are that substantial exploitation is not likely to occur before about 1982. At about that time and for the next few years, the extent of the operations will contribute not more than an additional 10 percent to the world production of nickel and along with it the amount of copper that will go along with it which will roughly be about three quarters the production of nickel. I calculated the value of the product of the operations that are likely to be in existence at that time, which will not be more than three or four, yielding a total value of production of production in terms of 1975 dollars of about 500 million dollars. Of this 500 million, the value at the point of recovery, that is at the surface of the sea before the metals have been transported to shore for refining and so forth will be about one third that, giving us a value of the international value of about 150 million dollars. From this I reach the conclusion that the exploitation of deep sea minerals cannot in the next ten years or more be expected to have any tremendous effect on the new economy. The advantage of this perhaps more meager economic effect than perhaps has been anticipated is that as you have noted in many other fields in which you have been negotiating, it is generally easier to deal with the distribution of small wealth than to deal with the distribution of a tremendous wealth, and consequently it may be advantageous in the long run to be able to deal with the matter at this

level than at a much larger level. If I were talking about 150 billion dollars which we had to become concerned with how best to deal with, the problem would be I think much more difficult. On the other hand, there is always the risk that however we decide to deal with the thing in the first instance may result in an approach not appropriate to the long range needs. I am firmly convinced that at some time the deep ocean sources will be the major sources upon which the world will depend for these metals.

I want to make the distinction between the short range situation and the long range needs, and all I'm suggesting is that in approaching the short range problem we don't unduly prejudice the solution of the long range one.

There's one more detail. I've been in a lot of discussions with the sharing of the wealth if you like from these deep sea minerals with the world community, and the debates have not been devoted to whether or not the wealth should be shared with the international community, but rather the mechanism by which the sharing will be accomplished, whether it is through license fees, whether it is through a sharing of the profits, which I'm inclined to favor, rather than some other approach. But there's never been any rejection by the people who are thinking about exploiting these minerals that they were not willing to recognize and find some appropriate means to accomplish the sharing.



XXXII

Abi-Saab

How did you define the deep sea zone?

LaQue

How did I define it?

Abi-Saab

Yes because you said beyond national jurisdiction but

LaQue

No I said beyond the limits .... I didn't use the words national jurisdiction at any time that I can recall. I wasn't sure how the limits of the economic zones were going to be established but I assume for the purpose of my discussion wherever they were established <sup>there</sup> they would still be a place left in which the international authority would have control over these minerals.

Abi Saab

Yes but .....

LaQue

Well, all right, I will assume for purposes of discussion if you like that what I'm taking about is a location 10 degrees north or south of the equator and longitude 140 to 160.

Does this answer your question?

X

Hambro-1

Thank you very much. I was keenly interested in many of the statements here today, particularly now the statement by my old friend and collaborator from New York days, Ambassador Yankov, because he seemed to bring back a little bit of the spirit that animated our debate in New York at the beginning of this great venture.

Those that were present in New York in 1967 and 1968 we had a feeling of great optimism on what was happening at that time, and I think it is right at this moment to draw the attention to the enormous that were felt by the first statements by Ambassador Arvid Pardo when he brought this whole matter up. We felt there was a new thing started of the very greatest importance and I must say, Elisabeth, I have started this morning going through some of my own papers from the New York days and I will take the liberty to quote two minutes of a statement I made as a Norwegian delegate of the First Committee. I stated the following:

The issue before us is a great challenge, a whole new dimension is opened up for human endeavor. We stand at a crossroads. Either these new riches can be the cause of competition and struggling which may be bitter and protracted, or they give us cause for closer cooperation and a greater unity. The very concept of these riches as the common heritage of mankind is inspiring and points to the future of great promise. Without international cooperation, we run the risk that the deep seas and the ocean floor will be spoiled by military installation and that the resources will be destroyed by ruthless exploitation, resulting in pollution and erosion. Collaboration, on the other hand, may help us take a long step toward abolishing poverty and ensuring a rich and fertile life for all mankind. The deep seas can be either the graveyard or disap-

HAMBRO-2

pointed hopes or the active shop for common endeavor.

I think that that was the feeling that we had in New York in 1967 and 1971 and 68 and I think that in all honesty we cannot say the hopes have in any way been fulfilled. And I think that part of the explanation is exactly what was stated here by Ambassador Yankov.

That's a thing I would like to say a very few words about. Because I think they are the essence of our endeavors. We all agree, officially anyhow, as was stated also in this paper, that the collaboration in the oceans can be used to bridge the gap between rich and poor. The collaboration must be in such a way that the benefits, instead of making the rich richer and the poor still poorer. We all agree. But then we have exactly the nature that Mr Yankov pointed out, that we are using this all of us, my country sins too. Although we are Scandinavians as you know, we are always on the side of the angels. But we all sin by making greater and greater claims and become more and more nationalistic.

And that is a thing that I believe, that very many statesmen and also lawyers fail to realize today that the increasing emphasis on national claims and national sovereignty destroys the very basis of the collaboration of the future. We cannot get a realistic and effective international collaboration without realizing that absolute national sovereignty is a thing of the past, and that the thing of the future is solidarity and the thought of human welfare as a whole and of not always increasing national claims. Part of this is of course due to a suspicion of international law as it was, and we understand that many people felt that international law has been the white man's law, the rich man's being used against the

HAMBRO-3

poorer countries. But that is not the case any more. The international law today has developed a way for being a law only to distribute and make limits between national sovereignties. Today international law is more and more a law of human welfare, a law of solidarity of all nations.

The danger of all these declarations we make particularly the under developed countries, all these things are based far too strongly on nationalism, national claims, and national sovereignty. And I venture to say that we will step backward all the time in this in the last few years.

I am participating these days in a conference of quite a different kind on cultural humanitarian law under the auspices of the International Red Cross. The same States participate there as they do in these other conferences. But today in their conference more stress was made on national sovereignty and on national claims than ever before in history of the endeavor of humanitarian law. This to my mind is a corroding danger that we ~~xxx~~ all ~~xxx~~ against and all fight against if there is any hope of achieving what we set out to do in this conference and in the other conferences which could open the door to the future for all of us.

I feel really embarrassed to speak after such an eloquent statement by my dear friend Ambassador Hambro, a statement, incidentally with the sentiments of which I thoroughly agree.

I would only say a very few words about the new international order and the relationships of the oceans with it. I think the major characteristic of the new international order as it has been proposed at the United Nations is its economic nature. I don't have time to analyze all the terms of it but it is obvious that since it has been proposed in economic terms, resources are a major portion of this new international order.

The present condition in the world is that resources are limited in respect of need, that is to say, in respect of claims to these resources on the part of different people. Hence there is a need for the allocation of these resources and I think a major portion of the concept of the new international order as presented in the United Nations is really directed to the allocation of these resources. However, not in respect of peoples but in respect of States, and this is a rather major distinction.

If it is true that resources are limited in respect of need, there are certain implications. First, that there is need for conservation of resources. Secondly, that there is need for management of resources, and in management of resources, you cannot have that without scientific research.

The second part is the equity in allocation of resources as between States. Here it is not merely the physical allocation of resources as so many people think but the ability to make use of these resources, in other words,

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allocation of technology and scientific capability, and this is quite basic but it's often misunderstood.

Intensive exploitation of resources which is necessary with increasing population of course can be conceived in a one-sided way. However, intensive exploitation has also certain implications. There are constraints on other uses. There are environmental implications and so on. Furthermore, the exploitation and the manner of exploitation can be conceived in short-term terms and in long-term terms. Unfortunately the trend at present is to conceive it in short-term terms.

What is the relevance of the seas in all this? The seas of course contain the major portion of world resources. They are the last resource reserve of the world and furthermore they are of fundamental importance from an environmental point of view because once if the seas ever become seriously and irretrievably polluted by chemicals and so on, that would be the end pretty well of the world because you cannot, once the seas are the last sink and you can't really reverse massive environmental pollution of the world ocean.

The characteristic of the present stage in which we are in is the extension both of man's activities in the world ocean and of the system of national sovereignties in the world ocean. This makes for a fragmentation of the world ocean and for fragmented resource management. There are indeed only two ways in which it is possible to approach this whole question of the ocean. One is from the point of view of the national state, and here we have a division of the seas on the basis of the principle of absolute sovereignty of states. This is the principle which appears to be predominating at

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the present time and it is predominating because the concept of the freedom of the seas in an era of expanding activities in the sea is dead. You need men.

In the event, historically, in the long run, in the event of a division of the ocean between national states, we will have an increase in inequalities between states and not a decrease. In short, we'll be acting against the purposes of the new economic world order presented at the United Nations last year. We will also have the impossibility of managing most of the, not all, but a substantial number of the major activities in the seas.

Effective conservation is unlikely to be possible. It would be national conservation of national resources in a limited area of the seas. It is likely, furthermore, the management of technology in the ocean, and this technology is becoming ever more powerful, ever more dangerous, and ever more useful, will become impossible on a national competitive basis. In the long run there will be increased conflict and an additional major factor in world tension as the need for ocean resources increases in relation to the gradual depletion of land resources. The other possibility is an international solution, a kind a supranational organization established by the international community to manage the world ocean, prescribe conditions for the use of technology in the world ocean, and to harmonize ocean uses.

This second solution is impossible politically at the present stage. As Ambassador Yankov has said, we are, we live, and we shall continue to live for a number of years in a system of competitive national states. Furthermore there are deep ideological differences in the world at the present time. What is the solution?

There is actually no perfect politically possible solution at the present time. However there is something that the conference can do. First, the conference can set clear limits to national authority for all purposes and I stress the word all purposes in the ocean. It may be the 200 mile economic zone. Fine. Let that be the total limit of national jurisdiction in the ocean. And let us not have articles suggesting that the coastal state has sovereign rights in waters adjacent to the 200 mile economic zone for certain purposes and that the coastal state may define itself its legal continental shelf in terms of a legal continental margin the limits of which the state itself controls. In short clear and firm limits to national jurisdiction for all purposes.

But national jurisdiction, whether 200 miles or 400 miles or 500 miles cannot be absolute. States are still willing to accept certain restrictions on their absolute discretion within national jurisdiction in the seas. For instance, innocent passage is accepted as a restriction by every state even within territorial waters. Here it is not merely innocent passage. It is also the need to accept certain restrictions of a general nature with regard to the way in which the coastal state may exercise its powers within national jurisdiction. For instance, certain general norms with regard to the harmonization of activities within national jurisdiction is absolutely indispensable in conditions of intensive ocean use. Certain general norms with regard to the management of living resources within national jurisdiction is equally absolutely indispensable in



Pardo-5

present conditions. It is indispensable because the way in which a coastal state exercises its discretion with regard to management functions -- not allocation functions, I am not talking about exclusive rights of the coastal states and harbors but I am talking of management functions -- may affect, in fact will affect, quite deeply the living resources of the sea in areas under the jurisdiction of neighboring coastal states, and their interests could be very severely affected, and so on.

There are in short a number of limits to national sovereignty which can and should be accepted under present world conditions.

Thirdly, beyond national jurisdiction it has been proposed to establish a seabed agency with certain characteristics. What is necessary instead is not a seabed agency as presently envisaged but rather a system of institution with peculiar characteristics which are not members of the U.N. system and which are established in order to provide a general economic legal and political forum for the discussion of ocean matters and all their interrelationships. Only with the establishment of such a type of institution will it be possible to confine national jurisdiction in the seas to the limits agreed to by the conference. In addition, this system of institution should have special functions with regard to the management of resources outside national jurisdiction and advisory functions with regard to the management of certain types of resources, particularly living resources within national jurisdiction..

Pardo-5

Unless these are steps which the conference can take in the present political situation in the world and which would not undermine it, whether the conference will take these steps or not is another matter.

Now, it is important that when such a new and novel system of organization for the seas is established, it not be considered, it cannot be used as a tool on the part of any particular groups of states. Hence there must be sought a novel balance of power within the institution. More or less, the objective should be that the institutions cannot act unless there is overwhelming support on the part of states which represent the majority of the world population.

A final suggestion which I think is a practical suggestion which could be adopted at the conference by a mere amendment of the rules of procedure is the establishment of an ombudsman for the international community within the conference framework. Here we have the post of general rapporteur which is at the present time a purely honorific function. It is at present occupied by Jamaica. I think that the general rapporteur of the conference in addition to his rather honorific job as rapporteur could have the job, could be given the job, of ombudsman for the international community within the conference. He would not be connected to the Secretariat which has certain interests to protect. He would not be connected necessarily to any particular delegation. His job would be to present to conference delegates the implications of certain lines of action with respect to fisheries, to resource exploitation, and to other matters in an international rather than a national

Pardo-6

context, or if we wish, in a regional rather than in a national context. This would be a very important function in which I am sure that the present occupant who is a very distinguished member of the Jamaican government would do very well indeed

XII

Peresic-1

Thank you Mme Chairman.

I wasn't really prepared to take now the word on this stage of this seminar, but I would like to explain and to make some remarks that maybe could be useful to us.

First I am listening to some explanations and statements of my distinguished previous speakers. They are going in my opinion too much in the details. When I saw the title of this seminar, I was very inspired already by the title and the agenda. Then I think it was stressed the real point we should maybe here to try to emphasize, and it was very clear from the beginning of the session in Caracas of this law of the sea conference. I mean, the genuine link that is now very clear between the economic aspect and new trends in the international economic life and the relationship between the developing and the developed world in trying to reach really a new economic more equitable order or retribution on the new basis put forward to all mankind and all the states on the basis of the decisions and resolutions on the 1st and second decades of development of United Nations.

And now already / <sup>elaborated</sup> on the Sixth Special Session of the United Nations/General Assembly and we are looking forward for all the other conferences. They are on the same line. The genuine link certainly <sup>point of view, the economic</sup> and not only pure juridical aspects of this conference on the law of the sea.

I am really expecting from this distinguished seminar here to see very inspirative ideas on this link . . . So I

Peresic-2

couldn't now go to the details of the conference already from the fact that I am the head of a government delegation in the conference, so this stage of the conference is with so many formal and informal discussings in groups to make difference between the general statement and the individual or personal statement that's one thing.

One thing I would like to point out here. My own feeling, if you are asking here the answer how the things are going in the conference of the law of the sea, and if we could be optimistic or a restricted optimistic or pessimistic or skeptic, I would like to say we must in my opinion be aware on two or three points that have already been stressed here.

First, my feeling is that we have still a large measure of lack of confidence in our negotiating and for me it is quite understandable. If somebody is blaming the developing world and new and independent countries then they are going too far in their national claims in this conference, I wouldn't agree with them. It is quite understandable if so many new and independent countries have the feeling and are even aware that the old conventions on the law of the sea have been built up a measure and shape on the basis of the claims of then existing countries and certainly satisfying their own national claims.

Between 58 and then of those conventions and the actual world we have so many new independent countries. They are completely aware of their own national claims so we must give them the floor to come with the general statement

Peresic-3

and with the good will of negotiating.

I must say that working in the group of so-called 77, and which means more than 100 developing states, a good will to meet and to find out really the solutions for a more equitable and justified international law of the sea and those institutions we are preparing and building up that I look without any optimistic or more optimistic appreciations on the final issue event of the conference. But I would like to state that this conference is only one part of a very hard and strong trend and movement that <sup>can't be</sup> ~~can't be~~ worked out on the basis the old claims or maybe on the basis on the old lack of confidence between the developed and developing world.

The developing world must be aware and clear with expressed good will and intensions that really the mankind as a whole developed and underdeveloped is facing a new future and then the ocean space and all the items we are discussing now facing the conference are really large and new and maybe the last chance for the developing world really to come forward in speeding up to fill this gap that is increasing more and more and not giving on this moment any possibility to overcome it quicker.

I apologize maybe I am out of the terms of reference but I am speaking very strong on the agenda you put forward and that is to give some new contribution in this way to emphasize and to find all this big and important looking size and points in the global framework of the actual trend to find a new economic order including the work of the conference of the law of the sea.

Thank you. I have been listening with great interest to our discussion up to now because unfortunately being taken up with the conference on humanitarian law, I have not been able to follow very thoroughly the work of this session on the law of the sea conference. What I jotted down is really a series of skeptical questions. I think I will put them although I think they may confuse us even more, but perhaps they will add to a more clear idea at the end.

First of all, we have been discussing the link between the development of the law of the sea and the establishment of a new international economic order. We have been discussing this at two levels, some of the remarks have been presented as descriptive but in fact most of the remarks were on the normative level. How can we really use the law of the sea in order to help establish this new international economic order. Of course this is always a problem which is put in social sciences. It is much easier to determine the point of equilibrium than the path which can lead us to that point. In fact the vehicle we have now with us is a conference. It's a diplomatic conference with plenipotentiaries presenting states, and we are trying to see which ways and means this conference with this setup can lead to an internationally desired state of affairs. But we have to keep in mind that state representatives, however well-intentioned they are they proceed in the first place from conceived national interests and also in many cases from instructions, unfortunately, and the important thing is to find a kind of equation which could fit this situation, this state of affairs, with the output we want. In fact in this respect, the inter-

Abi-Saab-2

national economic order can be an output of the conference. It is not an input in this conference. I don't think that we can answer our great question before the end of the conference, before we see what the conference will lead to, and then we can try to examine the total effect of this new both its substantive and institutional importance, and we can then say whether it takes us one step further to the new international economic order we want or one step away from it. I think that today we have heard interventions which could support both outcomes eventually. In fact, and in the last analysis, what is in question here is redistribution. Redistribution is always, or distributive justice, since Aristotle, has always been known as the essence of politics. It is very, very difficult to solve such questions, but Richardson has very well expressed it when he said that using the resources of the sea to effect such a redistribution would be the least painful way of doing it, with least disruption. This is true but then the question is not one between laissez-faire and management. The redistribution can be done within both systems because if we opt for a managed regime it is basically because the situation is complicated and the laissez faire self-regulating system of international law will lead to disfunctional results. However, why do we have some states against this management system? It is also because of the question of redistribution and here it is the question of redistribution of power within the decision making process, within any regime which may come out.

Not necessarily all international regimes would serve the international interests. The important thing is within national constituencies, within national political systems,



Abi-Saab-3

there may be some groups who capture the decision-making process and then they can use it for their own interests, and this is why I think we will come back to the point of the beginning.

I completely agree with our chairman that dichotomy can be simplistic and may lead us to nowhere. What counts is the total effect, the total impact of the regulation, and this total impact, whether we have a managed system, a laissez-faire system, a wide national zone, all these formula can be used in certain combinations to serve their diversions internationally -- interests and outcomes -- and this is why we can deal with different aspects but we have always to keep in mind that we have to assess the impact when we put them together. I think this came out very clearly in relation to the biological aspect, the ecological aspect, but it is also true in relation to the political constructions of what we are trying to do.

I am sorry, I just put questions, I didn't bring any elements of an answer but we still have time to reach the answers.

XXXIX

PARDO-1

I was very much intrigued by Ambassador Richardson's question, and here again, I think something could be done. I don't know whether it would be procedurally acceptable or not but again I would come back to the idea put forward this morning by that the rapporteur general of the conference could be asked, should there be a further session of the conference, could be asked to prepare on his responsibility an analysis of the implications for international order of the major proposals before the conference, not from the national point of view, or from the point of view of Jamaica, but from the point of view of international order.

I said this morning that it might require a slight amendment on the rules of procedure. Actually, it doesn't require that, all it requires would be a request from the conference to the general rapporteur to prepare such a paper to be presented at the Third Session of the Conference, and then the General Rapporteur would have full authority of course to recruit his own team of people with, of course, the cooperation of the U.N. Secretariat but without necessarily drawing on the U.N. Secretariat. And this could be of help. The third session of the conference might have before it some papers of some value and which could bring out the implication of major trends.

XXXVIII

HAMBRO-1

... developing countries more than any other country for making nationalistic claims and I make it quite clear that .... all nations make ... I am not accusing any particular group and certainly not the development countries and I have understood their great necessity for doing it so I just want to make that clear once again.

We have heard a number of very interesting statements that make me reflect on a number of points in a different way. One thing I would like perhaps to try to point out is that from a theoretical point of view, let us say, which however has its importance too, I think it can be said that the extension, the mere extension of national claims, which of course is only part of the work that is being done at this conference, but it is an important one, but that the mere extension of national claims as such does not contribute to a change in the structure of international relations. The mere extension of national claims operates within the status quo. It's a change within the status quo, but it does not contribute to a structural change in international relations.

If we think that a new economic international order does indeed require a structural change in international relations, I think we have to draw the consequences of that. To my mind, the extension of national claims in ocean space, territorial claims, corresponds to one phase in economic reform, and that is land reform, distribution of territory, of land, of water, it doesn't make any difference.

Land reform is essential for economic reform but it is not enough if it is not accompanied by structural changes, it is not enough. I mean history has shown that in one country after another. Furthermore the "land reform" that we are dealing here with is of a peculiar nature because a lot of the beneficiaries are pretty big fellows. They don't need any more than they have. So while none of us here would think it realistic to try to oppose the economic zone, and I think we all can live with it, we think that it must be implemented by another part of the work of the conference. At the

Borgese-2

present moment it seems to me that we are falling short, and it is at that end that a real contribution to creating a new economic international order could be made.

SOHN-1

I think what you just said and what the previous speaker mentioned shows to a large extent to what we have succumbed to our own slogans. In the past we always said what's good for international law and relations I think like universality, equality, logic and tidiness, proper relationship between territorial sovereignty and functionalism, and suddenly with a vengeance we started applying those principles. We started by saying that if something is good for few countries, the western part of Latin America, it should be good for the world. We said therefore we should universalize any particular of our experiences. If something is good for a few countries, it should be done for everybody. That goes together of course with the other principle, namely the principle of equality. If Peru is entitled to a 200 mile territorial sea, why shouldn't Nigeria or Bangladesh be not entitled to the same?

Of course this brings me to the other point, namely there is supposed to be the logic of it all, again you want to have a logical system, a neat system, and whether the rule should be clear and applicable throughout the world <sup>to</sup> ~~for~~ the same problems. To point out part of it for instance, a principle developed for the purpose of dealing with fishing <sup>of</sup> problems off the coast of Latin America have then been applied without much thinking, simply for the logic of it, to the seabed resources as well. Again the great idea of the 50s and 60s was that more countries should acquire more territorial sovereignty, and if they acquired more territorial sovereignty over land, why should not we extend this to water instead of thinking on some different lines? The consequences are of course almost disastrous, as you just pointed out. As

SOHN-2

something  
a result of applying/that was devised for a few poor  
countries of a certain part of Latin America, the <sup>benefit</sup> ?  
<sup>one?</sup>  
wants to make it universal, mostly accrues to the big and  
rich fellows, a quality that operated the same way, operated  
great satisfaction of a relatively small group of states  
leaving many countries, <sup>the</sup> either don't have access to the oceans  
or very little access to the oceans or wrong kind of access  
to the oceans without practically anything though formal  
equality supposedly was applied, the same as the old joke  
that law is always equal because it permits both the rich  
man and the poor man to <sup>sleep</sup> ~~xxx~~ under a bridge.

Unfortunately this kind of logic we have been applying  
throughout here, trying to apply principles simply on universal,  
equality basis, logical basis, pure territorial sovereignty  
basis. I thought always that this didn't make much sense,  
and I remember even before this whole business started as  
far back as 1957, I read a book by an Italian professor  
Conforti on the regime of the oceans and he said that the  
only theory that makes sense in the oceans is functional,  
namely for each problem you have in the ocean, you should  
devise a special system of management. You should not be  
trying to solve it simply by extending territorial juris-  
diction of various <sup>kinds</sup> /, you should devise/a proper system.  
He was speaking long ago, before we even thought this, as  
was pointed out by Mr. Freymond at the beginning, before we  
thought about environmental and ecological problems, before  
we really knew about the resource problems of the ocean, <sup>he</sup> we  
<sup>was</sup> were still thinking about such primitive matters as fishing  
and how it doesn't make any sense, to establish boundaries  
which fish are supposed to observe.

Now with those other resources, we have of course the

SOHN-3

same amount of problems and again the boundaries of countries extended this way or that way don't make much sense. Nevertheless I think this conference has decided some time ago to go in that direction, and there is no way of stopping that particular juggernaut. We are going to have 200 mile economic zone whether we like it or not, whether in the long run it benefits a few states much more than any others. The only hope we have had and as was pointed out already this morning is that at least in the remaining area of the oceans, we might devise some kind of intelligent management system and a still much more unresolved part of this conference of course deals with that particular problem.

Are you going to have an international authority for area beyond national jurisdiction that would be able and willing to have an adequate management system for the benefit of mankind as a whole or whether it would go in one or the other of possible restrictive directions, namely for the benefit of just a few countries who have the technology, or for the benefit of a few countries that want to prevent any kind of management of the resources of the sea because that would be competition for their own land <sup>?</sup> production of the same resources, and I am still afraid that we are going to finish with the system in which we try to satisfy both and therefore have some kind of a compromise in which the authority would not be dominated primarily by those two groups. The countries with technology and the countries that want to protect their land <sup>?</sup> production and as a result we are going to build a stalemate in the whole system, and it's quite likely that it is not going to work too well for that very reason.



XXXIII

Brucan-1

I would like to make just one remark. I wanted to make it before it's a little belated. What I want to say is that a redistribution of resources, any redistribution of resources, carried out under the present power structure and present development gaps, will necessarily serve the powerful and the rich. This is why a new international economic order must be really new, really novel and that requires not only redistribution of wealth but also redistribution of power and last but not least of knowledge. Here I include theories, strategies, statistics, models, etc. It's an extremely important item in the whole process.

A recent French sociological investigation has revealed that the executive, the managers, the upper strata of the salaries, have the knowledge to earn always more money than they have salaries while the lower strata are always restricted to their wages exclusively. They don't know how to get more money. This is also valid in international society. Therefore the setting up of a new world order is a very long painful and protracted process that might take us to the end of the century because what we are talking about, if we mean it seriously is the passage of power from those who hold it now

(changed tape)

Ritchie-Calder-1

I should just like to follow up what Professor Sohn has been saying and to point out that we really are heading for a very serious situation. In point of fact, we have the derelevant which appears to be obvious now of countries getting, whatever the justifications, jurisdiction and control over their areas in which a great deal of living activity apart from anything else takes place in the shape of marine ecology, and at the same time having an international body which by apparent definition at the moment is conservant only with one aspect, would be, with the seabed itself. It will be perfectly clear to those of us who have been working on this for a long time that while we became conscious, like everybody, as has been pointed out, about the potentials of the sea in terms of the mineral resources, it didn't take very much thinking -- insight -- to see that this was untenable anyway, that it wasn't just a question of how you were going to distribute the potential material resources of the seabed but how you were in fact going to relate that to the ecosystem.

I don't want to elaborate -- the points have been very well made-- about what in fact we are talking about, which is the ultimate world system in relation to the new international order but also we really should be thinking about what in fact is going to happen -- one would keep on repeating -- what is going to happen to mankind itself. Now that always sounds terribly pious. And also it sounds a very long way away. As one said, you know, someone was making an appeal for posterity and somebody said, to hell with posterity, what has posterity done for us? And very few people in this situation now really think hard about what in fact, beyond the dividend, as it were, beyond what you are

Ritchie-Calder-2

trying to divide up at the moment, what in fact is going to happen. I want to be a real doomsday man because if things go the way they potentially are now -- we're not talking about 50 or 100 or 200 or 300 years -- we can see this happening almost immediately, that is to say, we will have potentially irreversible processes happening in the oceans which will overtake us within our own lifetime. The trouble with the doomsday man he always frightens people out of action because they feel helpless when they see it.

Well, one of those obvious things of the moment which is now coming up in the cult way as things do -- we've had the ecology, we've had the environment, and so on -- now we have the weather.

Now I don't want people to misunderstand. There is no question as far as I'm concerned that there are very powerful new factors that are occurring the weather system, climatology. Now this is not necessarily man made, although we can argue about many of the effects being man-made but I can assure you that in the mismanagement of the oceans, you will accelerate a process which will be totally catastrophic. At the moment it's clear that for instance in my own country in Britain and indeed in the United States, the growing season in the northern states of the United States, the growing season is now a fortnight to two weeks shorter than it was in 1945 for example. And that's not just a standstill, that's not something that's happened and won't happen again, it's going on. There's no question in my mind that the effects that what we've been talking about, the zahell, and what we've been talking about in terms of the variations, the fluctuations of the monsoons -- it affects all the peoples of Southeast Asia and indeed into China and so

Ritchie-Calder -3

forth, that these are not just a passing event, that there's not just an incident, that in point of fact, that it is a climatological effect which can indeed be accelerated. I'm not just talking about the old arguments of the dioxide effect, the carbon monoxide effect, and so on. The fact is that the oceans have a much bigger factor than perhaps even the distribution of dust and so on in the atmosphere. So what we're talking about here is a challenge which is involving the whole of mankind and I just want to say in relation to what you are discussing at the conference that if you do have restrictive practices, that is to say that if the countries accepting -- presumably they're going to -- the responsibilities of a 200 mile limit, the effect of closing these waters to investigation is going to be totally disastrous. We think, because everybody here has been listening for years now to all the marvellous things we are discovering about the sea bottom and the sea and so on that it is an infinitesimal fraction of what we don't know about the sea, an infinitesimal fraction. We just don't understand how the ecosystem works and it is of absolute of paramount importance that we discover how it works and that is the biggest factor that I know in science today.

That is to say that this understanding has a relationship in this case, as I was pointing out ~~the-first-plaee~~ to the climate of the ocean, of the oceans to the climate and so forth and also of course to the entire marine biological system, that very delicate web of life which we see in the oceans, and we don't know what happens when you cut off one part of that web. My concern, and some people here have heard me say it before, about the exploitation of the seabottom, is the fact that this would, for all intents and purposes, be open con mining of the seabottom, that

Ritchie-Calder-4

you would be creating a disturbance of the seabottom which would effect eventually the food layers of the sea. This is the difficulty.

You can say that that is possible but we don't know what the effects would be. That is to say don't do it and give arguments why you shouldn't because we've still got to find out what these arguments are. And therefore the insights we've got to get in the study of the oceans depend very much on what in fact is decided at the law of the sea conference because if we have a restraint or restriction or a suspicion a suspicion of the lawyers. In the developing countries, it's also their suspicion of the scientists because the scientists like the missionaries always went out and were followed by big boys, the soldiers and the tradesmen, traders, but the thing is this is an issue to me of critical importance in time, not just in alternates, in time, and if we don't get a managerial system of the ocean which will affect whatever may be the direct purpose of the international body in relation to the ocean beyond national jurisdiction, if that body doesn't also have some degree of access to the 200 mile and indeed to the territorial sea with the guarantees that one would expect an international authority to give against the exploitation which the developing countries fear or indeed give them the means of responsible exploitation. It always struck me as ironical in these discussions ~~that~~ we have the fact that the countries who are protecting their interests, the coastal states and so on simply see the possibilities of resources within the territorial waters of the economic zone being unwisely exploited.

But you can also wisely exploit these resources and the only way you can be sure it is done in wisdom is in fact if

Ritchie-Calder-5

you do it through an international body, the only way, because otherwise you have the thing we're rearing will happen, they will find their resources being exploited against their interests. They won't even in many cases -- this sounds very patronizing -- they won't even know it happened. The thing would be self evident need of the moment, expediency and so forth. So that we do need part of this strictly within out terms of reference today. If we're looking at the oceans in relation to a world order, we've got to look at the world order in which that is in relation, that is to say that we've got to see that the institutions that we create by default or by ignorance fail to creat or miscreate don't in fact offset any advantages which we are now seeing in the possibilities of a new international order.

.....debate on the law of the sea. They have not seemed to be really a part of this movement although of course many as individuals act as advisors to their government delegations. I have been trying to see exactly why this is, and I think it's because we have tended to look at the problem of the distribution of benefits from natural resources with emphasis on a different dimension from that which has come to be the flavor of the negotiations going on at least as far as we can judge those of us who are outside those negotiations but try to follow them from scraps of information that we get.

Ambassador Pardo's original proposals defined mankind or implied a definition which was not a one dimensional definition. The tendency now is to talk about mankind as only the present, and this is a flat definition. The scientists, many of them, especially those involved in ecological research, look to the definition of mankind as a solid not as a flat plane. That is we're interested in the distribution of benefits in time as well as in space. The element of time has dropped practically completely out of the discussions in the law of the sea conference.

We're here also to talk about the new economic order, and that, as I understand it, is concerned with the future, at least as much as with present redistribution. So we see talk of a new economic order in terms of the future and we see economic theory always concerned to discount future values. We see a very severe contradiction in these things.

Holt-2

I have just come here from a gathering of marine and other scientists and ecologists who have been trying to look again at this problem and we accept I think a good deal of the blame for some misunderstandings. I should say that some of the participants of the meeting from which I've just come were those who in fact drafted or otherwise participated in the formulation of definitions of conservation and objectives of management which are built into many international instruments at present including fishery commission conventions. Most of us are concerned specifically with the problems of renewable resources, of living resources, although perhaps some of the discussions we had are related to the problems of what we do about the non-renewable resources.

I should say first of all that I don't think any one of the people involved is blind to the fact that there is a need to redistribute resources and benefits geographically. This is not doubted and none of us would wish to have it implied that we are blind to the needs of the developing countries and of the poorer peoples. On the other hand, we are convinced that no discussion of the present alone can resolve the problem of redistribution in space, that the problem of the distribution of benefits of space and in time must be approached simultaneously. And it is perhaps to the extent that the law of the sea negotiations have retreated from the idea of mankind as existing now and the future to consideration of mankind only now that the difficulties of agreement have been sharpened and made much greater. Just to bring this down to concrete examples, I would like to mention two which have been discussed very much; one of them perhaps is a very



Holt-3

hackneyed example but I'm not going to approach it in the normal way. It's the problems of the whales of the Antarctic, and I can hear everyone saying, Oh, dear! The plight of the whales, the problem of the wicked Japanese and Russians who are still catching them and so on that we hear a lot about in newspapers. It so happens however that the problem of the treatment of Antarctic resources gives us some very good insight into what happens, or what can happen to renewable resources. To me the important thing about the fact that the whaling industry has practically made itself extinct is that this has happened in a situation in which there has been de facto allocation of that resource. Now no one has said that certain nations may have certain parts of it in geographical terms, but nevertheless in practice, that resource had been appropriated by technological means by a few nations. The resource has been managed through an international machinery. It has been managed purportedly according to some principles which are embodied in the 1958 convention on the high seas fisheries. As it happens the participants are mostly rich countries and even under allocation, even under management, the resource has been destroyed and the industry based on it is now practically finished. It is hanging on, but no one has any doubts that it will either cease completely or will continue at an extremely low level with a loss to the world of several million tons of food every year. Meanwhile the same nations, many of them are looking to other resources in the Antarctic which are seen as a large area, the richest area in the world for the potential of food production from the sea, and which looks as if it's falling through a hole of national jurisdictions.

Holt-4

Many of us are very much concerned about what will happen to that resource unless we can insure that we have principles of conservation and management which not only divide the spoils between the nations now but balance the benefits between us and us in the future. At present we seem to have practically no means to do this. We notice that the submissions on fisheries for example to the law of the sea conference almost without exception take over the definition of conservation which is embodied in the 1958 convention, and it seems to us that lawyers, politicians, and economists have taken for granted the state of knowledge and of science as it existed in the 1950's.

Things have change a great deal since that time. Since that time we've not only seen whales go, we've seen many other resources being not only overexploited in the classical sense but change irreversibly.

Another example is the anchoveta of Peru, the basis of what was once the world's greatest fishery. You probably know that two or three years ago, that collapsed completely. It may or may not recover. It will probably recover we expect, to some extent but we're not sure and we now have many examples of irreversible changes occurring in the sea as a result of exploitation -- I'm not even talking about pollution now but of simply the impact of new technology as the diversity and spread of that technology in the sea.

The anchoveta disappeared also under management and under management by a sole nation, and it disappeared because we played brinkmanship with the resource, we followed the principle of so-called full utilization, which is brinkmanship, the legal sense. We behaved like gods, thinking that

Holt-5

thinking that we could predict when we could not. This is the problem that Lord Ritchie Calder has mentioned. So as scientists, conscious not only of our ability to predict but also our weakness in doing so as far as world ecosystems are concerned, we believe strongly that we need new principles for using resource, not only so that we can balance the present against the future but so that we can insure there will not be irreversible changes, so that we can show that <sup>insure</sup> our descendents have some options open, that we leave them options for use of the resource.

The last point I would mention is that we've been very concerned, and perhaps this is relevant to the question of the totality of the world order, looking at it from the scientific side. We realized that we were purporting to be ecologists, we were saying that we must not look at, say, stocks of fish in the sea in isolation, we must relate these to the other things in the sea, we know that there are interactions, and the more our impact is, the more those interactions are significant, and then suddenly realize that in discussing the conservation of marine resources, we were not acting as ecologists because ecologists see the whole and not the part. It was necessary to have a regime and principles of management and use of marine resources which took account of other resources. That is to say we could not continue with the present/<sup>approach</sup> which gives us definitions of how we should treat marine resources but allows us to act in the so-called conservation in such a way that it wastes other limited resources.

Now I won't go into the details of this, but our present

Holt-6

principle, as embodied for example in the fishery commissions, actually to treat marine resources in a way which encourages the wasteful use of other resources which we all see now to be limited. It seemed to us therefore and we tried to produce some drafts although as Professor Louis Sohn said, there is a juggernaut, what can we do about it? It seems to be going too fast for us to get on at this stage, and we didn't want to be in the position of some of those who wish to opt out by saying stop the world, I want to get off..

We were not very optimistic about being able to get any input into the discussions. They seem to be going so far away from not only the original concept but from human needs. Nevertheless we did try to draft something which we hoped might get into the law of the sea articles, or whatever comes out of it, and I'm inclined to think that we could help if we could get some new principles established, look closely at these, bring the time scale back into the discussion, and perhaps we want an ombudsman as well to represent the future and not the present in the application of those principles.

XIII

Borgese-1

We have heard a number of very interesting statements that make me reflect on a number of points in a different way. One thing I would like perhaps to try to point out is that from a theoretical point of view, let us say, which however has its importance too, I think it can be said that the extension, the mere extension of national claims, which of course is only part of the work that is being done at this conference, but it is an important one, but that the mere extension of national claims as such does not contribute to a change in the structure of international relations. The mere extension of national claims operates within the status quo. It's a change within the status quo, but it does not contribute to a structural change in international relations.

If we think that a new economic international order does indeed require a structural change in international relations, I think we have to draw the consequences of that. To my mind, the extension of national claims in ocean space, territorial claims, corresponds to one phase in economic reform, and that is land reform, distribution of territory, of land, of water, it doesn't make any difference.

Land reform is essential for economic reform but it is not enough if it is not accompanied by structural changes, it is not enough. I mean history has shown that in one country after another. Furthermore the "land reform" that we are dealing here with is of a peculiar nature because a lot of the beneficiaries are pretty big fellows. They don't need any more than they have. So while none of us here would think it realistic to try to oppose the economic zone, and I think we all can live with it, we think that it must be implemented by another part of the work of the conference. At the

Borgese-2

present moment it seems to me that we are falling short, and it is at that end that a real contribution to creating a new economic international order could be made.

SOHN-1

I think what you just said and what the previous speaker mentioned shows to a large extent to what we have succumbed to our own slogans. In the past we always said what's good for international law and relations I think like universality, equality, logic and tidiness, proper relationship between territorial sovereignty and functionalism, and suddenly with a vengeance we started applying those principles. We started by saying that if something is good for few countries, the western part of Latin America, it should be good for the world. We said therefore we should universalize any particular of our experiences. If something is good for a few countries, it should be done for everybody. That goes together of course with the other principle, namely the principle of equality. If Peru is entitled to a 200 mile territorial sea, why shouldn't Nigeria or Bangladesh be not entitled to the same?

Of course this brings me to the other point, namely there is supposed to be the logic of it all, again you want to have a logical system, a neat system, and whether the rule should be clear and applicable throughout the world <sup>to</sup> ~~for~~ the same problems. To point out part of it for instance, a principle developed for the purpose of dealing with fishing <sup>cf</sup> problems off the coast of Latin America have then been applied without much thinking, simply for the logic of it, to the seabed resources as well. Again the great idea of the 50s and 60s was that more countries should acquire more territorial sovereignty, and if they acquired more territorial sovereignty over land, why should not we extend this to water instead of thinking on some different lines? The consequences are of course almost disastrous, as you just pointed out. As

something  
 a result of applying/that was devised for a few poor  
 countries of a certain part of Latin America, the <sup>benefit</sup> ?  
<sup>one?</sup>  
 wants to make it universal, mostly accrues to the big and  
 rich fellows, a quality that operated the same way, operated  
 great satisfaction of a relatively small group of states  
 leaving many countries, <sup>who</sup> either don't have access to the oceans  
 or very little access to the oceans or wrong kind of access  
 to the oceans without practically anything though formal <sup>a form of</sup>  
 equality supposedly was applied, the same as the old joke  
 that law is always equal because it permits both the rich  
 man and the poor man to <sup>sleep</sup> ~~xxx~~ under a bridge.

Unfortunately this kind of logic we have been applying  
 throughout here, trying to apply principles simply on universal,  
 equality basis, logical basis, pure territorial sovereignty  
 basis. I thought always that this didn't make much sense,  
 and I remember even before this whole business started as  
 far back as 1957, I read a book by an Italian professor  
 Conforti on the regime of the oceans and he said that the  
 only theory that makes sense in the oceans is functional,  
 namely for each problem you have in the ocean, you should  
 devise a special system of management. You should not be  
 trying to solve it simply by extending territorial juris-  
 diction of various <sup>kinds</sup> /, you should devise <sup>for each</sup> a proper system.  
 He was speaking long ago, before we even thought this, as  
 was pointed out by Mr. Freymond at the beginning, before we  
 thought about environmental and ecological problems, before  
 we really knew about the resource problems of the ocean, <sup>he</sup>  
<sup>was</sup>  
 were still thinking about such primitive matters as fishing  
 and how it doesn't make any sense, to establish boundaries  
 which fish are supposed to observe.

Now with those other resources, we have of course the



SOHN-3

same amount of problems and again the boundaries of countries extended this way or that way don't make much sense. Nevertheless I think this conference has decided some time ago to go in that direction, and there is no way of stopping that particular juggernaut. We are going to have 200 mile economic zone whether we like it or not, whether in the long run it benefits a few states much more than any others. The only hope we have had and as was pointed out already this morning is that at least in the remaining area of the oceans, we might devise some kind of intelligent management system and a still much more unresolved part of this conference of course deals with that particular problem.

Are you going to have an international authority for area beyond national jurisdiction that would be able and willing to have an adequate management system for the benefit of mankind as a whole or whether it would go in one or the other of possible restrictive directions, namely for the benefit of just a few countries who have the technology, or for the benefit of a few countries that want to prevent any kind of management of the resources of the sea because that would be competition for their own land production of the same resources, and I am still afraid that we are going to finish with the system in which we try to satisfy both and therefore have some kind of a compromise in which the authority would not be dominated primarily by those two groups. The countries with technology and the countries that want to protect their land production and as a result we are going to build a stalemate in the whole system, and it's quite likely that it is not going to work too well for that very reason.

Ritchie-Calder-1

I should just like to follow up what Professor Sohn has been saying and to point out that we really are heading for a very serious situation. In point of fact, we have the derelevant which appears to be obvious now of countries getting, whatever the justifications, jurisdiction and control over their areas in which a great deal of living activity apart from anything else takes place in the shape of marine ecology, and at the same time having an international body which by apparent definition at the moment is conservant only with one aspect, would be, with the seabed itself. It will be perfectly clear to those of us who have been working on this for a long time that while we became conscious, like everybody, as has been pointed out, about the potentials of the sea in terms of the mineral resources, it didn't take very much thinking -- insight -- to see that this was untenable anyway, that it wasn't just a question of how you were going to distribute the potential material resources of the seabed but how you were in fact going to relate that to the ecosystem.

I don't want to elaborate -- the points have been very well made-- about what in fact we are talking about, which is the ultimate world system in relation to the new international order but also we really should be thinking about what in fact is going to happen -- one would keep on repeating -- what is going to happen to mankind itself. Now that always sounds terribly pious. And also it sounds a very long way away. As one said, you know, someone was making an appeal for posterity and somebody said, to hell with posterity, what has posterity done for us? And very few people in this situation now really think hard about what in fact, beyond the dividend, as it were, beyond what you are

Ritchie-Calder-2

trying to divide up at the moment, what in fact is going to happen. I want to be a real doomsday man because if things go the way they potentially are now -- we're not talking about 50 or 100 or 200 or 300 years -- we can see this happening almost immediately, that is to say, we will have potentially irreversible processes happening in the oceans which will overtake us within our own lifetime. The trouble with the doomsday man he always frightens people out of action because they feel helpless when they see it.

Well, one of those obvious things of the moment which is now coming up in the cult way as things do -- we've had the ecology, we've had the environment, and so on -- now we have the weather.

Now I don't want people to misunderstand. There is no question as far as I'm concerned that there are very powerful new factors that are occurring the weather system, climatology. Now this is not necessarily man made, although we can argue about many of the effects being man-made but I can assure you that in the mismanagement of the oceans, you will accelerate a process which will be totally catastrophic. At the moment it's clear that for instance in my own country in Britain and indeed in the United States, the growing season in the northern states of the United States, the growing season is now a fortnight to two weeks shorter than it was in 1945 for example. And that's not just a standstill, that's not something that's happened and won't happen again, it's going on. There's no question in my mind that the effects that what we've been talking about, the <sup>?</sup>zahell, and what we've been talking about in terms of the variations, the fluctuations of the monsoons -- it affects all the peoples of Southeast Asia and indeed into China and so

forth, that these are not just a passing event, that there's not just an incident, that in point of fact, that it is a climatological effect which can indeed be accelerated. I'm not just talking about the old arguments of the dioxide effect, the carbon monoxide effect, and so on. The fact is that the oceans have a much bigger factor than perhaps even the distribution of dust and so on in the atmosphere. So what we're talking about here is a challenge which is involving the whole of mankind and I just want to say in relation to what you are discussing at the conference that if you do have restrictive practices, that is to say that if the countries accepting -- presumably they're going to -- the responsibilities of a 200 mile limit, the effect of closing these waters to investigation is going to be totally disastrous. We think, because everybody here has been listening for years now to all the marvellous things we are discovering about the sea bottom and the sea and so on that it is an infinitesimal fraction of what we don't know about the sea, an infinitesimal fraction. We just don't understand how the ecosystem works and it is of absolute of paramount importance that we discover how it works and that is the biggest factor that I know in science today. That is to say that this understanding has a relationship in this case, as I was pointing out ~~the-first-plaee~~ to the climate of the ocean, of the oceans to the climate and so forth and also of course to the entire marine biological system, that very delicate web of life which we see in the oceans, and we don't know what happens when you cut off one part of that web. My concern, and some people here have heard me say it before, about the exploitation of the seabottom, is the fact that this would, for all intents and purposes, be open mining of the seabottom, that

Ritchie-Calder-4

you would be creating a disturbance of the seabottom which would effect eventually the food layers of the sea. This is the difficulty.

You can say that that is possible but we don't know what the effects would be. That is to say don't do it and give arguments why you shouldn't because we've still got to find out what these arguments are. And therefore the insights we've got to get in the study of the oceans depend very much on what in fact is decided at the law of the sea conference because if we have a restraint or restriction or a suspicion a suspicion of the lawyers. In the developing countries, it's also their suspicion of the scientists because the scientists like the missionaries always went out and were followed by big boys, the soldiers and the tradesmen, traders, but the thing is this is an issue to me of critical importance in time, not just in alternates, in time, and if we don't get a managerial system of the ocean which will affect whatever may be the direct purpose of the international body in relation to the ocean beyond national jurisdiction, if that body doesn't also have some degree of access to the 200 mile and indeed to the territorial sea with the guarantees that one would expect an international authority to give against the exploitation which the developing countries fear or indeed give them the means of responsible exploitation. It always struck me as ironical in these discussions ~~that~~ we have the fact that the countries who are protecting their interests, the coastal states and so on simply see the possibilities of resources within the territorial waters of the economic zone being unwisely exploited.

But you can also wisely exploit these resources and the only way you can be sure it is done in wisdom is in fact if

Ritchie-Calder-5

you do it through an international body, the only way, because otherwise you have the thing we're rearing will happen, they will find their resources being exploited against their interests. They won't even in many cases -- this sounds very patronizing -- they won't even know it happened. The thing would be self evident need of the moment, expediency and so forth. So that we do need part of this strictly within out terms of reference today. If we're looking at the oceans in relation to a world order, we've got to look at the world order in which that is in relation, that is to say that we've got to see that the institutions that we create by default or by ignorance fail to creat or miscreate don't in fact offset any advantages which we are now seeing in the possibilities of a new international order.

.....debate on the law of the sea. They have not seemed to be really a part of this movement although of course many as individuals act as advisors to their government delegations. I have been trying to see exactly why this is, and I think it's because we have tended to look at the problem of the distribution of benefits from natural resources with emphasis on a different dimension from that which has come to be the flavor of the negotiations going on at least as far as we can judge those of us who are outside those negotiations but try to follow them from scraps of information that we get.

Ambassador Pardo's original proposals defined mankind or implied a definition which was not a one dimensional definition. The tendency now is to talk about mankind as only the present, and this is a flat definition. The scientists, many of them, especially those involved in ecological research, look to the definition of mankind as a solid not as a flat plane. That is we're interested in the distribution of benefits in time as well as in space. The element of time has dropped practically completely out of the discussions in the law of the sea conference.

We're here also to talk about the new economic order, and that, as I understand it, is concerned with the future, at least as much as with present redistribution. So we see talk of a new economic order in terms of the future and we see economic theory always concerned to discount future values. We see a very severe contradiction in these things.

Holt-2

I have just come here from a gathering of marine and other scientists and ecologists who have been trying to look again at this problem and we accept I think a good deal of the blame for some misunderstandings. I should say that some of the participants of the meeting from which I've just come were those who in fact drafted or otherwise participated in the formulation of definitions of conservation and objectives of management which are built into many international instruments at present including fishery commission conventions. Most of us are concerned specifically with the problems of renewable resources, of living resources, although perhaps some of the discussions we had are related to the problems of what we do about the non-renewable resources.

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Holt-3

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Holt-4

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Holt-5

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Holt-6

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We were not very optimistic about being able to get any input into the discussions. They seem to be going so far away from not only the original concept but from human needs. Nevertheless we did try to draft something which we hoped might get into the law of the sea articles, or whatever comes out of it, and I'm inclined to think that we could help if we could get some new principles established, look closely at these, bring the time scale back into the discussion, and perhaps we want an ombudsman as well to represent the future and not the present in the application of those principles.

Yankov-1

I do not know exactly, Madame Chairman, whether I am in order to return the question to Mr. Georges Abi-Saab about the redistribution aspect because it's very, very important in negotiation, especially on the economic zone aspect and those who, the proponents of the economic zone have been for quite a time speaking about redistribution. I would like now to place this question with respect to international order of the world's oceans, whether indeed a redistribution will take place. Look at the map. We have to see the United States, Canada, with all the resources and the opportunities they have, Australia, New Zealand, then the whole Mediterranean region. I don't see how redistribution of resources and wealth will take place for the majority of the African States and whether this, under the notion of redistribution in fact, as the final result would not be to reiterate a status quo not only now but also for the future for a very limited number of countries that already have a very advantageous position, geographically, economically, and technologically, and whether this redistribution aspect is not a claim under which only a few would be the beneficiaries but not justified beneficiaries. I am enough provocative or not?

*On*  
*Yakov, XII, Ah-Sand XII*

Thank you. I have been listening with great interest to our discussion up to now because unfortunately being taken up with the conference on humanitarian law, I have not been able to follow very thoroughly the work of this session on the law of the sea conference. What I jotted down is really a series of skeptical questions. I think I will put them although I think they may confuse us even more, but perhaps they will add to a more clear idea at the end.

*XVII, 1*  
*Varga:*  
*new concept*  
*of sovereignty*  
*Sohn, (29), 2*  
*Cost-benefit*

First of all, we have been discussing the link between the development of the law of the sea and the establishment of a new international economic order. We have been discussing this at two levels, some of the remarks have been presented as descriptive but in fact most of the remarks were on the normative level. How can we really use the law of the sea in order to help establish this new international economic order. Of course this is always a problem which is put in social sciences. It is much easier to determine the point of equilibrium than the path which can lead us to that point. In fact the vehicle we have now with us is a conference. It's a diplomatic conference with plenipotentiaries presenting states, and we are trying to see which ways and means this conference with this setup can lead to an internationally desired state of affairs. But we have to keep in mind that state representatives, however well-intentioned they are they proceed in the first place from conceived national interests and also in many cases from instructions, unfortunately, and the important thing is to find a kind of equation which could fit this situation, this state of affairs, with the output we want. In fact in this respect, the inter-

*analysis*  
*of economic*  
*law*  
*see*  
*Richards*  
*(35), 1*

Abi-Saab-2

national economic order can be an output of the conference. It is not an input in this conference. I don't think that we can answer our great question before the end of the conference, before we see what the conference will lead to, and then we can try to examine the total effect of this new both its substantive and institutional importance, and we can then say whether it takes us one step further to the new international economic order we want or one step away from it. I think that today we have heard interventions which could support both outcomes eventually. In fact, and in the last analysis, what is in question here is redistribution. Redistribution is always, or distributive justice, since Aristotle, has always been known as the essence of politics. It is very, very difficult to solve such questions, but Richardson has very well expressed it when he said that using the resources of the sea to effect such a redistribution would be the least painful way of doing it, with least disruption. This is true but then the question is not one between laissez-faire and management. The redistribution can be done within both systems because if we opt for a managed regime it is basically because the situation is complicated and the laissez faire self-regulating system of international law will lead to disfunctional results. However, why do we have some states against this management system? It is also because of the question of redistribution and here it is the question of redistribution of power within the decision making process, within any regime which may come out.

Not necessarily all international regimes would serve the international interests. The important thing is within national constituencies, within national political systems,

Abi-Saab-3

there may be some groups who capture the decision-making process and then they can use it for their own interests, and this is why I think we will come back to the point of the beginning.

I completely agree with our chairman that dichotomy can be simplistic and may lead us to nowhere. What counts is the total effect, the total impact of the regulation, and this total impact, whether we have a managed system, a laissez-faire system, a wide national zone, all these formula can be used in certain combinations to serve their diversions internationally -- interests and outcomes -- and this is why we can deal with different aspects but we have always to keep in mind that we have to assess the impact when we put them together. I think this came out very clearly in relation to the biological aspect, the ecological aspect, but it is also true in relation to the political constructions of what we are trying to do.

I am sorry, I just put questions, I didn't bring any elements of an answer but we still have time to reach the answers.



Yankov-1

I do not know exactly, Madame Chairman, whether I am in order to return the question to Mr. Georges Abi-Saab about the redistribution aspect because it's very, very important in negotiation, especially on the economic zone aspect and those who, the proponents of the economic zone have been for quite a time speaking about redistribution. I would like now to place this question with respect to international order of the world's oceans, whether indeed a redistribution will take place. Look at the map. We have to see the United States, Canada, with all the resources and the opportunities they have, Australia, New Zealand, then the whole Mediterranean region. I don't see how redistribution of resources and wealth will take place for the majority of the African States and whether this, under the notion of redistribution in fact, as the final result would not be to reiterate a status quo not only now but also for the future for a very limited number of countries that already have a very advantageous position, geographically, economically, and technologically, and whether this redistribution aspect is not a claim under which only a few would be the beneficiaries but not justified beneficiaries. I am enough provocative or not?

Abi-Saab-1

In fact I totally agree with Ambassador Yankov on that point. This is what I meant that we have to look at the total impact. Professor Sohn also mentioned today, this morning, that we have been generalizing specific solution which may have been useful in a certain context but may prove to be harmful in other contexts. I have been putting to myself the question of the cost benefit analysis let's say between a small economic zone, a strong international regime from the point of view of the third world on the one hand and a large economic zone, small international zone, whatever the powers of the regime in this case, it will make less difference, on the other hand, and I have to say that up to now I have seen only a priori assertions. I don't think the thing has been done in a complete way with cost benefit analysis but this brings me again to some extent to the question of redistribution within the decision making process. I think that many under-developed countries, many third world countries would feel more secure having wider jurisdiction because up to now and in most instances they have found that their participation in the decision-making where it comes has been nominally, whatever seats they are given. A very easy example of this is of course the whole issue of monetary reform. Those who are speaking of the recycling of petro dollars are not those who have the petro dollars. Some people are trying to tell them what to do without even associating them with the discussion, and the more the thing become technical, the more there are devices to keep them aside although they are being given seats and formal representation. I think this is one aspect. If you know this is under your jurisdiction, even if you cannot use it now, you know you can use it later,

Abi-Saab-2

*allowing of deals w/ "future" issues: G. Holt.*

and nobody can intervene there without being at fault while  
if you put your bets on an international regime without being  
sure how it will be managed, then really you are investing  
in international good will, and the history has not been,  
at least of those countries of the third world, has not  
been on their side, favorable to an interpretation based  
on good will.

So perhaps by seeking more security they are forsaking  
maximization of benefits, but here there is this element  
and perhaps there are people here who are more authorized to  
speak on that than myself.

I think I will remain within the subject by referring myself to what has been said previously about developing countries making excessive national claims.

The developing countries, in order to bridge the gap which we have said is widening so rapidly, to bridge the gap have only one hope, and that is to promote their development. Their development, they can promote it by different ways and we have tried to set, at least partly those ways, and they have been denied.. And we can say that when the Sixth Session of the U.N. was trying to draft the declaration of the program of action, the greatest national claims came from the richer nations. I would like to see that, this being said, not only of developing nations which are only trying to bring themselves up to a certain level which is hardly beyond survival.

What we are witnessing now is the richer trying to stay rich or getting richer. And this is part of the old order. So the developing nations have seen in this law of the sea conference an opportunity to remind the international community that they should be given the right to find ways and means to promote their development, ways and means to bridge the gap. So if in drafting any kind of legislation they will notice that this is only an attempt to have a carbon copy of the old order then they will be resisting whatever is being done. That's why perhaps the expected progress is not being made because this is not fully recognized. They have been trying to

their development by giving more value to their commodities. They are trying to fight inflation and they find themselves on a course that is completely opposite of what they want to achieve or what is desirable for them to achieve in order to emerge from their underdevelopment.

So if the law of the sea conference is going to put them in the same situation, I think they have every right to rebel against that kind of behavior.

Borgese-1

Before giving the floor to Ambassador Hambro, I would just like to summarize this discussion a little bit. It seems to me that what Ambassador Yankov has said indicates that there's at least a possibility that the mere adoption of an economic zone not accompanied by the simultaneous development of a management system for the international ocean space, that that indeed would be a carbon copy of the old order. That is the point that is being made because it would make a few nations richer and not do anything for a lot of nations which are poor. So this I think is a point that ought to be very seriously looked into, and in connection with that let us remember the whole history of the notion of an economic zone.

When Ambassador Pardo made the proposal for the sea-bed authority back in 1967, it was the smaller nations, it was the developing nations that responded enthusiastically and they responded with the expression, with the desire of seeing strong comprehensive international organization. It was the big nations that dragged their feet. It was the big nations then that came forward with the proposal for large extension of national space on the continental shelf. The American proposal which was very interesting and very forward-looking from many points of view whose author we have here with us, the main author, nevertheless was the first one to make extraordinary claims of national jurisdiction in the oceans and proposed what they called a trusteeship zone which if you look back to it retrospectively is in fact very similar with what now is the economic zone. The only difference is that the economic zone includes the <sup>economic zone includes the</sup> water column and is not <sup>to the sea bed.</sup> So it's the big nations that started the push on national

Borgese-3

expansion. Naturally, logically and defensively, the small nations, the weak nations followed suit and made their own claims. They had to. But then I find it sort of tragic that the big nations have succeeded in talking the small nations into believing that that's their thing. It's not their thing. Their thing was strong international organization. It was the big nations whose interest it was to expand their national claims and to leave a weak international regime. So the hope that the economic zone as such and as I say unaccompanied by structural changes in international relations will in fact contribute to redistribution of resources and of wealth and of know-how and of power. It may turn out to be illusion. That is my fear.

HAMBRO-1

As a matter of fact, Elisabeth produced quite a few things here I wanted to say myself, and I would still like to say a couple of things here. First of all, I believe both my friend Mr Yankov . . . . misunderstood what we said about national claim. Anyhow my point was and I think it was Mr. Yankov's point, it was not to criticize the developing nations for making claims but to make, to criticize all the nations for doing it, drawing the attention to the fact that we simply cannot make any advance in our world if every nation, whether it be a developing nation or rich nation . . . big or small nation, just concentrates on their <sup>own</sup> old claims. The only way they can make progress is that more and more statesmen and leaders in all nations try to think of the community of nations instead of thinking of the individual nations. It is an essential thing that we must realize.

And the other thing. I understand that the developing countries try to make a common front against the rich to get what they consider to be their due. I quite understand that and it's well possible that they wouldn't have got quite a few of these they have got/<sup>already</sup> if they hadn't that, but I <sup>venture to</sup> think-yea could say that one of the great dangers in international converences, in the whole international conference system of the world today is the increase in polarization and the greater and greater importance being attributed to groups. Instead of discussing matters seriously from nation to nations we say, now this must be taken to our group/<sup>and this must be taken to our group,</sup> and very often we have the feeling that . . . . .? that certain nations perhaps those who scream the loudest for their own interests carry the group with them. Then later on



Hambro-2

once the attitude of the group has been condensed into a <sup>convinced</sup> firm political issue, it's quite impossible to change it. Nobody dares to stand up against his own group because then he would be a traitor and it's very difficult to get that changed at all, and I've seen one conference after the other that the group system is really poisoning the atmosphere much more than is worthwhile.

I should like to add one more thing and that is that we ought to listen more to the scientists/<sup>here</sup> I think that what we have heard here from Lord Ritchie Calder and from Professor Holt is very important indeed. And then Ambassador Pardo took up the question of the seabed and the ocean floor. He did not speak as a man from a developing nation. He even stressed that he came from a small nation. He stressed the interest of the whole world community and he based it on the information given us by scientists and I venture to say that all the achievement and the advance that's been made in the field of environment has been made by scientists.

A very interesting experiment we are still living in this so-called <sup>of</sup> the Antarctic has all been done by scientists. The scientists have pushed the statesmen to realize the great scientific and environmental importance of the Arctic continent. If we left it to diplomats alone we would never have got anywhere at all. I think that diplomats could do much more in collaboration with scientists than they are doing.

To go back to my old friend Arvid Pardo, because he told me something very important. Many years ago in the United Nations he told me I've got a very small allotment for buying

Hambro+3

literature in my mission. I don't buy international law reviews. I buy scientific journals. That's the way I learn which problems are going to be important in the future, that the only way an ambassador can think of the next session or the next generation. When even ambassadors can manage to get the kind of wisdom that Mr. Holt has shown us here today in his intervention.

XXVII

Vargas-1

I would like to mention that I agree with both the Madame Chairman and the previous speaker in the sense that there are many new elements here and also the importance of science and technology of course. I would like to make three points, namely number one that this expansion of nationalism which is attributed to the developing nations at this moment constitutes only a part of the historical process in the sense that developing nations are behaving exactly in the same way as developed nations did many years ago.

The second point would be that we need a new concept of sovereignty in order to reach long-term goals in our world community.

The third point would be to think about the elements, the precise elements which are to be considered for the content of this new definition of sovereignty.

Furthermore I would like to say that one of the strategies we could follow here would be not to blame any particular part of the world because of the course of action it has adopted, or if you want to put it in clearer terms, not to suggest that it is to blame the developing countries because of this extensive so-called sovereignty or nationality of national claim. I think we should keep in mind that for me, as it was suggested before, this constitutes only the response of developing countries in order to attempt to reach a higher level of development in the so-called redistribution of wealth in this world.

However, I have a very serious problem here. Unless

Vargas-2

we are able to determine the new philosophy for the future we won't be able to succeed in establishing such a goal. What I'm saying is that all this that we hear at this moment about extensive claims, about the polarization of the interests of the countries, and about the emphasis in terms of sovereignty, in my mind constitutes the effect of not having into account three very clear elements.

Number one, what we are doing when we talk about the oceans, we are simply talking about a part of this global process. What is happening in the oceans is only the result of what is happening among nations. So we should have a larger scope in considering our approaches. The second element is that many of the situations are the product of historical roots and therefore you have some mental pattern that you follow systemically<sup>at</sup>, including scientists, not even recognizing the importance that science and technology have for the future, I would say that also scientists are manipulated within this type of approach, and this would be perhaps one of the limiting elements in giving scientists a more important voice in the formulation of political decisions.

Therefore I think the processes that one could envision for the future would be to emphasize three very specific kind of elements which could be enlightenment or respect or solidarity. What I would like to say is that all this process is a process which is centering upon the distribution of wealth, the result of ideas of capitalism, material goods, consumerism, and therefore redistribution. I think this constitutes the most limiting factor in this approach. Why? Because I consider that unless we establish a new value system

Vargas-3

which is going to be taking into account elements such as enlightenment for all countries, respect for all countries with a new concept of sovereignty and the importance of solidarity as a whole and we incorporate all these elements in this new value system, if we don't do this, we won't be able to reach the positive goals we have as a whole. This is why we have at this moment the problems that we are facing now. Everybody is talking about these functional approaches and the concept of sovereignty as related to the utilization of the <sup>natural</sup> national, whether they are upon the continent or in the oceans, or even if they were in the space, in the outer space, the same situation would apply.

We talk about the emphasis of sovereignty because we are again involved in this historical process. However, not many people talk about the elements that we should include in a new definition of this functional approach of sovereignty or to put it in more general terms, about the new value system that we should develop through science and technology for the dissemination of ideas and through the enlightenment and the appropriate consideration of respect among nations and the impetus that we should give to solidarity as a result of this new structure. In the same way that I say that this is a historical process when we talk about this extensive national claims, I would also submit that if we talk in terms of regional groups, this is again because we have the same old approach, because the developed countries in the past have been forming these fractional groups and all of them having, establishing this system. However, unless we

Vargas-4

develop a new system whereby the ideas are going to be exposed in a different way and I think regional approaches constitute at this moment one of the strategies for that, we again will continue to have these kinds of problems.

So for me in the articulation of this precise element for the new concept of sovereignty I would like to include elements such as the interaction that we have at this moment among nations which has to be taken into account in order to avoid these very nationalistic claims which are more artificial than real. Number two, the progress of science and technology and the incorporation of these values into our activities in the international forums and number three, the value system taking into account the element that I mention about enlightenment, respect and solidarity.

XXVIII

Borgese-1

I'd just like to return to one of the points that you made because I think it has very particular interest. You state that the developing nations today are in a way recapitulating the national postures or claims that older nations, the developed nations have gone through at a previous period. I think that is a statement that should be examined, should be discussed because is it really possible to recapitulate history or the historic postures of other nations and other times. Can nationalism today be what it was in the 19th century? It seems to me that the nationalism of the new nations is completely different from the nationalism of the older nations. The nationalism of the older nations was a nationalism of conquest. The nationalism of the newer nations is a nationalism of liberation which is diametrically from the older one. I think furthermore that in a world of science and technology, an interdependence is created by these factors. Nationalism just simply cannot be the same that it was in the 19th century, and I think that that has consequences.

XXIX

SOHN-1

I have been challenged by this historical approach and I agree more with Mr. Vargas than with Madame Borgese because the whole development of the law of the sea was always the challenge to the status quo by new nations. You remember the first oldness of the oceans was, in a way Spain and Portugal, and little Britain at that time started challenging and the Netherlands. Then the British became too powerful and the Netherlands started challenging the British. Then later the basic issue that the United States had with the major powers throughout the 19th century even to the first world war was the issue of the big powers trying to monopolize the sea and their use against small countries like at that time the United States, and it's only lately that in fact only after the second world war that suddenly the United States discovered it was one of the leaders of the status quo rather than the challenger to the old system. So this is quite a <sup>novel</sup> noble position really for the United States to take if you look at its 200 years of history. Second point I think I would like to deal with is the question that was raised about the crucial question of this afternoon, relationship between the new international economic order and the law of the sea and here I think Mr. Abi Saab has presented the crucial points. Why in this whole enterprise over the last eight years we really did not make a proper balance of profits and losses of the various approaches. People presented various things in terms of geographical areas and so on pointing out, as Ambassador Pardo has pointed out, how much area is to be taken by states as distinguished by international authority, but really nobody has presented very clearly, and I suppose it was not in the interest of



Sohn--2

the developed nations to do it, to show that the point that was made already this afternoon, any way you slice the cake, if you slice it for the benefit of the coastal states, the major developed nations are going to get the biggest chunk of it, whether in terms of just territory, because they have large coastlines, like the United States, Canada, the Soviet Union, Australia, or in terms of resources because most of the resources again happen to be, whether you talk about the fishing resources or the mineral resources in the shelves and the areas that would come under the sovereignty of the major developed countries. Of course there are some developing countries that are benefitting, say Nigeria, Indonesia, a few others but there are very few of them really compared to the majority of 104 developing nations. But here again this group mystic comes in because Argentina is going to benefit from the broad shelf, therefore, all the Latin Americans, regardless of the fact that they benefit from it, go behind them. If one or two African countries benefit from an economic zone, all the other African countries are behind them and so it goes, and we have seen that also from the point of view of some producers of mineral materials that are involved here. If two or three of them might suffer, the fact that the remaining 100 are consumers rather than producers and are going to benefit from lower prices rather than lose from them, nevertheless the 100 are behind the 3 rather than thinking of their own interests. It has become, to a large extent really, an ideological or almost as if class war, you might say or class dispute between the various groups of states rather than one based simply on cold mathematical economic calculations

Sohn-3

Therefore it seems to me a great mistake to say that what the developing countries want to get out of the law of the sea conference and what they are likely to get out of it is going to be really going in the same direction as the new economic order. It might in fact go in the opposite direction, but again somehow the people are in charge of the one and people are not in charge of the other. As very often happens in my own government, one department does something that the other department does something else, even in the same state department which has two different divisions going into different directions and I am afraid it happens to other countries too and I think this is one of the crucial points here that really the tactics and the goals, and even more goals than tactics of the developing country in this area trying to get the best economic international order, the best distribution of resources, completely deny what they are doing really in the law of the sea area. Only superficially it looks the same, but if you simply look at the facts and data and the economics of it, I think you would discover contrary. I remember very early in the game, must have been in 68 or 69, I talked with one of the leaders of the Latin American groups who happens to have a long shoreline, very small coastal shelf, no resources in the shelf or beyond as far as the seabed is concerned, but nevertheless he was a great leader of the movement for a broad national jurisdiction of 200 miles, regardless of the fact that in private he would tell me very clearly that his own foreign office had made the necessary statistic and discovered that however you calculate, they are going to lose economically a lot on it. Still, one

Sohn-4

of the things and therefore I think sometimes trying to emphasize here as we have been doing during this morning and . afternoon session that somehow those two things are supposed to coincide. It might be the wrong assumption.

From all the last speakers, one would assume that there is a feeling here that the economic zone as such is not necessarily a contribution to the new economic order. The economic zone has certain merits, it has certain defects, whichever way you look at it. It is not by itself a contribution to the new international economic order. Then one asks what is it that we are doing here? Where is the potential? Where can we make a contribution to the new international order? Is it in the area of creating a seabed authority? Now there we might look from a purely economic point of view, we might look from an institutional point of view. I think Professor LaQue has prepared some figures, looking at the problem from an economic point of view. Maybe this is the moment to bring them in.

LaQue-1

I am providing as a possible contribution to the purely economic aspects of what we are discussing, what I choose to call a concrete example to indicate the order of magnitude of the economics that will be involved with the exploitation of deep sea mineral resources beyond the boundaries of an economic zone, however these boundaries may be established. For the basis of my discussion I am making some assertions which I hope you will accept for the purpose of the discussion but which you may feel free to reject in assessing the conclusions that I am reaching. These basic assertions are first that when the boundaries of the economic zone have been established, there will still be left some area capable of being administered by some international authority with respect to the mineral resources. The other assertion is that there will not be any significant exploitation of oil beyond the economic zone, not because it may not be technically feasible to produce oil from great depths. I think it has already been established oil can be produced from a depth of 1000 meters. However, the cost increases more than proportionately with the depth of the operation, and in view of the fact that there are tremendous areas within the present continental shelf and the proposed economic zone that have not yet been even smally explored. It seems safe to assume that it will be a long time before it becomes profitable to go to depths beyond those within the economic zone and the continental shelves for the exploitation of ore. So this then brings us only to the hard minerals, mainly nickel, copper and cobalt, existing in the manganese nodules, which exist, and no doubt, in confidence, will be exploited first

LaQue-2

beyond the economic zone and will be subject to some appropriate international regulation.

I have been rather closely connected with developments in this field for the past 10 years, and I think I have some factual basis for the predictions I am about to make. These are that substantial exploitation is not likely to occur before about 1982. At about that time and for the next few years, the extent of the operations will contribute not more than an additional 10 percent to the world production of nickel and along with it the amount of copper that will go along with it which will roughly be about three quarters the production of nickel. I calculated the value of the product of the operations that are likely to be in existence at that time, which will not be more than three or four, yielding a total value of production of production in terms of 1975 dollars of about 500 million dollars. Of this 500 million, the value at the point of recovery, that is at the surface of the sea before the metals have been transported to shore for refining and so forth will be about one third that, giving us a value of the international value of about 150 million dollars. From this I reach the conclusion that the exploitation of deep sea minerals cannot in the next ten years or more be expected to have any tremendous effect on the new economy. The advantage of this perhaps more meager economic effect than perhaps has been anticipated is that as you have noted in many other fields in which you have been negotiating, it is generally easier to deal with the distribution of small wealth than to deal with the distribution of a tremendous wealth, and consequently it may be advantageous in the long run to be able to deal with the matter at this

level than at a much larger level. If I were talking about 150 billion dollars which we had to become concerned with how best to deal with, the problem would be I think much more difficult. On the other hand, there is always the risk that however we decide to deal with the thing in the first instance may result in an approach not appropriate to the long range needs. I am firmly convinced that at some time the deep ocean sources will be the major sources upon which the world will depend for these metals.

I want to make the distinction between the short range situation and the long range needs, and all I'm suggesting is that in approaching the short range problem we don't unduly prejudice the solution of the long range one.

There's one more detail. I've been in a lot of discussions with the sharing of the wealth if you like from these deep sea minerals with the world community, and the debates have not been devoted to whether or not the wealth should be shared with the international community, but rather the mechanism by which the sharing will be accomplished, whether it is through license fees, whether it is through a sharing of the profits, which I'm inclined to favor, rather than some other approach. But there's never been any rejection by the people who are thinking about exploiting these minerals that they were not willing to recognize and find some appropriate means to accomplish the sharing.

XXXII

Abi-Saab

How did you define the deep sea zone?

LaQue

How did I define it?

Abi-Saab

Yes because you said beyond national jurisdiction but

LaQue

No I said beyond the limits .... I didn't use the words national jurisdiction at any time that I can recall. I wasn't sure how the limits of the economic zones were going to be established but I assume for the purpose of my discussion wherever they were established <sup>there</sup> they would still be a place left in which the international authority would have control over these minerals.

Abi Saab

Yes but .....

LaQue

Well, all right, I will assume for purposes of discussion if you like that what I'm taking about is a location 10 degrees north or south of the equator and longitude 140 to 160. Does this answer yo r question?



XXXIII

Brucan-1

I would like to make just one remark. I wanted to make it before it's a little belated. What I want to say is that a redistribution of resources, any redistribution of resources, carried out under the present power structure and present development gaps, will necessarily serve the powerful and the rich. This is why a new international economic order must be really new, really novel and that requires not only redistribution of wealth but also redistribution of power and last but not least of knowledge. Here I include theories, strategies, statistics, models, etc. It's an extremely important item in the whole process.

A recent French sociological investigation has revealed that the executive, the managers, the upper strata of the salaries, have the knowledge to earn always more money than they have salaries while the lower strata are always restricted to their wages exclusively. They don't know how to get more money. This is also valid in international society. Therefore the setting up of a new world order is a very long painful and protracted process that might take us to the end of the century because what we are talking about, if we mean it seriously is the passage of power from those who hold it now

(changed tape)

XXXVII

RICHARDSON-1

There is no real disagreement between the Ambassador and myself nor have you misunderstood me. We have no doubt, sir, that a properly managed international regime would benefit poorer, smaller countries better than they can benefit themselves by extending their national jurisdiction. Unfortunately this is not generally accepted by these states, and this is the reason why I am raising the question whether now the negotiator, the diplomats have discussion so far, could scientists and technicians be given another try at bringing some of these analyses, realities, discussions, legal requirements, economic facts to attention before we resume, it's an educational process that I am thinking of, not that we disagree.

II

Borgese

Thank you very very much, Professor Freymond, for this introduction. You could not have introduced the topic in a better way and there is not much that I should add. What I would like to stress from the outset is that this is a very, very informal gathering. We want everybody to participate in the discussion.

One technicality -- the discussion is being recorded and therefore you should be patient enough to speak into the microphone which will be taken around as requested.

We have lured you away on a beautiful sunny day from the austere building across the road because that we might make a contribution to the conference, not by going deeper into details into which you have already gone and indeed are going very deeply. Some of us have the feeling that there are too many details being gone into too deeply and that that explains the slowness of the progress.

We would like to distract you a little bit today by trying to look at the great problem of remaking the international order in the oceans as just one part of the big ongoing process of remaking the international order in the world as a whole. As a point of reference for this kind of investigation, we have chosen the Sixth Special Assembly of the General Assembly and the efforts of UNCTAD and the Charter of economic rights and duties of states. These documents seem to us to demonstrate in a most concrete way that what we are facing today is indeed a revolution international relations.

BORGESE-2

The question we would like to ask ourselves here is how far does the Conference on the Law of the Sea really contribute to this general movement, and how far is it really a part of it? How far does it even anticipate some institutional solutions that must be found for the big problems raised by this revolution, and where does it fall short of living up to these expectations? Where is there perhaps a danger that we fall back in just changes within the status quo instead of using this fantastic occasion for which many of us have worked for many years now of really creating a model for a type of international order and international organization.

So we would like to see the Conference on the Law of the Sea in this wider context. What are the problems that we have to deal with here at the Conference which are, let us say, generalizable. Professor Freymond has indicated some of them and there may be some that can be added. Just to give two examples, it seems to me that if we are faced here with the task of creating a new regime, let's say, for scientific research on the international level, if we find a solution for that in the oceans, that will have many applications in other areas as well. Here we can do a pioneering job. The same applies perhaps to disarmament. The conference here does not deal with questions of disarmament. However, all of us know that whatever decisions are being made by the Second Committee and by the First Committee will indeed have an impact on freedom of military operations and so on. Whatever we discover in that area again may have applications in other fields of international organization.

Borgese-3

I think having put the conference into this wider framework I would like at this moment to stop here and perhaps ask Professor Van Ettinger to say a few words about the big project he is helping to direct on the economic international order in general and to this bigger study we fit this one as a sub-element. Then, after we have set the perimeters, let us say, like this, we would like to open it to discussion.

III

VAN ETTINGER-1

Not for publication

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please correct

for our records only.

Thank you very much, Mrs. Mann Borgese. I am a little hesitant to take the floor and I would like to quote what Professor Hans Linnemann said in Berlin when he had to substitute for Jan Tinbergen. He realized at that moment that <sup>one</sup> a substitute is sometimes very poor for a very scarce resource. <sup>can be</sup> In addition to being a rather poor substitute for a man like Jan Tinbergen, I would like to bring to your attention that I am a jack of all trades and a master of none. I am not a politician, I am not a scientist, and I could hardly be considered a manager, so, please, whatever I have to say on the project "Reviewing the International Order" see <sup>it</sup> ~~that~~ in that perspective.

The idea, or the initiative, for this project was taken by Dr. Aurelio Peccei, chairman of the Club of Rome, as a response to what happened in the Sixth Special Session of the General Assembly where, as all of you know, a declaration and a program of action <sup>on the New International Economic Order</sup> were adopted, ~~but~~ I think that most of us will agree that both that declaration and the program of action leave still ~~open~~ quite some vagueness as to what the new international order realistically can and should be. This project has been set up to try to contribute to answering that question.

~~The basic, or~~ <sup>A</sup> number of basic ideas of this project are the following: First of all, Mr. Jan Tinbergen acts as the intellectual coordinator and has secured himself of the help of some 20 experts from the First, Second, and Third ~~parts~~ of ~~the~~ World, experts in different fields. <sup>First</sup> of all, into the question how existing scientific knowledge can be translated

VAN ETTINGER-2

into workable proposals, perhaps by working with the so-called technique of package deals. Then experts in the field of international monetary system, in the field of development finance and international income distribution, in the field of trade policies and division of labor, in the field of food prospects and emergency measures, in the field of ocean management, in the field of multi-national enterprises, in the field of science and technology, and in the field of energy and other mineral resources.

In contra-distinction to the two previous reports to the Club of Rome, the one of Meadows and the one of ~~Pestel/~~ Mesarovic, <sup>Pestel</sup> this particular project does not make an attempt to add new scientific ideas to those we do already have. It does not intend to go into questions of <sup>devising</sup> world models, ~~whether they are disaggregated or not~~, but it rather attempts to draw upon readily available knowledge and the translation of this into concrete workable proposals.

The report this group intends to make will consist of two main parts, part number one going into the general principles which could or should underlie the new international order, or you may say the architecture, if that is not too presumptuous <sup>(a word)</sup> of ~~the new international order~~, <sup>the</sup> and a second part will contain concrete, workable proposals which will hopefully be put in two ways. One <sup>set</sup> is a ~~range~~ of alternatives ranging from the most acceptable ~~to date~~ <sup>today</sup> to perhaps the technical best solution but therewith least acceptable today, and, <sup>@</sup> at the other hand, trying to combine these alternatives into certain time perspective.

VAN ETTINGER-3

~~Maybe I should say just a little more on ocean management.~~

Any of you who would be interested to have a brief statement on this project I have that with me and it gives you more or less the essentials as I told them to you now.

~~The question of ocean management,~~ I think this project is in three ways interested in the question of ocean management. One is that maybe the biggest threats to mankind and its survival will come from the oceans. A second point is that the oceans have the potential, if in an international way we would come to the management of its resources, to considerably contribute to questions of international redistribution of ~~wealth,~~ income, power, <sup>and</sup> knowledge, ~~and other important aspects.~~ The third point is, ~~as you have already mentioned,~~ <sup>that those</sup> the group working on ocean management <sup>are</sup> ~~is~~ perhaps most advanced in the question of ~~the~~ architecture, in the question of general principles underlying new or reshaped international authorities which we need to manage the new order.

A final point I should say is the following. First of all, this project attempts to contribute to the dialogue rather than to produce a solution. It cannot be realistically expected, even if you work with a group of 20 outstanding experts <sup>from</sup> all over the world, that in this very complicated and complex set of questions you can give ~~a~~ solutions in one and a half year, and it would even be unwise to pretend this. So it attempts to contribute to the dialogue and tries to do so by being completely openminded. Next to 20 experts we have on our list <sup>more than 50</sup> ~~some 50,~~ nearly 75 now, individuals and institutes who are working on issues which are related to the new international order, ~~and~~ <sup>and</sup> they are sent all our documents in the process of our project, and they are asked to comment upon them,



VAN ETTINGER-4

to send in their papers, <sup>or</sup> ~~to send in their work, to send in~~ their ideas.

What up to now has been most interesting to me as an outsider, <sup>is the following...</sup> ~~At~~ first I thought that relatively little work was being done in the world on these important issues, but I have increasingly found out that an enormous amount of work is <sup>carried out</sup> ~~done~~ <sup>however,</sup> ~~but that~~ there is apparently quite a lack in communication channels between all those who are involved in the <sup>work</sup> ~~work~~, which sometimes leads to duplications of effort, sometimes even leads to contradictions among <sup>st</sup> scientists which does not make the life of even <sup>well</sup> ~~willing~~ politicians easy to come to ~~these~~ decisions.

<sup>Since</sup> ~~What~~ <sup>we</sup> are trying through this project <sup>to</sup> ~~in~~ contributing to this <sup>dialogue</sup> ~~dialogue~~, <sup>we</sup> ~~to~~ look for ways how this dialogue after this project has been finished, <sup>which will be by the end of</sup> ~~which will be by the end of~~ March next year according to time schedule, <sup>how this dialogue</sup> ~~how this dialogue~~ can be maintained, <sup>and</sup> ~~can be~~ widened, <sup>and</sup> ~~can be~~ deepened, because <sup>we</sup> ~~we~~ are fully aware that it will need all our efforts up to the year 2000 and after that to come anywhere near to what we so easily call the New International Order.

IV

Borgese-1

Thank you very much.

I think that the best way to proceed now would be to ask perhaps some of the people who have thought most about these problems who are here in this group to tell us quite frankly and informally how they think what is going on now at the conference does indeed contribute to this big change in the international order and where we think the shortcomings are and where we think the things could be improved while we are here or while we are working toward the next session of this conference.

Anybody ready to speak?

VI

BORGESSE -1

If we could hear from one of the developing nations, one of the representatives of the developing nations, who are most imminently interested in creating a new international order and in the question of what this conference can contribute to it.

VII

Ambassador Boudjakdji-1

I hesitate before taking the floor, having not participated in the Conference on the Law of the Sea and perhaps many things do escape my understanding. However, I was struck by what has been said, first by Professor Freymond, that the law of the sea and what is going to derive from it should not be interested only to lawyers. We have to recognize the fact, and this is perhaps something oversimplistic to say, we have to reconcile the political situation and the requirements of international law.

I noted that Mr. Van Ettinger has referred to the declaration and the program of action resulting from the Sixth Special Session, and he mentioned the fact that they contained a good measure of vagueness, perhaps many loopholes, and also that certain things didn't appear to be realistic. Well, we should recognize that this vagueness and whatever loophole has taken place comes from the fact that there was a very high resistance fitting the demand of the Third World with regard to their independence, economic independence, their national sovereignty over their resources to mention only the most basic ones and also we have been told that whatever we proposed was not realistic. Of course this stems from the fact that there are so many interests, and very very high interests at stake, and as long as there will be no will to reconcile those interests with the most basic interests of the Third World, we will not have any more progress.

If the Conference at any time will come to accept the fact that the benefit for mankind as has been said by previous speaker should be the main objective, then perhaps we will

BOUDJAKDJI-2

be having a huge exercise in futility. So we have to, or rather the conference, those who participate, those who are negotiating, make more room for very frank and realistic political analysis. If it is done, and if there is a will to do so, then there will be an opening for better results and perhaps faster results.

VIII

RICHARDSON-1

p.3

Not for publications

please correct

for our records only

Thank you.

I too must explain at the outset that I have not been taking part in the discussions in the conference and therefore I am not speaking from first-hand information about the progress or lack of progress achieved so far in the attempts and failures to negotiate. But it seems to me that at a seminar such as this, it would not be out of place to draw attention to our view of the fundamental difficulty which confronts those who are taking part in the variety of conferences, meetings under United Nations auspices which have been initiated since the move that came to a head in the Sixth Special Session.

I am speaking now about economic relationships primarily. Before the Sixth Special session, most of the representatives of the developing nations in each forum that presented the opportunity talked about the widening gap between living standards of the advanced nations and the developing nations respectively. We expressed the problem somewhat inadequately in terms of worsening terms of trade and so on. But basically, it seems to us that the representatives of the advanced nations heard what we were saying but had not committed themselves to the implications.

I remember a particular address in the General Assembly by a representative of a developing state that was addressed to the representatives of the advanced countries. The subject, or the theme, was, "Why don't you be frank to your own people?" "Why do you keep letting them believe that they can narrow the gap in living standards and still have their rates of growth unchanged and still have their profits and levels of profits

RICHARDSON-2

on investments unchanged and so on?" "Why don't you say honestly that if they are to give the kind of redistribution which the developing countries are demanding, then they can't have a continuation of the rates of growth they have seen over the early portion of this century, and perhaps earlier?"

So, Madame Chairman, I am asking, speaking as it were from the point of view of a developing country, what it is that can be done to bring the representatives of the major nations in the world of ocean exploitation and use -- we are speaking of the great trading nations, the great maritime nations, the great military nations -- what can be done in this kind of environment to place the representatives of those countries in a position to negotiate. We heard in another place yesterday that there is no will to negotiate in the conference. I wish to say that even if there were a will to negotiate, the negotiations would still fall far short of the new order we have in mind unless there is not a willingness merely to compromise but a general recognition the extent of the compromise that is likely to be needed.

My Prime Minister put it this way and I am now speaking as a Jamaican. My Prime Minister put it this way in another forum: If you, the developed nations, have done what you set out to do at the beginning of the First and the Second Development decades, there would be no significant change in the rate at which the gap widens. Yet you would have satisfied yourselves that you have done all that you have set out to do and you would have sanctified the widening gap. So I wondered whether in the case of the Law of the Sea Conference there is

RICHARDSON-3

not merely this lack of a will to negotiate but a failure to recognize that to handover to international common heritage control the potential resources of the oceans is one of the most painless ways of contributing to that redistribution of resources which all the experts in psychology, population development and social science which all of them believe is necessary if this world community is to survive.

I don't know whether Professor Tinbergen's project is going to have this kind of influence on the thinking of the Law of the Sea Conference, but I stress again, it is not merely the will to negotiate but a clear understanding of the extent of the compromise and the surrender of potential gain which is going to be required and that the new regime in its economic aspects for the oceans can make a very substantial contribution to that redistribution.



XXXIII

Brucan-1

172-415  
Holt (43), 1 economic zone  
advantages to K-14

I would like to make just one remark. I wanted to make it before it's a little belated. What I want to say is that a redistribution of resources, any redistribution of resources, carried out under the present power structure and present development gaps, will necessarily serve the powerful and the rich. This is why a new international economic order must be really new, really novel and that requires not only redistribution of wealth but also redistribution of power and last but not least of knowledge. Here I include theories, strategies, statistics, models, etc. It's an extremely important item in the whole process.

A recent French sociological investigation has revealed that the executive, the managers, the upper strata of the salaries, have the knowledge to earn always more money than they have salaries while the lower strata are always restricted to their wages exclusively. They don't know how to get more money. This is also valid in international society. Therefore the setting up of a new world order is a very long painful and protracted process that might take us to the end of the century because what we are talking about, if we mean it seriously is the passage of power from those who hold it now

(changed tape)

XXXIV

Borgese-1 (changed tape)

.... implications of the seabed authority. According to him  
these implications are rather small .... However,

....

.... (unintelligible)

...

this may in turn affect and limit also the possibility of bestowing  
these other benefits on the poorer nations. What can we do about  
that? Can we simply, must we sit here in despair and say, well,  
there's nothing that this conference really can contribute, or  
can we think in terms of somehow reintegrating and putting back  
into focus the goal that we started out with.

Richardson-1

I fear that I am only adding to the number of questions being asked this afternoon rather than offering solutions, but this question is addressed to Professor Sohn

I think we (unintelligible) ...

what Mexico is talking about. I think you will all understand that there is little for Jamaica to gain out of a 200 mile economic zone. We have gone along with it and so have many of the countries in our region because of regional solidarity and we are hoping that standing together we will eventually have some longterm gains that are that will compensate for our surrender of interest.

But I should like to ask at this stage of the juggernaut now is, Professor Sohn, is it possible to interrupt this process and to give the scientists a change to think again about the kind of problems they would like to offer solutions to before the negotiating politicians get together once more. That's one question.

My second question runs like this. We have heard very clearly stated the nature of the suspicion which operates in the minds of the representatives of call them small nations. We do not yet believe that an international regime, and institution created in the United Nations in the United Nations image is going to give us the share in the decision making power that is needed or is going to permit a basis of distribution of the income in ~~the~~<sup>this</sup> common heritage that will amount to a contribution to a new economic order. So, the second question is, is it worthwhile isolating this particular question at this stage of the deliberations, trying to have a set of people sit down and ~~xxxxxx~~ discuss that before final decisions are taken on the form and the organization of the seabed authority. I don't know to whom the second question is addressed.

With respect to your first question about whether the scientists contribute to some elucidation of the problems which are still murky in front of the conference, my answer would be reluctantly "no" because whenever now anybody proposes some additional studies be made on something, it is immediately considered he is trying to delay the conference, trying to prevent decisions and it is rather, the present trend is, let's proceed on our knowledge however inadequate rather than wait for some more knowledge.

(unintelligible question by another participant)

Exactly. I think you have put, made the right statement.

The second problem is much more difficult in the sense that I don't believe that the juggernaut has proceeded to the point where still some reasonable things cannot be done. I think the basic outlines of course are clear, that we are going to have a 12 mile territorial sea, 200 mile economic zone, probably some additional jurisdiction over the margin with or without profit-sharing and that is about as far as agreement has been reached at this point. On this seabed authority I think as was pointed out this morning, we have not progressed very far. In a way we might have been further along the line about two years ago than today because we have spent the two years bickering about the method of exploitation rather than the real question that you have been asking, who is really going to control the controllers? It really does not matter whether it is going to be exploited this way or that way, if the real power is lodged in X rather than Y and somehow we have not yet gotten to that point as Professor Riphagen said this morning. This is an issue we might get to in a week or two and we may or may not resolve it before the end of this session of this conference. I have a feeling still that both in this area of the seabed, the final decision of what ..... you are going to establish and who is going to have control over it has not yet been really decided and people still don't have a very clear idea which way to go and any thinking on that subject still might be useful.

SOHN-2

The second point is that even in the economic zone area where the principle has been decided, there are still very important . . . . . It is still not completely impossible to provide some kind of international jurisdiction with respect to the problems like protection of the environment, protection of scientific research, protection of so-called other uses of the ocean as distinguished from the exploitation of the living and non-living resources. So again while the Center is clear there is quite a lot that still could be done if the internationalism could be pushed a little further though I think on that point there is still great reluctance by the coastal states big or small, whether it is the United Kingdom or Trinidad, it doesn't matter because all the coastal states feel more or less the same on that subject, except a few states which value their maritime interests more than they value their coastal interests, and here again if the large majority of the developing countries ~~xxxx~~ would again to look at their larger interests in protecting the marine environment, in protecting the most economical uses of the ocean as far as navigation and other things are concerned, you still can have probably a much more reasonable a much more internationalist solution than we are likely to have if things go automatically the way they are going.

Coming again back to your first question, I think maybe my answer was too quick as far as this session of the conference is concerned it's no, assuming you are going to have a third session of this conference, and we are not going to simply disband saying, we have done as much as we can

SCBN-3

It's a lost proposition, let's not waste more time on it. Unless we do that - if we at this session are able to reach sufficient agreement on sufficient number of issues so that people might be hopeful that the next session we really can finish, then you would have time between the two sessions really to do this economic and statistical analyses which might perhaps change some people's minds and make them more enlightened about what is not only the long range but even very often their short-range interests in this area.

I just want to comment a little bit more on that question as I understood the question from Ambassador Richardson. If I understood you correctly you said that the smaller nations do not have sufficient confidence in any international regime not thinking that they will get the adequate/<sup>weight</sup>in international organization. I always thought the other way around. I thought that if it only were the smaller and the poorer nations could get any say in this matter it would be to get the international organization because if you do not get the international regime quite obviously the rich and the powerful and the more technically advanced countries would get a larger piece of the cake again and would get more and more and that's just what I meant when I said that the poor will get poorer and the rich will get richer. So the only way we can do it is that we can get an international organization where as far as I can find out now you are about to have the absolute majority and just look at what is happening now. It's not only that we are seeing already that some of the richer nations start expeditions to get nodules but look at another thing which to my mind is profoundly shocking with all ..... they used the so called principle of the freedom of the sea even for explosion of atomic bombs ~~xxxx~~ over the sea and to cordon off thousands and thousands of square miles of the sea and they say you stay away from here because we use the freedom of the sea to have atomic experiments here and it will be dangerous for you and for human beings and for fish to be in this territory and when you can risk that I think that any kind of international organization, where the small countries would be the absolute majority would be much better.

XXXVII

RICHARDSON-1

There is no real disagreement between the Ambassador and myself nor have you misunderstood me. We have no doubt, sir, that a properly managed international regime would benefit poorer, smaller countries better than they can benefit themselves by extending their national jurisdiction. Unfortunately this is not generally accepted by these states, and this is the reason why I am raising the question whether now the negotiator, the diplomats have discussion so far, could scientists and technicians be given another try at bringing some of these analyses, realities, discussions, legal requirements, economic facts to attention before we resume, it's an educational process that I am thinking of, not that we disagree.



XXXIX

PARDO-1

I was very much intrigued by Ambassador Richardson's question, and here again, I think something could be done. I don't know whether it would be procedurally acceptable or not but again I would come back to the idea put forward this morning by that the rapporteur general of the conference could be asked, should there be a further session of the conference, could be asked to prepare on his responsibility an analysis of the implications for international order of the major proposals before the conference, not from the national point of view, or from the point of view of Jamaica, but from the point of view of international order.

I said this morning that it might require a slight amendment on the rules of procedure. Actually, it doesn't require that, all it requires would be a request from the conference to the general rapporteur to prepare such a paper to be presented at the Third Session of the Conference, and then the General Rapporteur would have full authority of course to recruit his own team of people with, of course, the cooperation of the U.N. Secretariat but without necessarily drawing on the U.N. Secretariat. And this could be of help. The third session of the conference might have before it some papers of some value and which could bring out the implication of major trends.

RITCHIE CALDER

I just want to follow Arvid on this because I think this is absolutely crucial and ~~xxxxxxx~~ critical and in fact it is substantially the answer to Ambassador Richardson, and that is that there's no conflict I saw between what Ambassador Richardson was saying and the question because this is not, the suspicion is a fact. It's not a question of whether it's in their interests or not. The fact is the fact that they are suspicious and substantially so and it's discouraging for many of us who are working on the outside or on the outskirts of all this, when something which is perfectly clear, for instance ~~wx~~ this question of access to the 200 mile economic zone for scientific purposes and so on, to discover that the coastal states or people of the coastal state are genuinely suspicious of what to me is honest scientific inquiry. It's only because in the past and even historical past in the sense that the whole of the charting of the sea was done by the great mercantile powers, the whole of the insights into the sea bottom, even the discovery of the manganese nodules was made by a mercantile power in the shape of the Challenger, but the Challenger wasn't looking for ... , didn't think the scientific inquiry didn't foresee or portend the kind of thing we are now seeing in the struggle for manganese nodules. What I think is important is this idea of the ombudsman appeals to me very much and that is that so much of it, indeed, what we're doing here, one finds, what we're doing in this seminar, what we were doing in Caracas ... Those of us who feel that we know something about the wider, or the

RC-2

deleterious implications get a very good hearing, a very interesting response but it does not in fact alter the course of events, that is to say, putting it very crudely, one can explain, you can explain here what is happening, but who is going to give the ambassadors of this conference fresh instructions? You have got to go back and educate the people giving instructions, and this is, it seems to me the function which could operate successfully between now and the next session of the conference and if I may say so -- a very subversive remark to make -- I hope that the conference will in fact go on to the Third Conference without these things being resolved, the things that we are discussing today. I shudder to think what in fact could be, we got as far at this conference as to define the functions of the international seabed authority in any restrictive terms of the seabed. We haven't resolved what in fact is the genuine, I insist is genuine, genuine suspicion of the less developed countries that in point of fact the seabed authority would in fact, could in fact be administered merely to the advantage of the people who are already possess the technological capacity, who already could do it themselves as simply confirming what in fact is already going on. You've got to remove that suspicion. Therefore if you have an ineffective authority you are merely I should have thought confirming the worst suspicions of the less developed countries. So if you could, following Arvid, in fact, have an absolutely disinterested ombudsman in this case, simply analyzing the facts and presenting them, not as polemical arguments or this or that but simply saying these are the manifest truths of this situation and

R-C-3

the only way you can handle these is by having an authority of such an such a type but it's the chicken and the egg problem. I mean until you can identify the authority so that the developing countries would feel reassured, you will not get them to cooperate in defining the right principles. I mean there may be a decision as to how ~~xxx~~ you could produce some distribution. Frank LaQue has been pointing out we are talking about in the foreseeable future are not very great and that, for that reason alone, the authority would be regarded as inadequate. People will be saying but it hasn't got the resources to do what we want it to and at that point they would be right unless there was some other way by which as I say you can have concentrating the other session I give <sup>??</sup> , if you could have a genuine acceptance of the disinterested scientific research, geological surveys and all that sort of thing which would not be regarded .. most of the instances that I find the suspicions are unjustified but it doesn't alter the fact that the suspicions are there <sup>and they're real</sup> ~~ixxxxxxxx~~ but if you can have reassurance that the information that we're getting was in fact totally disinterested, that the international authority as such would within these terms be able to mount disinterested inquiries, that you wouldn't what I think is very unfair, you know, the Scripps expedition and the Woods Holes expeditions, are regarded with suspicion, you can see why because they are identified with the United States. This is very unfair when you come to think of the scientific nature or what they are trying to do and disinterestedly so, but you've got to remove that suspicion and the only way you can do it, because it can be done is by an international body on which the coastal states and the less developed countries can feel

R-C-4

they can depend. So it is a chicken and egg problem. I dread the fact that as the things are going now, that you might have a definition of an authority, you know, you look at that authority and say that this is not capable of doing what we want it to do and you're back with the old suspicions.

41

BORGESE-1

I have a question for Ambassador Pardo. In the past the Secretariat has turned out certain scientific reports on environmental and economic potential and some of those were pretty good, Unctad report on economic implications, and so on, <sup>what</sup> ~~it~~ makes you think that the report by the rapporteur general would be essentially different from the report turned out by the Secretariat and Unctad?

PARDO-1

First of all the status of the report -- the Secretariat cannot always -- I don't know how to put it -- cannot always be fully frank and in these matters the Secretariat has certain constraints which are rather well-known. The Rapporteur General of the Conference, particularly since in this particular case he would be acting on a personal basis and not as representative of the Jamaican Government, would be free to a very large extent from these constraints and it would be even freer if the Delegation of Jamaica made it quite clear that whatever action he took, and whatever report he presented was not in any way to be construed as having the endorsement of the Jamaican Government. It would be something on his personal responsibility but serving in an official capacity as General Rapporteur of the Conference, a position in which he would present certain objective facts and bring out certain implications from major trends in the conference. This is one thing.

The second thing is the Secretariat not always is shall we say the scientific capability of the Secretariat is uneven and in some cases the reports prepared by the Secretariat are good, in other cases the reports prepared by the Secretariat are not good.

Thirdly, the Secretariat as far as the Law of the Sea Conference is concerned has prepared reports on certain sectors, for instance the mining of the manganese nodules, implications of the mining of manganese nodules. There has been no attempt ~~by~~ by the Secretariat to bring together the facts from different fields of activities into some type of hole that makes sense, and this is very important. Major activities

Pardo-2

in the oceans are part of systems, systems that have a certain purpose. We have of course the ecosystem, biological system and so on but also man's activities are parts of systems. In short shall we say petroleum exploitation is part of a system designed to, not merely to produce petroleum ~~but to get it~~ but to get it to the consumer and links a variety of activities from scientific research to off-shore ports going by transportation etc.

It is this approach which is totally lacking at the Conference. It is not provided by the Secretariat which is sectorally oriented and which I think most Delegates, both developed, of developed and developing countries, would benefit by bringing together their sectoral approaches and seeing what happens. Actually I don't think that the General Rapporteur should come to make recommendations. He can come to certain conclusions but I think he should abstain from recommendations because that is a political matter which it would be best for governments to decide for themselves but he should come to certain conclusions, and those conclusions could be rather illuminating.



HOLT-1

Dr. Pardo gave one kind of answer to your question in terms of the competence of different groups. I'd like to give it in other terms. That is, what I think you need is not a neutral report but a biased one. And this is why I think that the important aspect of the question being raised is how would the proposals before the conference relate to the new economic order? Specifically, what would be their effect on the redistribution of wealth. You are not looking for a flat statement. You're looking for a directed statement, and I'm a little bit concerned in this connection to hear again what I think are really quite invalid statements about this question of the distribution of the resources in the economic zone.

First of all a number of people seem to have implied politely but nevertheless the implication comes to my ears that the developing states as a group don't really know what is in their best interest, and a very simplistic approach to this is to say the distribution through 200 mile zones turns out to be in the favor of the developed countries. This of course is true if you look at the resources as such. I don't know whether any connection with the sort of remarks that Arvid made, I don't know whether an internal report of FAO on the distribution of fish resources ~~xxxx~~ has been made available to the Conference. The studies that have been made show quite conclusively that it is to the overwhelming advantage in total of the developed countries in terms of access to fish resources to have national zones extended. They are the ones who gain. Why do they want these zones? This is, I think, largely ~~due~~ to do with competition between them rather

Holt-2

than between them and the developing countries. If it were not for that they would be happy to have a wider free area of operation.

No, the problem is the distribution of resources but the distribution of expected benefits and the expected benefits related to the size of the resource and the likelihood that you assess that you will be able to realize those benefits and I think the crucial point has been made that in making their judgments the developing countries have had to weigh up the way their expectation of the effectiveness of an international mechanism is fulfilling their objective, and I suggest that one study that should be made in connection with the implications is why? What is the basis of the doubts that developing countries have that an international mechanism will work in their interests and then to see what sort of mechanism could work in their interests. I'm not pre-judging this. I suspect they are right in thinking that it does not work that it may not work in their interests. Anyway there is an unmeasured risk/<sup>for them</sup> that it won't ~~work~~ therefore what you have is better than what you might get.

It may be that far too much attention has been given to the structure of the mechanism, to the constitution, to the arrangement, rather than to the explicit purposes of the mechanism. Unless these are clearly identified in terms of the redistribution of realized wealth, not just whether you've got a fence round a resource, and the structure is such that the developing countries can be assured that they will control it and it will work towards those ends, until that is done I can see no alternative but the continued extension of national jurisdiction or attempts at national control even

HOLT-3

thoughas I said this doesn't result in a redistribution  
of the resources themselves in favor of the developing countries.

Borgese-1

Thank you very much. We have come to the end of the hour. Is there anyone who has a final remark to make? Then I would just like to close with a couple of announcements. We are now having drinks which I think we well deserve and we resume tomorrow evening at 6:15. Ambassador Castaneda will be with us. He was in the Hague today but he will be there tomorrow and he will discuss the implications of the charter of economic duties and rights for the international order and we will also have Ambassador Santa Cruz with us who will discuss the same subject, and furthermore we will go on to a discussion of the implications of national, international, private or public, resource ownership on the new economic order and the concept of common heritage and its legal and economic implications, and on the last evening then, in accordance with our program, we will deal with some of the institutional requirements that we saw maturing here in the law of the sea conference and we may draw some conclusions as to what will be required to make of the charter and of the principles and of the strategy of the new international economic order an institutional reality some time in the remote future.

April 14, 1975

6:15

45

Borgese

.....

.....

..... and todaz we would like to look some more ....

of economic duties and states and Ambassador Castaneda is here

to explain that to us and ...

Castaneda-1

... .. one element of this new economic order on which I wouldlike to give you a very brief description, perhaps a few glimpses as to what it means and then try to tie this with the law of the sea ... .. basically the reinforcement of international cooperation. There were of course many documents ... .. much in the same way as happened in the national societies, in states, let's say more than half a century ago in the internal field... .. special legislation ...

citizens before the law and this special legislation ~~xxx~~ to protect one class which in the negotiations was in a weaker position and also other institutions as social security or progressive taxation which made a transfer ~~xx~~ from one group within the national society to other groups and which in time we all realize that this transfer of resources through this type of legislation had finally culminated or had finall ended in a benefit for the whole society and not just for one group. The same we thought is happening but very little up to now in the international domain. There is a certain recognition of the need to assist. Of course many point to the moral character of this duty but more and more there is a recognition that unless some transfer of resources is performed in a meaningful and substantial way the consequences can be extremely dangerous for international society. This was as I say the other main objective of the charter. It was never .... during a period of approximately three years, first within a group of 40 countries selected by the secretary general of UNCTAD and there all the interests all groups of states were represented and in the first session a list of about 20 topics

were agreed upon, variously, unanimously, and then of course came the difficult part of reconciling the different positions. There were basic oppositions, difference, because there are opposition of basic interest everyone knew that every word inserted in the charter could eventually be invoked against special industrialized countries. There were differences in ideology, in political positions and besides very complex or substantial factors that made negotiation very difficult. Nevertheless after two years and four sessions of this group, we had agreed on a substantial number of articles, a whole first chapter which included the mere enunciation of certain juridical, political principles that are applicable xx in economic life and a preamble, a meaningful and long preamble and about 16 articles of chapter two which is the main chapter xxxxxxxxxxxxxxxx which enunciated these basic rights and duties . In certain cases there was a position for instance, the opposition was not always between developing countries and industrialized states, in the question for xxx instance of trade, of general trade, the main opposition was between the countries of the European economic community and the socialist states regarding non-discrimination in trade and the most favored nation treatment. That was one of the problems which was difficult. Surprisingly, though not too surprisingly the three or four articles which laid the basis for international economic cooperation were agreed to unxxxxxxxxx unanimously though the formulation of the basic principles of assistance as a duty to the less fortunate countries is not expressed of course in categorical terms in the sense of legal obligation but still at least it contains the recognition of the basic principle that this has to become a reality

in international relations.

There are two or three corollaries that flow from this basic principle and refer to more particular fields, for instance in the field of transfer of science and technology, the principle is accepted as such, then there is a recognition of the non-preferential and non-discriminatory trade preferences in favor of developing countries and there is also the beginning of some kind of recognition in the field of financial assistance.

Then there is a very interesting chapter that is closer to our subject, chapter 3 in which it was thought that we should also state, we should enunciate certain basic duties of all states towards the international community not inter se but vis a vis the international community. This in a sense is new because there is a principle of recognition that there is such a thing as an international community which is something more than the mere sum of all states and there is a recognition of certain duties towards the international community, this both in the field of the law of the sea, basically it is a recognition of the principle of the common heritage of mankind, and also in the field of preservation of environment.

Before passing to the relations between these two fields, I would like also to stress the importance of certain other aspects. It was discussed at length what should be the position of the charter in regard to this problem of qualification of existing law and of progressive development of international law. There were perhaps some exceptions. It was agreed in general though this did not require a formal decision - a decision of course would be implicit in the character of each article - but basically it was admitted that in this field which



to a certain extent, though not completely virgin was relatively new, that we should try to move and to formulate progressive principles because it was thought that the mere consecration of existing rules would contribute to strengthening the traditional economic order and that the purpose of the charter was precisely to change this as far as possible. Then it was also discussed whether a world order in which all groups of states would participate was compatible with the principle of justice of aiding of taking into account and assisting in the changing of this situation of developing countries. It was found that, also implicitly, this was perfectly compatible and that in several of the articles approved, this special situation of developing countries is taken care of, it is recognized, and on the whole, the charter did fulfil its objective.

Now the question of the legal value of the instrument. Well, first, one should remember that this charter though by its nature is a basic, a sort of basic constitution on which further developments could be based upon, but nevertheless, this was incorporated in a declaration. Initially it was thought that of course a desirable instrument would be a convention, but we realized with time that the drafting of it would have to be not only much more careful but that perhaps we were not prepared for a convention because the subjects on which, which are dealt with on the charter, are in such a fluid state at present that it would be difficult perhaps at this moment to formulate treaty articles with them and we even thought that this would tend to crystallize a very dynamic and fluid process. They were incorporated in a declaration mainly because of the objections

of a large number of countries to have a treaty at this phase as such with the difficulties I mentioned and so they are incorporated in a resolution, in a declaration which per se of course is not a binding instrument, but nevertheless this charter can be a useful guide, its legal force in the future would to a great extent depend to the degree to which it is enforced, it is applied, it is fulfilled and also this synthetic or constitutional character of the charter is also interesting in the sense that it is possible that on certain basic rules of principles incorporated in the charter, further developments can take place. For instance, regarding the question of regulation of activities of transnational corporations, a basic rule is ~~formulated~~ formulated in the charter but of course this is a subject where there is need for much further study and perhaps some codes of conduct in this field in the future. This is being done now within the United Nations. Another subject is of course transfer of science and technology. Other subjects are dealt within GATT, for instance this question of preferential tariffs and other subjects also require other conventions or other types of instruments. Of course the one closer to our endeavors and our interests is of course the law of the sea eventual convention. The charter, as I said merely tries to reinforce and consecrate the principle of the common heritage of mankind but its a very general formula and what could be done here in the law of the sea, of course depending on the results would reinforce this still more.

The basic purpose of this charter was of course in a way the redistribution of resources which, and you are right in suggesting, Elisabeth, that the Law of the Sea conference, together in a way with the food conference and to some extent

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but more indirectly the population conference, also pursue the same objective of a better and more just distribution of resources.

Regarding the law of the sea, some maintain that the developments that we are now witnessing may have the indirect effect of strengthening or of confirming the present ~~day~~ day distribution and perhaps making rich countries richer and that in the end perhaps very little could benefit the developing countries in that larger countries will gain more by the establishment of an economic zone etcetera, and of course, perhaps, the ideal of a better distribution of the sea resources could be achieved by a strong international regime that would be the agent and instrument for a better distribution of resources.

I just would like to stress in this regard that, aside from obvious political difficulties in fulfilling this ideal ~~with~~ with which we all agree, it might also be true that this trend towards the creation of large economic zones <sup>where</sup> ~~the~~ the coastal state would have a monopoly so to speak of natural resources can also be and will be I think like an instrument for a redistribution of world resources. It is true that some very large countries let's take Japan or the Soviet Union will gain in the sense that they will have a very large economic zone in which they will be the only ones to fish and that many of the developing countries with smaller coastlines, except for a few, will not gain so much by this economic zone. But in actual practice this is not the situation. I think that large fishing countries, for them the situation will not change in practice substantially because in fact few of the countries fish near the coast of these large countries, of the Soviet Union, so let's say an economic zone along its

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coast will not change materially its situation. But what will I think change in a meaningful matter and this will contribute to this better distribution of resources will be that smaller countries even if they gain only a smaller coastal or rather an economic zone, this would represent a considerable improvement from the past situation since in the past they did not have the resources to exploit fully those resources near their coast and they were open to very heavy exploitation from distant water fisherman. This in a way is probably going to diminish or to stop and will give a chance, these protected zones will allow smaller countries really to improve, to establish a fishing industry and eventually to improve their situation. There is where I see a contributing factor in a better distribution of resources. I think a prerequisite for smaller countries to launch upon a creation of a fishing industry is to be guaranteed, to be assured that they will have at least what is closer to their coasts and that this would not be exploited by distant water fishermen at least in the same extent. This new right will give them this opportunity. Basically I think that for great powers this situation would not change much. It may change somewhat let's say for the United States because to some extent other fishing fleets fishing near the United States will diminish their effort perhaps but aside from that case, basically I think that the creation of this economic zone for larger countries would not mean a substantial difference from what previously existed in fact but this creation of the economic zone will I think considerably help especially the developing countries, even if sometimes geography being the determining factor would not seem to indicate that these smaller countries with the smaller coastlines would gain much but aside from this factor, I think that in practice, because

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of the reasons I gave I think that this could be very helpful to them. Perhaps I should stop Elisabeth and I think we'll have a further chance of discussing this question through the questions of participants.

Borgese-1

Perhaps some participants would like to address questions to Ambassador at this point. I might ask one question myself. You referred to the code of conduct of nations in economic relations and you compared it to labor legislation, social security tax, or progressive taxation and you thought that in the long run, it might have some of the same effects, but there is of course one basic difference, mainly that these other institutions function under a government and this one functions outside or without an institutional framework. So the question that one should raise, as we have come to the conclusion that in the oceans and the seabed, we cannot begin to meaningfully redistribute resources without a management system for these resources, is it not the same really when you come to food resources, energy resources, other basic resources? Can you get the effects that have been achieved by taxes, by labor legislation without an institutional framework of rather without a network of institutional framework which probably would be functional.

Castaneda-1

I think you are completely right. In a way it was merely a comparison, a metaphor. I think that the same phenomenon that started to develop, the same trend that began with the century or even before that in the national field is emerging or is starting to emerge in the international field as to the objective, the objective being the transfer of resources within a society and the acceptance eventually by the whole society of the legal character of this and the benefit for the whole society of this transfer of resources. In that way they are comparative but of course it was possible in the international sphere even though this took several decades and very bitter social struggles in many countries for this to be achieved, and this of course is what is happening in the international sphere, but in order to achieve this ideal, this result, it is indispensable as you suggest that there be a net of institutions -- actually when we talk about a legal institution this is what is meant -- a net of principles of rights and duties and a whole system of organs etc. to perform this, and the management of sea resources will require that, and this is what is trying to be created regarding the seabed regime. There you're right but what I had suggested was that perhaps, if it is not possible in the first phase, in the first steps to be taken to establish immediately an international system to manage all of the resources of the sea, then at least a first step would be to redistribute resources through a very primitive and elementary system which is after all granting larger protected zones to states, let's say, this is the first step and I agree that it's very primitive and elementary. But perhaps there is no other

Castaneda-2

~~xxxxxxxxxxxx~~ choice as a first step. I remember that once in conversation with you, you compared this rightly, the establishment of economic zones, to the first phase of an agrarian reform in some countries in the past. Of course an agrarian reform to be successful requires a large management system within the state to grant credit, to -- for many obvious things. But supposing that a government in its initial phase does not have all these resources -- credit, , facilities, this and that, at least what it can do is to redistribute land. It's very primitive, it's not enough, but this is the way in history that all agrarian reforms have begun because they usually have begun in poorer countries that do not have many resources and this is an initial step. We have to agree that sometimes the first effects of this is a diminution of the total production but this is an initial step, it's a decolonialization. Sometimes the standard of living goes down but nobody would doubt that there is a moment to begin this process though we agree that in the first instance this is what is going to happen but with the agrarian reform it is the same and perhaps with the economic zone in the sea this might be a first step but of course I agree that there are dangers that once this trend progresses then the difficulties of establishing a more rational and better managed system, international system may to some extent be jeopardized because you have a historical trend which sometimes is difficult to reverse in international relations. There is a risk no doubt.



Borgese-1

I have more questions but first Dr. Holt, then Mr. Richardson, then Mr. Riphagen.

Holt-1

Madame Chairman, if I may I'd like to ask Ambassador Castaneda a question regarding the analogy with the distribution of land. It seems to me that the analogy may well be correct for such things as oil resources but the examples he gave were fish, and perhaps this is reiterating an old question but I still have not seen any satisfactory answer. The problem of the fish is that they are renewable and that they move. For some countries, and perhaps Mexico is one, the resources, the stocks of fish are more or less self-contained within the boundaries of the potential economic zone but for many developing countries they certainly are not. Therefore I envisage that as between adjacent countries that there will be intensified conflict over fishery resources since the one thing that we know is that with the vulnerability of these resources to modern technology we affect them and therefore the fishing by one country always affects what the catch of the adjacent country is. Only in very exceptional circumstances where a country embraces a large bay with relatively self-contained resources is this not so.

What I wanted to ask Ambassador Castaneda was what procedures he envisages to resolve what I believe are certainly immense multiplication of fishery conflicts not between the developing countries and the powerful ones fishing off their coasts but between adjacent countries that are fishing on the same resource which is mobile.

I think I will remain within the subject by referring myself to what has been said previously about developing countries making excessive national claims.

The developing countries, in order to bridge the gap which we have said is widening so rapidly, to bridge the gap have only one hope, and that is to promote their development. Their development, they can promote it by different ways and we have tried to set, at least partly those ways, and they have been denied.. And we can say that when the Sixth Session of the U.N. was trying to draft the declaration of the program of action, the greatest national claims came from the richer nations. I would like to see that, this being said, not only of developing nations which are only trying to bring themselves up to a certain level which is hardly beyond survival.

What we are witnessing now is the richer trying to stay rich or getting richer. And this is part of the old order. So the developing nations have seen in this law of the sea conference an opportunity to remind the international community that they should be given the right to find ways and means to promote their development, ways and means to bridge the gap. So if in drafting any kind of legislation they will notice that this is only an attempt to have a carbon copy of the old order then they will be resisting whatever is being done. That's why perhaps the expected progress is not being made because this is not fully recognized. They have been trying to

their development by giving more value to their commodities. They are trying to fight inflation and they find themselves on a course that is completely opposite of what they want to achieve or what is desirable for them to achieve in order to emerge from their underdevelopment.

So if the law of the sea conference is going to put them in the same situation, I think they have every right to rebel against that kind of behavior.

Borgese-1

Before giving the floor to Ambassador Hambro, I would just like to summarize this discussion a little bit. It seems to me that what Ambassador Yankov has said indicates that there's at least a possibility that the mere adoption of an economic zone not accompanied by the simultaneous development of a management system for the international ocean space, that that indeed would be a carbon copy of the old order. That is the point that is being made because it would make a few nations richer and not do anything for a lot of nations which are poor. So this I think is a point that ought to be very seriously looked into, and in connection with that let us remember the whole history of the notion of an economic zone.

When Ambassador Pardo made the proposal for the sea-bed authority back in 1967, it was the smaller nations, it was the developing nations that responded enthusiastically and they responded with the expression, with the desire of seeing strong comprehensive international organization. It was the big nations that dragged their feet. It was the big nations then that came forward with the proposal for large extension of national space on the continental shelf. The American proposal which was very interesting and very forward-looking from many points of view whose author we have here with us, the main author, nevertheless was the first one to make extraordinary claims of national jurisdiction in the oceans and proposed what they called a trusteeship zone which if you look back to it retrospectively is in fact very similar with what now is the economic zone. The only difference is that the economic zone includes the <sup>economic zone includes the</sup> water column and is not <sup>to the sea bed.</sup>

So it's the big nations that started the push on national

Borgese-3

expansion. Naturally, logically and defensively, the small nations, the weak nations followed suit and made their own claims. They had to. But then I find it sort of tragic that the big nations have succeeded in talking the small nations into believing that that's their thing. It's not their thing. Their thing was strong international organization. It was the big nations whose interest it was to expand their national claims and to leave a weak international regime. So the hope that the economic zone as such and as I say unaccompanied by structural changes in international relations will in fact contribute to redistribution of resources and of wealth and of know-how and of power. It may turn out to be illusion. That is my fear.

HAMBRO-1

As a matter of fact, Elisabeth produced quite a few things here I wanted to say myself, and I would still like to say a couple of things here. First of all, I believe both my friend Mr Yankov . . . . misunderstood what we said about national claim. Anyhow my point was and I think it was Mr. Yankov's point, it was not to criticize the developing nations for making claims but to make, to criticize all the nations for doing it, drawing the attention to the fact that we simply cannot make any advance in our world if every nation, whether it be a developing nation or rich nation . . . big or small nation, just concentrates on their <sup>own</sup> old claims. The only way they can make progress is that more and more statesmen and leaders in all nations try to think of the community of nations instead of thinking of the individual nations. It is an essential thing that we must realize.

And the other thing. I understand that the developing countries try to make a common front against the rich to get what they consider to be their due. I quite understand that and it's well possible that they wouldn't have got quite a few of these they have got <sup>already</sup> /if they hadn't that, but I <sup>venture to</sup> think-yea could say that one of the great dangers in international converences, in the whole international conference system of the world today is the increase in polarization and the greater and greater importance being attributed to groups. Instead of discussing matters seriously from nation to nations we say, now this must be taken to our group/<sup>and this must be taken to our group,</sup> and very often we have the feeling that . . . . .? that certain nations perhaps those who scream the loudest for their own interests carry the group with them. Then later on

Hambro-2

once the attitude of the group has been <sup>convinced</sup> condensed into a firm political issue, it's quite impossible to change it. Nobody dares to stand up against his own group because then he would be a traitor and it's very difficult to get that changed at all, and I've seen one conference after the other that the group system is really poisoning the atmosphere much more than is worthwhile.

I should like to add one more thing and that is that we ought to listen more to the scientists/<sup>here</sup> I think that what we have heard here from Lord Ritchie Calder and from Professor Holt is very important indeed. And then Ambassador Par took up the question of the seabed and the ocean floor. He did not speak as a man from a developing nation. He even stressed that he came from a small nation. He stressed the interest of the whole world community and he based it on the information given us by scientists and I venture to say that all the achievement and the advance that's been made in the field of environment has been made by scientists.

A very interesting experiment we are still living in this so-called <sup>of the Antarctic</sup> has all been done by scientists. The scientists have pushed the statesmen to realize the great scientific and environmental importance of the Arctic continent. If we left it to diplomats alone we would never have got anywhere at all. I think that diplomats could do much more in collaboration with scientists than they are doing.

To go back to my old friend Arvid Pardo, because he told me something very important. Many years ago in the United Nations he told me I've got a very small allotment for buying



Hambro+3

literature in my mission. I don't buy international law reviews. I buy scientific journals. That's the way I learn which problems are going to be important in the future, that the only way an ambassador can think of the next session or the next generation. When even ambassadors can manage to get the kind of wisdom that Mr. Holt has shown us here today in his intervention.

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Vargas-1

I would like to mention that I agree with both the Madame Chairman and the previous speaker in the sense that there are many new elements here and also the importance of science and technology of course. I would like to make three points, namely number one that this expansion of nationalism which is attributed to the developing nations at this moment constitutes only a part of the historical process in the sense that developing nations are behaving exactly in the same way as developed nations did many years ago.

The second point would be that we need a new concept of sovereignty in order to reach long-term goals in our world community.

The third point would be to think about the elements, the precise elements which are to be considered for the content of this new definition of sovereignty.

Furthermore I would like to say that one of the strategies we could follow here would be not to blame any particular part of the world because of the course of action it has adopted, or if you want to put it in clearer terms, not to suggest that it is to blame the developing countries because of this extensive so-called sovereignty or nationality of national claim. I think we should keep in mind that for ~~me~~, as it was suggested before, this constitutes only the response of developing countries in order to attempt to reach a higher level of development in the so-called redistribution of wealth in this world.

However, I have a very serious problem here. Unless

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we are able to determine the new philosophy for the future we won't be able to succeed in establishing such a goal. What I'm saying is that all this that we hear at this moment about extensive claims, about the polarization of the interests of the countries, and about the emphasis in terms of sovereignty, in my mind constitutes the effect of not having into account three very clear elements.

Number one, what we are doing when we talk about the oceans, we are simply talking about a part of this global process. What is happening in the oceans is only the result of what is happening among nations. So we should have a larger scope in considering our approaches. The second element is that many of the situations are the product of historical roots and therefore you have some mental pattern that you follow systemically<sup>at</sup>, including scientists, not even recognizing the importance that science and technology have for the future, I would say that also scientists are manipulated within this type of approach, and this would be perhaps one of the limiting elements in giving scientists a more important voice in the formulation of political decisions.

Therefore I think the processes that one could envision for the future would be to emphasize three very specific kind of elements which could be enlightenment or respect or solidarity. What I would like to say is that all this process is a process which is centering upon the distribution of wealth, the result of ideas of capitalism, material goods, consumerism, and therefore redistribution. I think this constitutes the most limiting factor in this approach. Why? Because I consider that unless we establish a new value system

Vargas-3

which is going to be taking into account elements such as enlightenment for all countries, respect for all countries with a new concept of sovereignty and the importance of solidarity as a whole and we incorporate all these elements in this new value system, if we don't do this, we won't be able to reach the positive goals we have as a whole. This is why we have at this moment the problems that we are facing now. Everybody is talking about these functional approaches and the concept of sovereignty as related to the utilization of the <sup>natural</sup> national, whether they are upon the continent or in the oceans, or even if they were in the space, in the outer space, the same situation would apply.

We talk about the emphasis of sovereignty because we are again involved in this historical process. However, not many people talk about the elements that we should include in a new definition of this functional approach of sovereignty or to put it in more general terms, about the new value system that we should develop through science and technology for the dissemination of ideas and through the enlightenment and the appropriate consideration of respect among nations and the impetus that we should give to solidarity as a result of this new structure. In the same way that I say that this is a historical process when we talk about this extensive national claims, I would also submit that if we talk in terms of regional groups, this is again because we have the same old approach, because the developed countries in the past have been forming these fractional groups and all of them having, establishing this system. However, unless we

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develop a new system whereby the ideas are going to be exposed in a different way and I think regional approaches constitute at this moment one of the strategies for that, we again will continue to have these kinds of problems.

So for me in the articulation of this precise element for the new concept of sovereignty I would like to include elements such as the interaction that we have at this moment among nations which has to be taken into account in order to avoid these very nationalistic claims which are more artificial than real. Number two, the progress of science and technology and the incorporation of these values into our activities in the international forums and number three, the value system taking into account the element that I mention about enlightenment, respect and solidarity.