A brief look at where we are at this moment:
The Geneva session was, by all tokens a very difficult and not very productive session. There was a pervasive feeling -- already foreshadowed in Caracas -- that the whole organization of the Conference was causing difficulties: that the Committees were not working toward a clearly defined goal, that the focus of the Conference had shifted from the building of a new international order in the oceans to the negotiation of national claims in the oceans; there was a feeling of disintegration both of the committies themselves, and of the alignments within them: alignments which were shifting in different ways in the Committees themselves. Three weeks before the Conference was to close it really looked as though it might break up in disarray.

It was at that point that the parliamentary-procedure genius of Amerasinghe commissioned, and obtained, the Informal Single Negotiating Text -- three parts, now four -- which, in a way, change the whole picture and provide a scheme the like of which the international community has never seen. A comprhensive law, covering the whole ocean, in which, somehow, the revolutionary principles we have been fighting for since 1967 are still embedded: the principle of the common heritage of mankind and the concept of a new type of international organization to manage this common heritage for the benefit of all mankind. This is a potential breakthrough: a qualitative change in the strueture of international relations.

Here we need two caveats: First: the document, such as it stands, is full of contradictions, inadequacies, lacunae: it is probably not viable. Secondly, it has, of course, no real legal status in the international community: it has not been negotiated: it has not been accepted yet even as a basis for discussion. But it probably will. It would not be impossible to amend it so as to make it viable: and I am going to give a few examples of how it coulld be amended in a few minutes.

Let me however premit that I am afraid that it will
not be so amended and improved. I am afraid This is
the optimum the Conference has, in some devious way,
produced. It is likely that from now on, things will
get worse rather than better: that the text will be
made more ambiguous, contradictory, weak, and inadequate
by the negotiations that will follow, and that we will
end up with a Treaty that is not viable, and that will
make new, revolutionary changes inevitable in the near
future.

So, in a quite summary way: what are the main weaknesses
of the text, and how could they be dealt with:
Part I: The tremendous disproportion between function and
structure; the faulty organization of the Council;
Inadequacy of the treatment of science: no organ
Commission on the law of the sea
Commission on multinational corporations -- to this I come
back in a minute.

Part II: more traditional, less innovaing. Only big change,
economic zone, or as Pardo puts it, shift from principle of
freedom to principle of sovereignty -- but since both are
ailing...
What could be done, at least: define limits less ambiguously:
baselines, continental margin. Precend of profit sharing on margin.
Lipservice being paid to the freedom ofthe see -- although need
for international management of fisheries, living resources
is recognized.
Part III potential. But: lack of coordination with other parts.
Contradictions. Lack of institutional infrastructure. "Nations
shal" -- when we know that nations won't. This part will probably
reabsorbed by other parts in a ratonal comprehensive structure.
Science: distinction between fundamental and resource-oriented
research is untenable; principle of freedom of research not
examined in depth.
Part IV -- together with part I, most exciting part. Realistically
flexible, offering all options, but institution of Law of the

sea tribunal, giving standing to companies and individuals, revolutionary development in international law. Of course, the "reservations" are rather devstating, and there is a faultin the sections on special procedures. IMCO, FAO, IOC.
Even if the text were amended taking into account these fundamental difficulties, and a great number of smaller ones, it would not do what the conference set out to do: that is, to deal with all problems of the law of the sea, covering all uses and their interaction, considering their interdependence. In the best of hypothesis, the text deals effectively only with one of the uses -- and that is a marginal one- it does not cope with the other uses and their interactions: which means, more waste, no rational development, more conflict, and more pollution. So, even if we had a Treaty retified, based on the Single Negotiating Text, amended to perfection, we would only be at the beginning. merely the first step would have been taken. We would have to continue to get this result integrated into a coherent system of ocean institutions, embodying the great concept put before us on November 1, 1967 and then articulated in the Maltese Draft Ocean Space Treaty, although the metholology, the historic process by which to advance this goal, would have to be different today from what it was in 1971.

For, in the meantime, the work of the Conference on the Law of the Sea, which, in the late sixties and early seventies -- the time of the seabed committee-- was way ahead of the rest of the U.N. in forging and spelling out new concepts -- this was, so to speak, the period of inspiration -- this work, in the meantime, has been overtaken by two other important developments in the United Nations, which, in turn, are connected among themselves: one, the quest for a new international economic
Sixth, Seventh Special Session and Charter --
order, and, second the effort to restructure the United Nations system as exemplified, in particular, by the report of the 25 Experts and the establishment of an inter-governmental committee.

The Conference on the Law of the Sea will either fall into irrelevance, or it must assimilate and spearhead these ~~other~~ wider developments.
In fact, it is completely absurd to think about a new international economic order without including the oceans which are producing a growing proportion of the world GNP and play a vital role in the economy of nations. It is absurd to conceive the principles of a new international economic order -- and not apply them ~~in~~ to the activities of States in the oceans. Since, in the oceans, we are actually engaged in building new institutions,we have an occasion here to create a model for the new internatonal economic order. If we fail in doing this, it is very likely that there will be no new international ~~order~~ economic order at all. If the rich nations succeed in blocking it in this fluid situation...if the developing nations cannot muster enough unity to push it through in the oceans, they will not succeed anywhere else. The Law of the Sea Conference, in a way is a test case.

It is surprising how little thought has been given to this subject: how little concrete work has been done on it. When we brought it up in Geneva...

I will now spend the next fifteen minutes in examining, very succinctly, and in a very controversial way, the links between the principles of the new international economic order and the law of the sea.

(10) The Conference on the Law of the Sea has done nothing toward the definition of a policy framework and coordination of the activities of all organiaations, institutions, and subsidiary bodies within the U.N. system, to advance the new international economic order.

Such a policy framework must be created at any rate, to cope with the multiple uses of ocean space and resources. The two purposes must now be served together. This recognition would refocus the attention of the Conference onthe building of new international institutions, and it would place the conference into its proper context within thebroader efforts of the United Nations system.

I would like to spend the remainder of my time on this needed process of integration, which will have to be initiated before the present phase of the work of the Law of the Sea Conference comes to an end.

The task falls into two parts.

One part is the restructuring of the agencies now dealing, very inadequately, with ocean space.

As we have seen, the Treaty on the Law of the Sea, as presently conceived, creates an institutional framework for only one use -- and a rather marginal one -- of the oceans, and that is the mining of minerals from the deep seabed. The other uses -- far more important -- the management of living resources, navigation, scientific research, remain unattended. So, the first thing is to restructure the agencies and institutions dealing with these other uses so that they can deal with them. The establishment of a Seabed Authority makes this a logical necessity, a corollary.

What might be done to create a viable system for the management of living resources, could be summed up as follows:

We now have a weak institution with global concerns, and we have a network of mixed regional and species oriented commissions with overlapping responsibilities: some functioning rather well (in the North Atlantic, for example) some completely

inefficient(in the Pacific).

An efficient system for the management of living resources in international ocean space, capable of assisting coastal nations in the management of their national resources, if they so desire, and of regulating the interaction between national and international management systems would require these steps:

-- reduction of fisheries commissions to one per region (to be defined) with comprehensive (not species-oriented competence, except for a global international tuna commission and a global international commission for marine mammals.

-- Linkage of these commissions to a restrutctured COFI (a) through a Council composed of representatives of each Commission; (b) through a dispute settlement machinery in accordance with Part IV of the Single Negotiating Text.

-- Restructuring and strengthening of COFI through

(a) universality of membership

(b) creation of an independent secretariat;

(c)establishment of a system of licensing of fishing in international ocean space;

(d) establishment of an international Enterprise for the managemen of living resources;

(e) establishment of independent international fisheries research capacity, to be incorporated in IOC;

(f) establishment of dispute settlement machinery in accordance with Part IV of the Single Negotiating Text;

(g)independent financing (from trust fund, income from licensing and Enterprise.)

With regard to navigation, IMCO is already in a process of enlarging its functions and its structure. This should be continued and accelerated. The amendments of 1974 and 1975 go a long way in this direction. Additional, perhaps longer-term changes, apt to strengthen IMCO's contribution to the building of the new internaional economic order, might include:

1. A restructuring of IMCO's Council, omitting discriminatory

criteria;

2. an international licensing system for ships, to cope effectively with the problems of the flags of convenience or open registry;

3. Effective control of shipping cartels and liner conferences;

4. A strengthening of the operational aspects of IMCO's services, including control and management of INMARSAT and an International Sea Service.

With regard to scientific research and the transfer of technologies, IOC finds itself on a point of very delicate balance: It may go forward, or it may turn back. On the one hand, its governing body has passed a resolution, to the effect that it should make the necessary structural changes to enable it to become the scientific arm of a system of ocean institutions, and there is not the slightest doubt that such a system must have a scientific capacity; onthe other hand there are forces -- especially the great powers -- who are trying to push IOC back into UNESCO, into a framework in which it cannot possibly develop the kind of capacity it needs.

If it is to function as the scientific arm of a system of ocean space institutions,, it must be strengthened and reorganized, somewhere along the following lines:

1. It must have independent financial means.
2. An equally strong ~~xxxxxx~~ program for marine biology and fisheries research must be added to its ~~xxxxxxx~~ oceanographic ~~xxxxxx~~ program.
3. It must assume responsibility for the transfer of technology.
4. It must assume responsibility for all international research projects. In other words, only projects registered by IOC, or licensed by it or approved by it or included in its program, could be carried out by States of recognized Institutions in international

ocean space and in national ocean space. IN other words: IOC would guarantee to coastal states, and especially to developing coastal states, the scientific nature of a project to be carried out in their economic zone. This is the only way of solving the dilemma between coastal state control and the so-called freedom of scientific research.

5. It should establish a scientific enterprise of its own -- analogous to the enterprises of the other ocean institutions: that is, an independent scientific capacity, for research ixxxxxxxx e.g., in the Antarctic, where such research is much needed and, at this time, excludes participation by developing nations. They could be brought in this way.

6. In accordance with Part III of the Single Negotiating Text, there should be a series of regional scientific institutions; these should be autonomous, based on the participation of the nations of the respective region, but just as in the case of the fisheries commissions (to which it also should be closely linked through its responsibility for regional marine biological and fisheries research) this system should be linked to IOC through a council where each Institute is represented, and through a system of settlement dispute in accordance with Part IV of the Single Negotiating Text.

Now we have four Basic Organizations or systems of organizations dealing with thex four different but interlinked and interdependent uses of ocean space and resources. Since these uses are interlinked and interdependent, the Institutions must be interlinked or integrated as well. Without impairing their autonomous functioning, this can be achieved through an minimal integrative machinery, which must be established at the policy-making, that is, at the assembly level. The present inter-secretariat linkages are inadequate to cope with the problems.

Basically, this integrative machinery must deal 1. With technical problems in their legal and political context; 2. with the interaction of uses; and 3. with uses, based on new technologies not covered by any existing intergovernmental

in

institution. We have designed a model... Functional Federation of International Organization

Is there any chance that developments will proceed in this direction?

In a way, this development is actually in course. I am convinced this is the direction in which it is going. How long it will take, and how many setbacks there will be, is another question. Obviously this implies a basic transformation, one might say, revolution in international relations. It implies a strong and unified political will, of which, thus far there is not much evidence.

And this takes me back to the beginning of my remarks this evening: If the conservative forces succeed in effectively blocking this development, then you can be sure that we shall have neither a viable Treaty on the Law of the Sea nor a New Internatonal Economic Order.