

FM

TRANSCRIPTION
LAW OF THE SEAS CONFERENCE
Elisabeth Mann Borgese's
Introduction of the 17 June
1968 session
cys: EMB, ER, FM Tape X-6

BORGESE: I think perhaps the most useful beginning would be to sum up the main points resulting from our work over these last six months. I have eight points.

The first one is that the creation of an international regime is an immensely complex affair, involving problems that cannot be solved fast. Years will probably be needed to solve them.

Point number two; in the meantime there is a need for a holding operation or moratorium.

Point number three; Once this moratorium has been agreed upon, it will then turn out that all of the major problems that we have to face are tinercnected, and must be solved together. It will be much easier to define the limits of the continental shelf if at the same time we define the kind of regime that is to be in control beyond these limits. The same is true about the regime for the seabed and the regime for the superadjacent waters. The same is true for the regime of non-living resources and the regime of living resources. These issues are all so interconnected that we can't ~~xxx~~ sort them out, as was recently confirmed again in the memorandum submitted to the Ad Hoc Committee by the government of Iceland. So this is point number three.

Four, the boundary of the continental shelf will be a political rather than a geological frontier. This of course is in line with the evolution of frontiers in general.

Number five, the creation of the regime will be a political and constitutional task rather than an economic or technological one.

Six, the main purpose of the regime will not be to cure from one day to the next all the economic ills besetting the world, but rather to create a new form of cooperation in the international community that may set a pattern for future -- for the future activities of mankind, as Ambassador Goldberg put it.

Number seven, considering the rapid changes in technological development, and the many unknown quantities and the many uncertainties that have been insisted on especially by our scientist participants in our meeting. So considering all that the emphasis will probably be on creating an institution to deal with these as they emerge, rather than a code which might freeze development.

Eight. This may imply a de-emphasis on the usual administrative organs that we are accustomed to in international organizations. And it may instead require a strong emphasis on the deliberative organs, which would constitute, so to speak, a permanent conference on the law of the seas. I think this is what the regime will have to be in the first place.

So these are the eight points that I think emerged from ~~our~~ our studies so far. Now, you have before you a proposal for a short range plan and the proposal for the long range plan. The short range plan might be useful to compare it with the Resolution that is going to be introduced in the Ad Hoc Committee these days. See how they compare, what

we can learn from each other.

So it is suggested that we dedicate this first session to some considerations of general principles perhaps, to get acquainted with each other and to get into the discussion. That we dedicate the afternoon session to the short range proposition, which might be integrated, for instance, also with an attempt to make the maximum use of the ICC, which seems to enjoy the particular favor, the particular trust of the Soviet Union. And that we dedicate tomorrow to the long range proposition, perhaps along the lines suggested in my tentative agenda, or along any other lines that you might prefer.

If this is agreeable, I think it will be ~~appropriate~~ ~~xxx~~ appropriate if we ask Ambassador Pardo to open now the general discussion. Ambassador Pardo.

typed 20 June 1968/HM

FM

TRANSCRIPTION
LAW OF THE SEAS CONFERENCE
Elisabeth Mann Borgese's
Introduction of the 18 June 68
session.
cys: EMB; ER, FM tape Y-6

HUTCHINS: Mrs. Borgese.

BORGESE: Our discussion yesterday dealt with some general principles and then focused on the short-range action in the United Nations. That is the introduction of a Declaration, a short Resolution as proposed by the government of India, which would restate the four basic points originally proposed by Ambassador Pardo. Namely that the deep sea, however defined, is the common heritage of mankind, that no further claims to sovereignty will be recognized, that the ocean floor and the seabed remain demilitarized, that exploitation of common ocean resources be carried out for the common good of all mankind. Although we agreed that such a declaration would legally accomplish little or nothing, and might leave ways open to development that might be prejudicial to the later development of the regime, it was agreed that any further

specification, such as proposed in the Section B of the Center recommendation, that is a set of operative recommendations for the interim period, might be counter-productive and forestall the passage of the basic short Resolution, which, if it does not conclude much is at least the first step.

It was instead agreed that something like Section C of the Center Resolution should be added, that is a request that the Ad Hoc Committee ^{under} and whatever name remain in existence until a more permanent regime is established, and that its mandate be redefined.

In view of the inevitable vagueness of this short-range plan, it seems to us essential to raise our sights to more distant horizons, that is to the nature of the regime itself. As a matter of fact, the more precise our ideas about the regime, the less likely it will be that the loopholes in the short-range Resolution will induce negative developments. The more precise our ideas the shorter will be the interim time.

The proposal that you have before you is based on the conviction that the organization embodying the regime must be sui genera, that is it must be ~~a~~ different from other existing international agencies as it^xs function is going to be different from those of the other agencies.

Second, that we must use everything that we have got, and here I disagree with my friend Armstrong and I agree with my friend Hamburg^{co}. That is we must use everything, and there is a lot! Everything that we have, and give it new meaning, give it a new direction, give it new content, give it new life. As you can see, looking at the third volume of the Secretary-General's report, the amount of work that is being done in the field of ocean research now is rather overwhelming, and we have to use all this and transform it, from a static, from a data-gathering operation into a dynamic ~~xxx~~ process of planning and production.

We must create a model for future -- for the future activities of mankind.

Now, the proposal that you ~~xxx~~ have before you starts

with a series of statements, expressing I think what is now general consensus. It starts with a statement by Queen Elizabeth, and one by President Johnson. I understand now that I should have added a statement by Czar Ivan the Terrible on the freedom of the seas, and that I think that the trio, Tsar Ivan the Terrible, President Johnson, and Queen Elizabeth the First would have been irresistible.

We then have tried to indicate a vast area of organizational precedents. The International Atomic Energy Agency recommends itself because of the participation of socialist and non-socialist countries, because of its importance for the developing nations, and because of its reliance on a special skill, which so far is restricted to a handful of nations, and the ocean technology will play very much the same role.

Euratom sets a precedent because it incorporates the concept of common property. As you know, under the Euratom Treaty all fissionable material is owned by the community.

European Coal and Steel Community sets a precedent for its peculiar relationship between producers, corporations in our case, and between nations, and the international organization.

The World Bank, The Development Fund, the World Health Organization, others, might contribute to the structure of this new and unique agency that we want to build.

We have tried to indicate the areas where new thinking is needed, and this, I think, is especially on the concept of common property, and on the composition of the Assembly. This ~~strant~~ structure seems complicated because it is a few years away. It's strange how most people don't want to see details when they look some distance into the future. Now, I'd like you to take out your binoculars and look at the details, even though they are a few years away. Because I think it might help us to make the decisions in the present.

So, in the first place, there is, of course, no reason why this regime should not have an Assembly, when all the

other international organizations and special agencies do in fact have one. In the second place,^{if} we have an Assembly, here for the first we have an occasion to be inventive and to create something that is ~~n~~ very badly needed, ~~n~~ namely an international Assembly, not founded on the one nation-one vote system.

What is proposed here looks more complicated than it really is. The Third Chamber -- let me start backward -- the Chamber of Scientists, can be easily put together on the basis of the Secretary-General's Report; the procedure is quite easy to set up. The Second Chamber, which is basically the economic chamber, can be put together by Mr. M~~E~~ro and by Professor Campbell. And the First Chamber, representing the people, so to speak, can be elected by the General Assembly.

The interaction between the three, that is that any decision on scientific matters must be adopted by the political and by the scientific chamber; anything affecting production must be adopted by the political and the economic chambers --

Well, this system probably looks familiar to Professor Andranat^{SS4}~~the~~,
 who can also confirm to us that it works.

Now, I don't want to take any more of ~~z~~ your time. I'd
 like to get as much criticism and as many alternativexs as
 I can from you, during these sessions today, on the basis of
 which criticism we want to rewrite the draft.

I just at this moment got the Treaty, the Draft Treaty
 by the ~~(someone coughed)~~ Prace throughs Law Committee, which is
 now the third one we have under consideration. We have the
 Pell Treaty, we have ours, and we have this. But this one,
 just like the Pell Treaty, while giving considerable powers
 to the regime, does not tell us ~~z~~ what the regime is going
 to be like. I mean I'm a little puzzled by this idea of
 conferring considerable powers upon something that you refuse
 to describe. And I think the function that we at the Center
 can have here is to ^{contribute} ~~consider~~/something in this x area, that
 is in the description of the regime itself. Thank you.

typed 19 June 68/HM

FM

TRANSCRIPTION
LAW OF THE SEAS CONFERENCE
(EMB intro separate)
10 June 1966 AM
cys: EMB, ER, FM

HUTCHINS: I think you'll agree that Mrs. Borgese is at least the equivalent of Ivan the Terrible, Elizabeth the First and President Johnson.

Campbell

~~EMBA~~ICE: Are we going to have the opportunity to have the introductory statements duplicated here before we leave? I think it would be very valuable to have this, and we don't have it anywhere. Yesterday's introductory statement and today's. Provides a setting, you know?

A WHISPER: They can take it off the tapes.

BORGESE: Professor Andrassy?

ANDRASSY: I am not the first to take the floor. But perhaps Ambassador Pardo would have...

PARDO: I very much hesitate to take the floor. I can just give a very few preliminary and very personal observations.

And I don't know how valid they will be or in fact I quite

I thought
confess that/it was a little perhaps premature at this stage,

this very early stage of international discussion, to go into too many details. But I realize that one must think of these things.

Now, the first essential of any details of any organization is, I think, that it must be acceptable to the international community as organized in states. Therefore it must be acceptable, not only to a majority of states, but to a near-unanimity of states.

In the second place, and since we are dealing with the sea, we must have, eventually, or make provision for the membership in such an organization of all states, whether members or non-members of the United Nations. Now, this in turn has certain political consequences. If such an organization should take into account the possible states also non-members of the United Nations, it cannot have too close a link with the United Nations. It is a very delicate political problem, as Ambassador Hambro will no doubt support me on this. Very delicate political problem. And in fact I'm not so very anxious to face it, to discuss it too much

at this stage, at all, because it's very delicate.

In any case, certainly, if one has to provide also for membership of states that are not members of the United Nations, the link with the United Nations cannot be too close. It cannot be of the nature of the link of the United Nations specialized agencies.

Thirdly, in the marine environment, the interest of, the vital interests of the major powers, economic and military and political interests of major powers are very strongly involved, vitally involved. Hence here again, this is another factor which would seem to indicate the inadvisability of too close a link with the United Nations. In other words, the General Assembly of the United Nations should not be in a position to make binding recommendations ~~of~~ on any such agency, like it is able to do with regard to the specialized agencies of the United Nations at the present time. Because, should the General Assembly have this power, the major powers involved -- it would be -- the whole organization would not

not be acceptable to the major powers involved. Or, were it to become acceptable, it would only have very weak powers, similar to the powers of the United Nations specialized agencies, and this, in our opinion, it is much more important to have this organization with strong powers, rather than -- with strong powers and a substantial amount of independence from the United Nations, rather than with weak powers and closely integrated in the United Nations system. And this, for a very large number of political-military considerations which I shall not go into at this present time.

Now, if one admits that the organization, to be acceptable, has to be relatively independent ~~xxxxxx~~ within the United Nations system, there flow also certain other consequences. In the first place we are dealing with a special environment, in which, on certain points, action, immediate action may be necessary. And I am thinking here about particularly on matters concerning security. If the organization is to be a credible guarantor of de-militarization, or at least de-nuclearization of the ocean floor, it must be in a position to act quickly and impartially to ascertain

whether there has been any violation of this. This would point to the need for a small directing body capable of acting quickly, and not hampered by a veto like in the Security Council.

As I see it, however, and since political interests are involved, the body is -- must be -- the directing body must be composed of representatives of member states. The directing body cannot represent scientists; they cannot represent organizations, economic interests: they must represent political interests, political representatives of memberstates as a small directing body.

The directing body, while indirectly responsible to states, would be directly responsible to what is called here a Maritime Assembly. Yes, I am in agreement with this concept, but here again the Maritime Assembly should be the direct representation of member states, the political representation of member states. Perhaps the members of the Maritime Assembly could be chosen in a certain way, in other

words they should have certain qualifications of a scientific nature. They should not perhaps be exclusively politicians, but they should be definitely responsible to member states. I think this is unavoidable. This doesn't mean, however, that the Maritime Assembly could not be advised by consultative committees. Consultative committees could advise the Maritime Assembly on scientific questions, questions of exploration. There could be another advisory committee, advising the Assembly on questions of exploitation of the ocean, and in this advisory committee there could be representation of private interests involved, that is possible. But in an advisory capacity. The advice could be accepted or rejected, I would say, by the Assembly. In other words the Assembly would have the function of hearing advice, but of, after hearing advice, after hearing different points of view, of deciding on a political basis, because all this is a highly political question. And when the vital interests of states are concerned, it can only -- I mean it is only

in practice decided on a political basis.

Now with regard to weighted representation, this is very basic. There are, I think, one or two, to my mind, quite basic principles involved. One -- And they have to do with the acceptability of the concept of organization. One vital principle is that all member states should be represented; all member states should have a voice in this organization. At the same time one cannot ignore political realities. That some member states, and only a few member states, have the practical possibility of exploiting economically and militarily the seabed beyond a certain depth. And that therefore the quality of their interest -- their interest varies in quality. My country has an interest. But I cannot compare the interest of my country to the interest of a large ~~power~~ power like the United States. We cannot hope -- We do not wish to exploit the seabed, but ~~ix~~ even if we wished to we could not exploit the seabed militarily, for ~~x~~ instance. The United States can. And for the United States this is a much more vital question from the point of view of security, hence the interests vary in quality. And this should be reflected

in the different weights of states in forming the will, the decisions of such an organization.

Naturally, this is a somewhat difficult matter.

As I see it, I would not be averse to seeing perhaps the countries that are permanent members of the Security Council having a weight in such an assembly equivalent of say 35 to 40%. I think this is necessary because if they didn't have this weight they just wouldn't agree to the establishment of the organization. But there would be, I think, a considerable amount of bargaining, if we ever get to this point, on what the relative weights are going to be.

The weight of a country should be based, not only on its capability of exploitation, of course, but should also be based on its technological contribution to its population, and to many other factors that can be taken into consideration.

I would see the Assembly, the Assembly in which everybody is represented, though with different weights, giving directives to a Board, to a small board. This Board would have certain powers to take action in cases of security, without

waiting for recommendation from the Assembly. But I would say that on economic matters, for instance, a question of granting leases, the ~~the~~ condition of leases, and how they should be granted and these type of matters, the Board would ~~not~~ have to follow a recommendation by the Assembly. Interpret it perhaps, but generally follow the ~~the~~ lines of the recommendation from the Assembly.

With regard to scientific matters, scientific policy, with regard to questions of pollution and so on, I would there think that in those cases the Assembly should have even greater voice. And could have a determinant voice. And not only suggest guide lines, but indeed make determinant ~~the~~ decisions, of which the Board would only be an executing agency, shall ~~we~~ we say, of certain decisions. In ~~the~~ other words, the powers of the Board would vary ~~xxxxxxx~~ according to the weight of interest.

Well this is just a very brief and very imperfect ideas... I am just ~~in~~ putting forward for possible discussion.

HUTCHINS: Mr. Friedman?

FRIEDMAN: I have just a few random comments. First on the question of the relation of the proposed regime to the United Nations. Now I'm not sure -- of course I speak here in deference especially to the Ambassadors and others who have the practice in the law and others who have the practice in the United Nations -- but it doesn't seem to me at first quite such an insuperable problem. First of all I think if we agree that the actual regime has to be fairly detached from the United Nations, from direct control of the United Nations in order to be effective, this is not novel. Several of the specialized agencies, particularly the operative ones like the World Bank and the International Monetary Fund are in effect autonomous, and they are linked to the United Nations in a very formal one. They run themselves. That is to some extent of course linked to the financial status of the agencies.

Secondly -- and secondly, some of these agencies are open and have been joined by states which are not members of the United Nations.

And thirdly, the main non-member, potential non-member of the regime would be likely to be Communist China which would presumably not participate in any of these activities in any case. Of course, any lack of universality detracts, but I suppose the regime would be well-worth establishing even if one major state, or not perhaps one of the major maritime states at this stage, were not a participant, and that is a political question.

It seems to me also possible, if that isn't considered the pattern of specialized agencies which are autonomous ~~and~~ in their management, ~~which~~ which have a budget of their own, and are open to non-members of the United Nations, is not acceptable, it is conceivable, isn't it, that the United Nations would act as a sponsor of the regime without necessarily being a constitutional -- without the constitutional framework being closely linked with the United Nations. In other words the United Nations would be the obvious organization to get the thing going, but as there is in any case in this draft -- not -- the General Assembly

is not in it as such, but the special series of organs -- the Maritime Assembly, Maritime Commission, Secretary-General -- It seems to me that that might be a way out.

That the United Nations puts -- elaborates this, acts as a sponsor, initiator of this measure without being directly constitutionally linked.

As for the Constitution itself, it seems obvious that, in some form the regime has to adopt a status -- it has indeed been suggested that we'll depart from the one vote -- one member-one vote pattern, and not only that. That it will have to express somehow the different groups of interests involved. That of course by now is not ~~unusual~~ unusual. We have it in various commodity agreements, the International Wheat Agreement, the International Coffee Agreement; we have it in a different way in the International Atomic Energy Authority, from which a good many provisions are drawn. We have it also of course in UNCTAD today, and in a way we have it even in the IDA, International Development Association, where the members are divided into two groups, namely, broadly, the developing and the developed countries. This is, I think,

very skillfully done. There's another pattern which is obviously -- has been in your mind, though perhaps it isn't sufficiently elaborated here...the three-level pattern of the General Assembly, of an executive, which would be a smaller body, equivalent to the executive board of directors, shall we say, of the World Bank, which is the effective board of directors, and the Secretary-General and his staff, ~~xxx~~ to which, as I think I mentioned to you, you give perhaps a little too cursory attention. In all these organizations the permanent president or secretary-general and his staff, which of course ~~xx~~ should have international status like the servants of all the UN agencies, is usually the linchpin.

So, finally, a word about the Court, the jurisdiction. I don't know whether the somewhat ambiguous position of the International Court has here would be very satisfactory. It's -- I wonder whether it would be necessary to make a decision, clear-cut decision, whether the judicial, any legal disputes arising should be put before the International Court and prima facie I would have thought this is a matter where the International Court of Justice is perhaps more competent in

its background and composition to judge than in many other international fields, or whether it should be a specialized tribunal. I am not sure whether the combination that is attempted here is one that is either acceptable or desirable. Well these are just a few random comments.

HUTCHINS: Ambassador Hambro.

HAMBRO: Well, this is very clear (?), and first I also begin with just some random remarks. First I agree, I think, with Professor Friedman, that we should be able to draw on the differing constitutional provision of many of the specialized agencies because we needn't be too strict about division into a council and a general assembly, and I must say that I feel very tempted to try to work out a constitution which will give great scope to individuals and not only to states. And I wonder if it wouldn't be possible to reach some kind of solution there by having a fairly large council elected by members that would have the decisive vote when things should be settled. And then have the General Assembly, or Maritime Assembly as she calls it, consisting more of individuals

but make it quite sure that if there's any disagreement on the more fundamental issues it might be referred to the council. I think that is interesting.

Now, Ambassador Pardo talked about ~~xx~~ veto powers in voting. I think that is a thing which will create a very great difficulty in the future. It will create difficulties if we stick to the idea that the regime ~~w~~ should deal not only with the ~~xxxxxxx~~ use of the resources and the development of the sea, but if the regime should also deal with military aspects. And my inclination is -- if possible ~~xxx~~ it -- I think that's difficult on account of the way it's been started in the United Nations, but if possible, I think these two things ought to be separated. I think that the question of military installations on the sea bottom, and similar questions, are so intimately linked with the security issues and with general disarmament, which are in the ~~xxxx~~ province of other organs of the United Nations, that it must be very difficult to have them in this new regime. And, if it should

be decided that we must have also the military side in the regime, I think that we must realize quite clearly that the great powers will not agree to that without keeping their right of veto. It is not only the thought of the Soviet Union; we must realize that the United States has been just as insistent on the right to veto in these matters as the Soviet Union, and implicit today in international relations, because it is inconceivable that great powers will give away their security interest to any organization that will vote and that will be able to overrule them. I think we must realize that, and work on that, and find a solution. That was a part of it. And also I should like to come back to what Mr. Friedman said about the Court. We might possibly take that up as a special item. There are certain of the things about the Court that tempts me very much. I think it might be a very good idea to have a specialized Court. This of course is linked up with the whole future of the International Court. We know too little about that. If the International Court will continue to be as overloaded with important cases as

x it has in the last few years, I think it will not be in order to give it some extra work, but what I would be tempted to do is to look into the question, already it might be possible to let this new Maritime Court deal with most of the technical things, and institute a way in which principles, of more ~~general~~ general principles of law may be settled by the International Court as a Court of Appeals.

We have had that -- I think we have had two cases in the old Permanent (?) Court of International Justice, where that Court worked as a Court of Appeals, over some of the courts in Europe. And I think that must be a very good idea to do here too. And I think also it might be worthwhile to investigate whether it is possible to introduce the International Court of Justice in the way the Court of the European Communities works, by settling questions of principles, which they refer back to the other courts, but the decision of principle will be binding on the lower courts. And then just a _____ (kager??) here, to one thing which seems interesting, that is -- we say here: "litigation between two or more members-states may be brought

before the International Court of Justice in agreement between the Maritime Court, the International Court of Justice, and the parties concerned." Such a paragraph, I think, will create great difficulties. First of all, it's possible, of course, that there will be a conflict of jurisdiction between the two Courts. I mean that's possible and we must try to find a solution for that. But it may be agreed -- to just have a caveat here saying that if any two states which are litigants prefer to bring the matter to the International Court of Justice they can do so. In any case I consider it unwise to provide for any agreement with the International Court of Justice and the other Court. So far the judges of the Court, both of the Permanent Court, and particularly of the International Court of Justice, are extremely careful and prudent. One might even go further and use stronger terms --

_____ : Timid.

FRIEDMAN: Timid about mixing into anything that is not clear judicial decisions. They are so careful that they not only lean backward but they-- and I use one of my own favorite

words which I've made myself -- at times it seems that they go away from jurisprudence and indulge in jurisprudery. Let us be a little bit careful there. Don't lead the Court --

The judge -- I think the President has been known to say, "We do not make any -- The Court does not make agreements."²

The Court has jurisdiction given to the Court by the states. We can interpret that. We cannot change it." They will say that's a political process outside the members of the Court. We just ought to be aware of that difficulty exists, and I think it will exist for a long time. Let's beware of that. I mean just in brackets all this criticism of the Court in the Southwest Africa case I think was a bad judgment. The criticism was always (?) addressed to the fact that the judges were extremely careful to do anything that was not entirely strictly legal, and there is a certain tendency to be legalistic in the Court which we must be aware of.

Andassy

~~HAVE TO:~~ XXX
 Take the Draft as it is, without entering into

anything proposed which could be made, and I limit myself now to two questions. The one is of membership. This, what

I have to say is criticism of statutes of most of the international organizations. Universal international organizations must admit membership of all existing states, without any condition. This is a criticism of the Charter as well as of other statutes. Every state would be entitled to become a member, without any conditions. And so I believe that in this Article Seven, Paragraph II, the membership should not be approved by anybody, but membership should only be registered. Of course membership is not obligatory, so application for membership must be done. This is the willingness to enter, nothing else. And the appropriate organ must register this application and the state becomes in this way a member. Pardon?

Nambro : Will you please tell the members here who will decide which applying organization is a state?

Andressy
~~NAMERO~~: I come to that. The registering organ may refuse the application on the grounds that that is not a state, and this applying ~~unit~~ unit may ~~xxx~~ have recourse to a judicial body, say the International Court of Justice, to state

whether it is a state or not. For instance, members of federal states, two of them are members of the United Nations and of other organizations, or provinces, or governments which have no territory, and so on. Then it should be only stated whether this is a state in the definition of the statute. On the contrary, when an applicant is admitted every member of the organization should have the right to challenge this registration on the same grounds, that this is not a state, that the registering authority has registered somebody, some unit which is not a state. It is my view on all international universal organizations that it should be made in this way. Of course this willingness to carry out the obligation, every applicant is supposed to be willing to fulfill its obligations. This is the first.

The second is my statement that a Maritime Assembly is composed of individual members. And this is an original construction here which may be accepted or not accepted. But I am making observations on some points of detail. For instance the first -- how long is a term of service for the elected members? The, another thing, there must be a provision,

as in that statute of the Court, no two elected persons shall be citizens of the same member-state.

Third, and this is now applied also to the case when we would choose another system, not individuals but states, as Ambassador Pardo ~~max~~ mentioned. There must -- should be a regulation ensuring to every member to become member of this body, even if he is not elected by the electoral body. For instance you have some states which are never admitted to ~~the~~ be members of the Security Council because the voting machinery is excluding them for different reasons. So, ~~in~~ I would propose in that case that after five years the state which has had no representative by election becomes automatically member for that term of one year or two years, and his place is deducted from the places which are for the future to be elected. It is perhaps a lateral (?) observation, but I would wish to limit ~~in~~ my observations to the text as it is here. Thank you.

HUTCHINS: Dr. Rao.

RAO: Well, Mr. Chairman, I'll first address my ~~remarks~~ remarks to

what Professor Andrassy just said about this complicated procedure about admission of states. It revolves largely around the fact of whether we want this organization to become quickly independent of the UN or some link is still existing, and also the machinery by which you make this organization come into being. As matters stand, as Ambassador Pardo stands ^{in the UN now}, it is impossible to have what has become known as the all-states formula because first of all it will create political problems, and secondly, even in relation to the Secretary-General, in the discharge of his depository, it will create problems as long as he doesn't have a list of which are the states who are competent to become members. And if we follow the procedure which Professor Andrassy has suggested I am afraid that the organization may not get off the ground, if it is allowed for member states to challenge every application, even after the application has either been admitted or not admitted. We will have a litigation about which are the members of the organization before the organization could even function, which

seems to be the main purpose of setting up an organization like this.

ANDRASSY: May I ask ...? With your permission? The first paragraph says that the ~~xxx~~ original members are those who have signed the statute, so you have the beginning.

RAO: Yes. The point I am making is that you may have provided for the organization to come into being, but if you retain the power of challenge by other states after they have become members, I'm afraid we will be starting with litigation about this question, which will not dissolve for a long time. That is the difficulty.

ANDRASSY?: It will be very rare.

RAO: Well, I have grave doubts about it. And then the question will be whether you want to bring this organization completely outside the UN. In that case perhaps the procedure would be to convoke a plenipotentiary conference, even then, you need an organ like the General Assembly to call for a plenipotentiary conference. Then once you have the conference, then they may decide as to who should become members of the

new organization. And perhaps give a list to whichever of them would be established, as a depository, -- the power to register only those members which are approved by this plenipotentiary conference. But if it is left to an executive authority to decide which is a state and which is not a state, I'm afraid it will create a lot of trouble and I don't think it will come into being. Now, in relation to these patterns which have been suggested for representation of various interests, one other body perhaps may also be studied, namely the International Labor Organization, where you have a three-tier representation, namely governments, employees, and employers. I don't know how it could be fitted here, but there is some pattern in relation to the study of certain functions of the organization. In regard to the ~~quartz~~ courts jurisdiction I agree entirely with what Ambassador Hambro has said. I don't think the Court will accept a role where its consent is asked to admit a case before the Court. It is not to the present Court. So the best formula may be to have for most of the questions a Maritime Court, and, if there is Court of Appeal, and the

idea is to have the International Court, it should be without the consent of the Court, but it should be an agreement between the parties concerned or, as we have today, that any state can take the matter to the Court. But it cannot be with the consent of the Court as formulated.

Well, the question of all-states formula to a certain extent is now invoked when the big powers agree that they can't have an agreement unless the all-states formula is included. We have two, rather three examples today, of the Test Ban Treaty, where all states can sign the treaty and become parties, and the Outer Space and Moon and Satellites Treaty, and lastly last year's Assistance to Astronauts Treaty, but as I said, if you have that formula the Secretary-General ^{'t} can be a depository and that's the reason why it has been solved by having the three government big ~~power~~ powers being depositories.

_____ : Is it the same with the Non-Proliferation Treaties?

RAC: And the fourth. Yes. Ten years back, before, when the Non-Proliferation Treaties.

Well, I see that it has been provided that apart from the three big powers two powers have been included who should ratify the Treaty before the Treaty comes into operation. But I will mention that France is not included. It may create some problems there.

BORGESE: Well, I put Norway there instead because I thought France may not ratify. And Norway at least is more important as far as fisheries

RAO: In addition to them, I would say that France also should be included. I don't think they would ~~be~~ feel differently. Their attitude toward ~~the~~ this matter relates only to nuclear field, the disarmament field, where they refuse to participate, not in these matters. They have taken part in the General Assembly on this idea. I don't think it would be proper to expect that they may not ~~take~~ ^{play a} part in this subject.

FRIEDMANN: I expect you have certainly expressed a very understandable predilection for Norway, I think, in your choice.

FREEMAN: I have a little trouble with the statute as to

why it uses certain terms and also to really trace through what we're doing about the nation versus the corporation versus individuals. For example I am not quite clear why we abandoned the term high seas to go to deep seas when high seas has always been considered to deal with everything beyond territorial waters. So we put in a term deep seas and then proceed to define it as being that portion beyond the territorial waters. This gives me some difficulty, particularly since we then throw in the term also, both in the title and then later on about beyond the limits of national jurisdiction, and I don't know whether that means beyond the present limits of national jurisdiction, or beyond the limits of national jurisdiction as people will go on asserting them. I think

BORGESE: That's ~~xxx~~ defined here.

FREEMAN: Yes, but it doesn't say, even in the definition it doesn't say whether it's present or something that will continue to grow

BORGESE: I beg to disagree.

FREEMAN: It didn't to me. Now maybe I just don't read right,

Elisabeth, but it didn't to me. Then it seems to me, that, beginning

with, right from the beginning, in ~~xxxxxxx~~ Article II, I, IV, VII, and so forth, you -- we've got "common to all" "common property" "of the peoples of the world" and then we shift to the "member-states shall have international ~~x~~ responsibility" and then we shift back and forth to "licenses to the ~~x~~ member-states" and to "international organizations and corporations". Again, as a lawyer, I don't know you mean and international corporations, whether the word "and" carries to "international" and whether the word "international organizations" means international associations or it means only international organizations in the ~~x~~ sense of the UN and so forth. All the way through here I find a good deal of difficulty in language in terms of several different concepts of the nation, the corporation, or international body, and individuals. I find/^{it}particularly difficult to understand exactly why it's this form. We talk about the Assably being made up of individual representation of various interests, consumers, etc. When we get around to facing the question of who can cases to the court, we suddenly come up with the old rule that nobody but a state can take them there.

BORGESE: No.

FREEMAN: Well I don't read it any other way. Maybe I'm again wrong, but this is the way it ~~hits~~ hits me as to what is being established, and it seems to me -- and we've got provisions here about suing in the Court against the regime and no provisions whatsoever for the regime suing against the other end of the contract. Maybe some choices have been made here that I don't know about, but as I read the material I find just a whole series of these holes that lawyers would want to know what is the answer to them. Have choices been made, and it seems to me we'd have all kinds of arguments in some of these places. I could go into these sort of step by step but I think it's more important that I just state the general feel for it as I went through the statute.

BORGESE: May I just demolish two of your steps?

FREEMAN: Demolish away. There's nothing I'd like better. I always like to be demolished by a woman.

BORGESE: The definition of the ocean bed and so on so forth is on page 4, Sections II and III.

FREEMAN: Right.

BORGESE: I think that is as precise as we can get.

HAMBRO: Oh could I speak out again? I'm sorry. I may be just as xskewed, you know, as my friend Professor Freeman and share both the stupidity and the ignorance of most of my colleagues in the U,nited Nations. What is the difference... must it be stated? What is the differenc e between sea bed and ocean floor? That is not defined here as far as I can see, even in this Treaty. I know perfectly from my excellent friend, Ambassador Pardo why he hasn't done it originally, but if you make here, particularly in Article III definitions, an indepth definition, you do not find either ocean floor or sea bed defined. You _____ to a great extent, but you don't say what it is.

BORGESE: Now there I plead just a ^(?) person like everybody else, but at least the extension of it is defined. As to what it is...

HAMBRO: Well isn't that rather bad not to have it when you have a special article about definitions? that the two main words are not defined?

BORGESE: Can you provide any definition?

HAMBRO: But I'm here to learn!

BORGESSE: We are here to learn!

ANDRASSY: I can provide a definition by striking _____ the sea bed or the floor. (? not very clear). If you strike out one of these terms, you may have a clear definition.

HAMBRO²: Is the idea that the ocean floor is the floor of the really big deep ocean and the sea bed is the floor of close seas that are not deep? For instance the North Sea and the Baltic? The Black Sea?

BORGESSE: Well, everybody always uses this phrase

MANY MANY MANY AT ONCE: ?

ANDRASSY: In the discussion of Ambassador Pardo's proposal, in the first committee, at once got to these two terms; before they are not here.

KAPLAN²: Well there's another term that we could use. I think I pointed that out in the last meeting. This is sub-soil, and if we go very strictly in the sense of definitions the ocean does not have soil, so in effect the three terms that have been used are a little bit misleading, perhaps, but it

was I think pointed out that these are all-encompassing. In case something is missed they've all been included. Perhaps better to be ~~redundant~~ redundant than to have missed out some points.

FREEMAN: Why don't we just say the high seas and everything thereunder? Or some simple words that don't get us into terminology such

CRAWFORD?: Mrs. Borgese, are we splitting the closed seas, now, such as the Red Sea, or Bering Sea, for example, or the Mediterranean? These may be one of the first debatable questions that we're going to be faced with in this international law. We're not including them, am I not ~~xx~~ right?

BORGESE: I think they are included, and that's

KARLAN:

CRAWFORD: They are included.

BORGESE: There are some special regional provisions where I take special care of them, yeah.

ANDRASSY: For Professor Kaplan's remark, the terms seabed and sub-soil are consecrated in the continental shelf convention and it is now ten years we have it, so you -- it could be wrong

from the scientific standpoint but this is accepted. We know what is the seabed

FREEMAN: Well my understanding is that some of what we're talking about $\frac{1}{2}$ can just as nicely be in solution, or in suspension, and can be pumped up, as it can be to be mined or dragnetted off the bottom, and the kind of terms that we're using here freeze -- they're just not broad enough for us to operate all the ways in which we're going to have to operate. That's all that bothers me about it.

WHEELER: I thought the superadjacent waters were explicitly excluded.

CRAWFORD: Well, they shouldn't be.

FREEMAN: If they are excluded, I can conceive that everybody that \times wants to operate out here will simply learn how to put this stuff in suspension and pump it out and \times say we don't need your darned old license.

CRAWFORD: This is true. On at least one occasion I

FREEMAN: I'm just as sure as anything.

WILKINSON: _____ extremely complicated ecological relation

between the superadjacent waters and the so-called soil, and to exclude one is

FREEMAN: I think we ought to get terms that are broad enough to cover everything that we think we want to cover, whatever that may be

MERO: These terms that are being used now are another one of the idiocies of the human race. Certain people in the past have used these terms. Different men in writing want to be different than the previous author, they use a different term. Then other people come in that don't understand any of this, maybe politicians and not scientists, so they pick up all three terms, start using them and they think there's a special significance with each term. And there simply isn't. And we would be better off if we just said everything in and under the high seas and just let it go at that. Some simple definition that is not ambiguous, and is

KRUGER: Of course there is some history here. The UN Resolution creating the Ad Hoc Committee did use precisely this same language, so there's a historical

MERO: They did it for the same reason.

KRUGER: Well I'm prepared to accept that explanation.

MERO: They really don't know that there's no special significance to all these different terms.

HUTCHINS: We did want to avoid getting tangled up with fish and surface vessels. We want to make it clear that we are not interfering with the prevailing law of the high seas. They had to think of some additional formula.

FREEMAN: Well the provisions here with regard ~~to~~ to regulations are broad enough to cover fisheries. I'm ~~xx~~ just as sure as anything.

TUGWELL: No. It's excluded in one of the sections.

KAPLAN: Well, Mr. Chairman, I think Mr. Freeman has brought up an important point, and that is relative to the overlying water, we have I think evaded this somewhat during our discussion, perhaps purposely because of the possible political entanglement. The question is should we proceed by eluding this question completely, or should we somehow return to it for some discussion? Because there is an obvious connection between the surface and the overlying water, as we have discussed

previously, not only from an economic point of view, and not only from a fisheries-ecological point of view, but obviously from a military x point of view. The two really cannot be divorced, just like the solid earth and the atmosphere cannot be divorced. Now the question is, do we want to avoid this because of the ease in handling this resolution through the United Nations, or should we x face it squarely at this moment?

BORGESE: This document as it stands now gives jurisdiction to the regime as far as pollution, ~~xxxxxxxxxxxx~~ conservation is concerned, but it does not give authority to issue licenses for ~~fish~~ fisheries, that is not included. But pollution, conservation -- which means the superadjacent waters, including

KAPLAN: Well, of course pollution, you see, can be very directly connected to fisheries. There is a very very strong link and one x can avoid it if they want, but the link is there nevertheless.

FRIEDMANN: It seems to me that I think Professor Kaplan has raised a vital point. Now, if this Center is going to be bold and propose, as I think is a general agreement it might

and wants to, the regime beyond the immediate expectations of acceptance, and perhaps it should be bolder than it has been, and envisage the high seas ~~as~~ as an entity. Of course there hasn't been any regulatory agency of the high seas.

The principle of the freedom of the seas has been an unpoliced freedom and I suppose most people would agree that the policing, even of the traditional aspect of the freedom of the seas, which includes particularly navigation and fisheries, is already becoming a problem because of pollution, because of the navigational obstacles that arise from installations on the continental shelf, and possibly now beyond the continental shelf, on seamounts and others, and because of the difficulty to separate various aspects of water above the sub-soil and resources below the sub-soil. Now, one might perhaps have to exclude the military aspects, which would injure the whole matter, but in regard to fisheries, I mean, ~~that~~ there are now proposals for ~~a~~ fish farms, which would certainly push a step further toward the regulation and policing and control of these matters. There are also various inadequate conventions

in this area which have I think been singularly either unsuccessful, like the Whaling Convention, which was mentioned, I think by Ambassador Hambro, which has been a disaster, partly because of the lack of policing, or the new anemic convention for the conservation of fishing ~~resources~~ resources which is weak precisely because it lacks any kind of effective regulatory authority and depends on, almost entirely, as did the Whaling Convention, on the good faith of the members. So perhaps this is a crucial -- this is really a crucial question whether to take the sub-soil, the ocean bed matter now, as a reason, as an occasion for instituting an international regime for the uses of the high seas. And with various as defensible aspects being fisheries, navigation, pollution, and mineral resources. Well this -- at the moment -- I had one or two other matters ~~but~~ but I think at this point this is really the crucial question

~~XXXXXXXX~~

HUTCHINS: Ambassador Hambro, it's a question of taking in all the issues effecting the high seas -- do you want to comment on

HAMBRO: No. I think that I'll listen to this. _____

_____. I agree I think if this new regime should have any real meaning for humanity, to use these very high-sounding terms, I think it must also include the, eventually, high seas, fisheries, and pollution -- everything to deal with the high seas. I agree with the -- _____obvious, which Kaplan is saying; that you can't divorce the one thing from the other. And that in reality international law must take into consideration, where this is possible, at present _____not. I'd like to ask Ambassador Pardo about that because I don't think that what was in the sea was included in the minds of the people who adopted this Resolution. You don't deal with that yet in ~~ix~~ the

PARDO: As presented to the United Nations, we deliberately limited the scope for a very large number of reasons to the sea bed and the ocean floor and what's underneath. Because there is a smaller body -- there is very little international law on this subject and ~~x~~ we thought it would be easier to introduce the subject as a whole in the UN in this way. Assuming that a treaty ~~x~~ has been negotiated,

and it's just a question of establishing in the treaty certain provisions, of course there is a relationship between the ocean as a whole and the ocean floor. And in fact -- here if I may, I would like to comment just on Article IV on the objectives. There should, I believe, be some distinction here. We have, first of all, the -- that part -- for instance, with regard to research, for instance, the regime could be a ~~xxx~~ coordinating agency at the international level for research in the ocean environment as a whole which, even within national boundaries. That's one. The -- Another objective would be to include the freedom of scientific research for peaceful purposes. And to ensure it in the ocean environment as a whole, without regard to whether it is on the high seas or not. Then we come, for instance, to fisheries, and to other things dealing with the ocean environment, and here it would I think ~~xxxxxxxx~~ be unrealistic to assume that the agency would deal with fisheries, directly with fisheries, within national jurisdiction. But it could coordinate, not only research, but all -- be the agency to promote revision of fisheries treaties,

coordinate all the work at the international level with
~~xxxx~~ regard to ~~x~~ fisheries and to the living resources
of the sea. It could be the agency of the international
community to ensure freedom of the seas, to ensure freedom
of the seas, which means an interpretation of freedom of
the seas within -- in a different sense perhaps than what
it has been up to now. And promote -- it ^cwould also promote
maritime law, that's another objective. Now, with regard
to the actual sea bed, and the ocean floor and the sub-soil,
whatever lies thereunder, there the powers of the agency
I would hope would be far more extensive, far more extensive.
And here I would have for instance the objective of Article
IV, 2 and 3, somehow reworded and put together. I ~~w~~ mean it
seems rather unfortunate I would say to ^{single}~~signal~~ out the danger
from the drop in prices and then you encourage enterprise to
expand. Try to -- I mean try to put this together in an
integrated fashion, because -- With regard to pollution,
here again, I would think that the agency would absorb the
half-dozen activities now fragmented throughout the UN

system. Indeed it becomes a central coordinating agency for ensuring the freedom of the seas from pollution, and with some enforcing powers, too. And have rather strong objectives there. I think that the objectives of the agency should take into account ~~xxix~~ political realities and be somewhat modest with regard to what can be done within the seas under national jurisdiction, however defined by the treaty, somewhat wider, but still modest, and still more or less -- as we have had precedents in the present specialized agencies, with regard to the seas as a whole, outside national jurisdiction, and very wide, and indeed of approximating sovereignty but always with the idea of trusteeship, with ~~xxix~~ regard to the sea-bed and the ocean floor, which is that part of the general ocean ~~xxx~~ environment which is free, at the present time, from too many legal precedents.

I mean I see it ^{at} ~~xx~~ three levels of wide-range of differing powers, harmonized with political realities. However, this is just my personal view and ~~and~~ and I would hope that military aspects are included, and I would hope that the

agency or the regime would be the enforcing mechanism through which demilitarization or denuclearization of the ocean floor can be enforced. But anyway, all this, as I say, is somewhat an

MERO: I wonder if we couldn't ^{accept} ~~accept~~ the overall objectives and start with something small such as the regime being organized to promote control, development of the sea bed mineral resources, with the ~~option~~ option to expand the scope of activities to the sea water itself, and then maybe to granting permission for laying cables on the sea-floor, and maybe regulating fisheries later on, if the regime is successful in carrying out its first objective.

PARDO: The objection to that approach is that ~~if~~ if the powers are not widely defined ~~usually~~ usually what happens is that they are ^{still} ~~not~~ further narrowed. In fact the charters of all the specialized agencies are very wide. In fact the Charter of the ILO, for instance, I learned last week, includes also the spiritual development of humanity. Not only the material welfare but also the spiritual development. I means it's just tremendously wide... and then usually the contrast ^{of} of varying

interests reduces the practical activities to more modest propositions. But if one starts very modestly, it's very difficult to expand without very exhausting negotiations.

MERO: Also I wonder if this regime couldn't be organized along lines of corporations in which stock is issued in proportion to the interests that the various members of it have, and they would have one vote for each share of stock that they hold, and in this way things like preferred stock could be issued to these nations that might get hurt in producing commodities from the ocean that are in competition that these individuals and nations now produce, and the preferred stock would carry a certain distribution of dividends but no vote in the operation of the corporation.

WHEELER: That would be big in Russia.

MERO: Well maybe we could call it a socialist something or other instead of calling it a corporation, and get around the Russians.

KRUGER: I was just going to comment that insofar as the concept of stock for investment, why the World Bank does

have some precedent in that regard. Not stock as such but
 voting
 the/~~making~~rights and the influence, but I think that if you're
 getting into an issue of preferred stock and determining how
 and to whom you would issue the preferred stock, you're creating
 a house of ~~xxx~~ horrors, legally speaking.

MERO: Well we don't have to call it by these names, but in
 effect that's what they are. We could call it preferred voting
 rights or preferred call on dividends and so forth, or ~~xx~~
 preferred call on wealth that's created

FRIEDMANN: I was going to -- I am glad this matter is brought
 up because I was going to raise the question of membership
 and that has some bearing on the suggestions which have just
 been made. First of all, depending on the degree to which
 the new regime will be detached from the United Nations, I
 would think again that we should be a little bolder and not
 confine membership to states and specialized ~~xxx~~ agencies of
 the United Nations, but to open it at least to other trans-
 national public organizations, of which there are now an
 increasing number, and it is quite likely that certain maritime

corporations, say of an inter-governmental, or mixed governmental-private character will be formed. We have now a number of these, not in the ocean field, as far as I know, but we have multi-national in the strict sense, or inter-governmental, or mixed governmental-private organizations such as Euro-Phema, Euro-Chemic, or bi-national corporations like the Mont Blanc, the Mosel-Saar Canal. Corporations that are very interesting, important, and new phenomenon. And as we had, I think, at least tentative agreement that the agency was sponsored by the United Nations, might in fact be detached to a large degree from the United Nations membership and operation as such, I think that it's ~~x~~ worth serious consideration. The extension of membership to international organizations other than states and the specialized agencies. Now on the issue of stock, in public corporations generally throughout the world, in the various countries, you have these two forms: you have either public corporations that are chartered, ~~xxxx~~ like the British public corporations, some of the French and the TVA, or you have constituted stock companies, like for instance the Italian governmental holding companies, which are of gigantic

proportions, and numerous companies, it's a toss-up, actually, it's often quite accidental. Some of the Scandinavian ones, too, I think, are constituted as stock companies with -- and of course British Petroleum we might add here, BP, which, where the stock issue of course is important, because it's really constituted, conducted, as a private operation in which the government nominates certain directors and holds a controlling proportion of the stock and a veto power. But there's one thing that might generally I might say, in international organizations we have no stock issue, we've had -- The nearest approach is, as somebody pointed out, in the quota system in the Bank, and the International Monetary Fund, where the voting power of states is adjusted, though not entirely, to depend upon its capital contribution, subject to certain provisions that prevent any one state from having a majority. I think this stock pattern would perhaps be a precarious form to adopt. Except for one thing. This idea of preferred stock is usually non-voting

stock, and with certain preferences as to dividends, and this might be a suitable pattern in ~~yx~~ view of the necessity to associate land-locked states. Perhaps Ambassador Pardo will remember that I raised the point after his speech at the American Society of International Law about the position of land-locked states. Land-locked states in fact can participate in an international -- only adequately in an international ~~mx~~ organization, ~~xxxx~~ because they have no continental shelf of their own, or no other sea-claims. And then there are two alternatives: either they participate as voting members, on the basis of equality, or as a special group of land-locked states, or, as somebody pointed out, I think it ~~x~~ was Mr. Christy on your panel, or somebody else, said they could ~~xxxx~~ participate as beneficiaries without being active, without being really active members of the organization. If that pattern were adopted, a kind of preference stock pattern, non-voting dividend, entitling the recipients to a preferential distribution regardless of the -- in preference to the normal distributions of profits which several of our experts have told us are not likely

to be forthcoming for a long time -- might be a suitable pattern.

WHEELER: Call it a cooperative. And you could, you know, translate it as cooperative on one side of the Iron Curtain and as corporation on the other.

MERC: Well, it would be more in the form of a cooperative because it would have a charter which gives them specific rights, and it's more in the form of a utility than a ~~xxxx~~ corporation

FRIEDMANN:
YAG: Twenty-eight land-locked countries, and of course their participation, either as active members or at least as beneficiaries is obviously essential, if either the developing country idea is to be implemented or generally the whole scheme will not serve to widen the disparities between one group of states and another.

YAG: ? : On ~~xxxx~~ population, would you think that's as much as 10%?

FRIEDMANN: I don't think so.

: But we can't ignore this

HUTCHINS: Professor Kaplan, I think you wanted to say something?

KAPLAN: Well, I perhaps -- this is a little late now, but I did want to make a statement earlier in view of the previous discussions and perhaps in the form of a recommendation, that one tangible means by which the -- a body once it has been established could immediately begin perhaps taking an active role is by taking up the suggestion that has been made by the United States administration in beginning a hydrological or an oceanographic, I should say, an international oceanographic decade. There has been a suggestion made. And I think this may be a means by which a United Nations body could perhaps take this up immediately, and use this as a means of expanding its purpose beyond the sea-bed into the ocean as a whole. Because this, although it will initially be in the form of a research project, could, I think, be developed much more widely to include, at least as a secondary, on a secondary basis, economic problems, and then go into fishery -- on a tertiary basis to the perhaps military aspect.

FREEMAN: Could I suggest at some point this document, if it

is going to be put out, be turned over to essentially a law revision commission that combs through here and sees whether or not we really have covered the matter. I just called your attention to one thing, and I don't like to keep on these piggyback matters, because I'm really interested in the broader aspect, but for example, in Article IV Objectives, we use the term minerals and metals consequent on progress in deep sea mining technology as though that covers everything that can possibly be talked about here. I gather it does not cover diamonds, it does not cover non-metallic raw materials, it does not cover technology other than mining. I just take that as one example. I see something like that in almost every paragraph through here. Now, it seems to me that if we're talking about getting a document that really holds together, we need a great deal more attention to things of that nature.

MERC: From a practical standpoint that Clause number 5 which is at the end of Article III I guess, would lead to difficulties because they've -- although shrimp are normally considered as ~~xxxx~~ sedentary species they've discovered a way now of

inducing electrical shock that causes these shrimp to leap up about a foot in the water, and they grab them, and they're swimming at that point, they're no longer sedentary. And the shrimp when they jump up a foot enter a totally different regime that makes them harvestable ~~xxx~~ species, where as long as they stay on the ocean floor itself they're not a harvestable -- they belong to the nation whose shelf that is. But once they're in the water they're outside the fishery limit of 12 miles, they belong to anybody that can get them. And I imagine somebody would figure up some way to make these nodules jump up off the ocean floor and grab them, which would move it outside of the regime that we're talking about. So I...

WILKINSON: How about applying it to the politicians?

FRIEDMANN?: Isn't that a point in favor of a wider regime?

MERO: That's right. Then instead of people spending their money developing these resources they'll pour their money up into ways of figuring ways of how to get around this thing, and I think we'd be better off if we just included the whole ocean in this, as far as mineral resource developments are concerned, or development of non-living resources are concerned.

WHEELER: Elisabeth, does Professor Kaplan's proposal to incorporate in some way the idea of the international oceanographic decade commend itself to you? It seems to me like it provides a great deal of really potent leverage that

BORGESE: As a matter of fact I have tried to do that, on the article on planning.

WHEELER: that might forestall some of the most immediate of the practical political and power difficulties, so that the birth of the regime might be thought of in terms of the organizational form for the inauguration of the oceanographic ~~XXXXX~~ decade, but that organizational form bearing within it the seeds of this mature governmental regime structure.

BORGESE: I'm wholly in agreement with that. I think I made reference somewhere -- page 19

ARMSTRONG: Mr. Chairman, I was wondering whether one might almost begin to look at this the other way round. Instead of what is excluded from national sovereignty, from the way -- what governments are getting, to look at it from the point of view of the future ocean regime, or whatever we're going to

call it, hydrospace regime, and see what is left. Let's say the major part of the planning comes under this thing, and you look at it, as we said in London -- somebody -- a mirror proposition. Instead of always looking ^{from} ~~at~~/the land at ~~from~~the sea, you look at it from the future regime back at the land and see what you don't give to the hydrospace regime. Because I'm sure your're right. You have to look at this whole thing together, the sea and the ocean floor and all the rest of it. But. I was wondering in the connection with the relationship to UN, whether the -- which Mr. Pardo is saying shouldn't be too close, and I'm sure some of us would agree with that, but have UN as ~~xxxxxxx~~ the mother and father of the thing, that ^{emanates} ~~xxxxxxxx~~, as you've said at earlier meetings I believe, that it emanates from the UN, but whether the cooperative, or whatever it's going to be called, could also take note of the way the COMSAT, the Intelsat, that thing, is set up. I have here in front of me this schedule of the quota agreement, and fascinating it is, that the Yemen gets .020 of that satellite. So, they ~~xxxxxxx~~ evidently

have broken through this ~~the~~ business of one nation-one vote quite heavily. I see the United States however gets 56. So they've also not any quibbling about having majorities. But this, after all, is working, and I'm not saying that it's a good model but it does show what can be done if you take some of these things and get away from the sort of usual institutional framework and setting up a whole mass of governments and then seeing how they're going to route it. Set up the thing and then get the governments to become participatns, either in shares, or by voting preferred stock or whatever it is. I think in our deliberations in London, we just had a talk on the whole working of this COMSAT and Intelsat system, with -- in the believ that it may have something to offer to the ocean regime. And of course one of the proposals was or has been and incidentally made by the man who's now the advisor to the World Bank -- I think Information Officer to the World Bank, Mr. William Kerr -- why shouldn't the UN have its satellite? I mean you could have this thing set up as a sort of world public utility, it doesn't have to be a private thing, but you could adopt

all the procedures of company structure for this. I'm only mentioning this, Mr. Chairman, because I thought this was a session where we were invited to sort of think aloud on the whole thing. Because I would agree that this actual Statute -- and I ^{pay tribute to} ~~existed~~ Elisabeth who created a lot of -- I mean there's obviously a lot of new thinking being -- going on here, but the actual document itself I'm sure has to be gone through. But the other thing that came out of discussions in London was from I think the representative of Shell, who said for heavens sake let's have a clear boss. Let's say who the boss is. Because otherwise it won't work. And I am a little bit worried in ~~this~~ this thing as to whether if you had to take a quick decision whether it's the Maritime Commission or the Assembly or which of the two chambers, you've got -- I know this sort of effect is of centralism -- but my goodness there is a division of powers, and maybe you have to have somebody who can suddenly say yes or no.

WHEELER: It would be the scientists.

ARMSTRONG: It would be the scientists, would it? Well

KRUGER: No. I say that the way it's set up I believe that it's

the Commission, the elder body, but there is indeed the possibility in which there could be a deadlock, and nothing would happen. That's the thought that occurred to me because you do need in one way or another the concurrence of both agencies in some situations.

HOFFMAN: What's so good about decisions?

KRUGER: Well, I think Ambassador Pardo pointed out that there will be times, particularly if the military issue is drawn into, or even such things as pollution there will be times at which some agency or some person should be able to speak with authority in a relatively short period.

HOFFMAN: We'll have a situation in which there are a diversity of interests and populations all represented and you can argue I think that unanimity or at least consensus or something like it is a perfectly good principle of operation. That it's worthwhile setting it up so you can't get decisions.

KRUGER: Mechanically, however, when you have two legislative bodies which need to agree, just the simple nuts and bolts type of political _____ (word not on tape) and take time to convene them and to have intra-mural deliberations

and so forth, like the House and the Senate, it takes longer.

One thought -- or excuse me, Mr. Armstrong, were you through?

ARMSTRONG: Well. Not quite.

KRUGER: Excuse me. Go ahead.

ARMSTRONG: Because I thought if what he -- if he's ~~be~~ going

to have a clear boss

ANDRASSY?: boss?

FREEMAN?: boss boss

ANDRASSY?: b o s s ?

ARMSTRONG: b o double s, decision-maker. boss

FREEMAN?: dictator.

ARMSTRONG: ~~xxxx~~ managing director. Sorry, it's English slogan(or sloven?)

for the chief executive.

CAMPBELL?: Well the chief executive isn't the boss.

(MANY MANY SAYING?)

ARMSTRONG: Well the man who has the final say-so, who doesn't

pass the buck any further. This chap. If you're going to

have it, it doesn't ~~x~~ seem to me ~~a~~ clear from here where it

emerges. One thing I wanted to know, and I'd like to ask

Mrs. Borgese -- in the set up here whether the Maritime Com-

mission is in fact supposed to be in charge of the day to day management. I assumed that it was, but if it is, does it draw its members from the chambers of the Assembly, and can they be non-governmental people? That's the point. ~~xxx~~ If Chambers 2 and 3 are the scientists and producees or the technologists, can they elect some of their number to be on the directive board? If they can then I think we are taking a ~~xxx~~ step forward. If they can't then we're just simply back in what I would call the inter-governmental nexus. And -- But I do think that what ~~Mxx~~ the Sheal man said is probably true. We do have to have a clear boss, and that it may not get off the ground unless that is going to happen.

BORGESE: Well I think on this point I ~~ga~~ agree with Ambassador Pardo that ~~if~~ is that the Commission has to represent nation-states. You can't get around that. The composition here is

ARMSTRONG: It says here to elect twelve members, you see, and it doesn't say where the members come from, in Article VIII, ^A ~~at~~

BORGESE: Well I think they would elect probably the nations

that would be represented on the Commission and the nations then would appoint their best men. I think that's the way it goes in the Atomic Energy

WHEELER: I'd like to ask you a question about Shell. Shell will, at this moment, say we want to have a boss and we want to have somebody who's going to be able to put the signature at the end of the document that gives us our license, but what Shell really means is they want a reliable basis upon which they can look forward into the future, and the appearance of a boss may be the denial of the ~~real~~ reality of the validity of an ultimate claim, if it does not -- if that signature and that boss does not incorporate the deep political processes and consensus of the many powers and interests that are involved. Now I'm not sure that Shell really means what it appears to be saying. I'm not sure that a boss, in a rather narrow and technical administrative sense is what an organization like this must start with.

MERO: I couldn't agree with Mr. Armstrong more strongly in

his thinking concerning this. I think if we want to set up a regime that's going to promote the development of the resources of the sea and distribute that wealth equitably throughout the world that some kind of corporate form in which voting rights or shares or that are held is by far and away the best way that this could be done efficiently. It could be done in other ways but it gets so terribly inefficient and if we burden this regime at the beginning with all kinds of terrible political jobs like controlling nuclear dispersion, nuclear armaments in the sea, I don't think it's going to go anyplace. Worrying the chief executive or the decision-makers in ~~xxx~~ this corporation with problems about who can place what kind of nuclear submarines ~~h~~ where in the ocean floor is going to absorb all of their energies, and the development of the resources will just simply get a back seat, nothing will ever be done with it. That if we start with the rather limited, ~~xxx~~ small goals, but within a charter that allows very broad activity, that we'll be much better off. And as far as public corporations are concerned, there's all kinds of instances of these, all

over the world -- Luffhansa, many of the airlines -- but they're run like private corporations. They have a ~~xxxx~~ boss man that makes decisions. And they're only effective and efficiently run when they have that kind of a structure.

If they're run by committee of political appointees invariably the corporation falls completely in its objective of providing efficient transportation and getting a decent return on the investment in that activity.

KRUGER: I'm glad that Mr. Armstrong mentioned Intelsat, which I forgot to mention among the many examples of mixed international organizations. Intelsat is interesting because it illustrates the combination of private and public bodies.

It's of course unusual, as you said, ~~xxxxxxxxxx~~ the overwhelming control is by Comsat which in turn is a private American corporation. You remember, that was a very controversial question in '62 when the Act was adopted, and I for one was strongly opposed to it because of its public responsibilities, but this is the way it has been constituted, under the control of AT&T, and it is managed, and that is of course an advantage, perhaps, because of the overwhelming technological and financial

share. It has so far been run by ~~xxxx~~ essentially by Comsat and there is increasing resistance as ~~xx~~ ~~x~~ ^{the} number of other states increases, and even apart from that, France for instance, but many others object to the majority control, and no doubt it will be changed at some time, ^{with} possibly deleterious effects on its efficiency, but certainly it reinforces the proposal I -- and the thought I think several of us expresses that this is a chance for -- at least I thought that I -- that this is a chance for associating organizations other than the states and the specialized agencies as ~~xx~~ members. The other question which Mr. Mero ~~xx~~ has referred to -- about Houses -- things are efficient -- these organizations are efficiently run. It's perfectly true that there are hundreds or perhaps thousands of governmentally controlled corporations all over the world. Some are very good. Some are very bad. Like private companies. It depends really on the skill and quality of management. But one thing emerges. And that's why my reason for criticizing the scant attention paid to the Secretary-General here. The international organizations that are the most efficient are the ones that are essentially

run by the internationally , trans-nationally based Secretary-General and his staff. Like the World Bank and the Fund. And they can be run that way with relatively small dependence, or only periodic appeal for major decision to the executive directors and once a year to the board of governors, which means the entire membership of states, because they are independent. They have their own -- apart from the ~~initial~~ initial capital~~ization~~ contributions they run themselves, out of their own resources, and income. And this is very important. Financial autonomy, which means not dependent -- independence from any annual appropriations and squabbles on budgets is exceedingly important, and the fate of this agency, as of all the other successful international operations will ~~be~~ depend upon its being on its own, probably on the strength of license revenue, revenues after an initial contribution. So I think the provisions about the international Secretariat ought to be strengthened and elaborated. And finally a brief question about drafting this -- of course premature -- but I think most of the lawyers here will agree that -- I mentioned it to Elisabeth some weeks ago -- I think

the ~~the~~ drafting would have to be somewhat changed in accordance with prevalent legal technique. Some of the principles that are exposed here in the text are really things that usually are stated in the preamble, and the text itself should be confined to the operative ~~xxxxx~~ provisions. It should also be purged of some of the more textbook language, expositions, like the, this discourse on property, what property means; that doesn't belong to a treaty, really, it belongs perhaps to a set of comments, but it -- but I think in that way the text would be considerably pruned.

WHEELER: I'd like to ask Mr. Friedmann on this question of the international secretariats, in your judgment has it been generally true that these international secretariats have been given birth with more or less technically and formally and administratively defined duties and have acquired their executives and fuller potency as a result of growth rather than as a result of constitutional -- yes -- So I should think that -- I agree with your point but I think that one would

have the weight of history with one if the secretariat were, initially at least, enabled in technical sense, with the understanding that that enablement would produce more substantive authority as time went on

BORGESE: Especially with the uncertainty of ~~that~~ the field that they are dealing with. I mean the first thing, it seems to me, that is needed is a body capable of evolving this law in accordance with developing technology, and then, as there is something to administer and there is some money to be drawn out of it, then the secretariat gets going.

THUGWELL: It seems to me we have a little confusion here about whether we're talking about a government or an exploiting agency. What Elisabeth is after is a governmental agency which could authorize afterwards the exploiting agencies, the corporations if

R. J. C. : Well, actually, Governor, the way that this is written, the administering agency could grant the concessions to whomever appeared to be best qualified, and if it turned out to be a governmental corporation, or a mixed governmental and private, that would be allright.

TUGWELL: Then all of these virtues that they speak of for the corporation could come out of that.

KRUGER: Exactly, and I think it would be a mistake, from the standpoint of draftsmanship, to attempt to anticipate the type of developing agencies that you might have here. Also just one point on the form of the agreement, I think as Mr. Armstrong pointed out, that you have to consider all of the aspects of the marine environment, the mineral, the living, etcetera, but I do think that the form of the Maltese proposal, and the form of this proposal, were wise in sticking, insofar as the exploitive provisions are concerned, to the mineral or the resources of the seabed, and by that I would even include also such anomalies as are attached to the seabed such as the superadjacent waters and the Red Sea, for this simple reason, and it's perhaps a practical or a political one, there is in the areas that are beyond any known geologic continental shelf, relatively little if any mineral development at this time, or development of the resources of the seabed. There is, on the other hand, considerable exploitation, considerable entry by a number of nations as to living resources. Allright, then,

politically you will complicate all negotiations if you lock the two of them together. If you deal first with the resources of the seabed, and then ~~an~~ have the agency with this ~~x~~ range of ~~xxxx~~ powers that Ambassador Pardo described, the power to coordinate these activities on the living resources, ~~xxxxx~~^{less} in the territorial sea, more in the seas beyond, then you have the beginning of a further convention on the living resources. But I think that politically this and the Maltese proposal were very intelligent in that regard.

TUGWELL: I wondered why, under Section 11, Article II, I wondered why you were so definite about extruding (excluding?) fishing, agriculture, and solution mining, and all that.

I wouldn't think you needed it. This is what Harrop was referring to...

KRUGER: What paragraph was that again?

TUGWELL: 11, under II, page 3

BORGESE: Well, I mean that gives us that no license should be issued for that because the present law ...

ASHMORE: It seems to me there's a prevalent tendency here to

burden this project down with political considerations that could be avoided, because of the unique character -- We keep applying precedent that seem to me to really to have no application. I understand what you're trying to do where= you're attempting to establish some kind of legal jurisdiction over a territory that is unique in that it has no population. Nobody lives there. And therefore, by this fact alone, it seems to me you avoid a whole mass of very difficult delicate political questions that turn essentially on the issue of justice. As I see this, you have two primary considerations that are negative that are essentially ~~n~~ technical; one is to prevent this territory from being exploited militarily and the other is to keep it from being polluted in some way which would affect everybody on earth. And finally the question of justice arises, as I see it, with all of the attendant political problems, almost in a mathematical way. It turns simply on the question of distributing the proceeds of the project, whatever that may be, the formulation for distributing it around. And then you get all the kind of questions of equity and justice and claims and so forth, but

you don't get there, it seems to me, until after you've produced something, and that's why I would think that this thing could be fined down a good deal. It's a marvelous thought that there you've got all this vast territory with nobody in it, and presumably nobody ever permanently resident there. People coming from the outside to do whatever they are doing and coming back out -- This ought to eliminate, I would think, a whole variety of the kind of almost insoluble political questions we've always had to deal with in any other effort of this kind. I suppose something of the same ~~th~~ may be true of space, but...

KELLY: There's people out there.

ASHMORE: Well, there may be.

TUGWELL: Harry, you don't read James Bond.

MERC: I would say that if indeed the riches of the sea do turn out to be riches, are there in great quantities, that this regime, even though it may have started out ~~z~~ on a relatively seemingly insignificant power base, will become exquisitely powerful, when it obtains a lot of funds, part of which may be distributed ~~x~~ as dividends ~~z~~ to member nations in ~~exp~~ proportion

to their ownership of the voting rights, and part~~x~~y of which would be distributed to humanity in the form of development projects. Maybe this is where the funds will come to develop the Mekong River valley and so forth, and so that also even though this may not be set up at the beginning as a legislative agency, various agencies have ways of becoming what they were not meant to be through influence and through the makeup of the staff. Such an example would be the Supreme Court in the United States, which was not set up as a legislative body, but in effect is passing legislation in the interpretation of the laws, and so this regime could function in the same way. And if it becomes wealthy, it will become powerful, and if it doesn't become wealthy, it doesn't make any difference anyway.

~~XXXXXXXX~~ ASHMORE: But it does not necessarily have to be charged with the administration of any kind of set of laws involving people, except by indirection. It could be insulated from that, if we were wise enough to do it going in.

BUCHER: I think Mr. Ashmore has focused on what should be our two principal preoccupations in this Statute. One being

the demarcation of the extent to which these limited rights to resources ~~xxxx~~ should be achieved, and in that department I believe the Statute really might read the international -- or as Mr. Armstrong might prefer, the extranational regime for the peaceful uses of ocean space, with a definition of ~~x~~ ocean space, not as including the existing concepts, because I'm ~~xxxxxxx~~ afraid that I, this conceptual approach, it seems to me, is where it creates the most terrible snarl, but simply to define it as even perhaps leaving a few dots, a few indications of hiatus for the simply purpose of showing that it is maybe at the moment impossible to define. But I here am bothered by the words limited -- beyond the limits of national jurisdiction. It seems to me that that avoids the problem: what we want to know is what is beyond the limits of national jurisdiction. And we all, I think agree that ~~x~~ this should not, this jurisdiction should be not/usque ad absurdum, as Professor Jennings has ~~xxx~~ said.

The second thing is the exploitative and extractive side, and I think this is where the questions that Mr... the postulates of Mr. Ashmore again, have great application and validity. We

should be thinking in terms of defining the common heritage of mankind. While I agree that the existing definition might be changed, it seems to me that that's all-important, and that the machinery should be set up for the distribution of those resources. I think perhaps the Statute is a little bit -- needs a little amplification in that area because, although Mr. Kruger has x said that we needn't anticipate the enterprises involved, it seems to me that some important thing is to have an idea of whether the resources themselves are going to be distributed, and the income is going to be distributed, or how indeed the ocean floor is to be exploited in general terms.

HUTCHINS: We will resume at two o'clock.

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HUTCHINS: Elisabeth.

BORGESE: Well, there was a lot of points this morning that ought to be answered. I kept taking notes sporadically. I think many of the points that Ambassador Pardo raised actually are some way or other taken care of in the draft. For which draft I apologize. It's not meant to be even a draft. As I pointed out at the beginning it's merely meant to point out areas of consensus, areas of precedent, and areas where new thinking is needed. That's all we wanted to do, and now of course with your counsel and advice we're going to do it over more competently.

HOFFMAN: Harvey just got a _____. You can count on him (mike not on, not clear)

WHEELER: General Khan just bestowed it upon me. You should count on him.

BORGESE: Taking up these points as they were raised I think that the relation between member states, members to the United Nations,

and states members to the regime, can be taken care of.

There are numerous precedents, and as one of the precedents I'd just like to mention the relations between the member-states⁻⁻/of the members of the European Communities, and the European Parliament in Strasbourg. I mean there is an overlap and a ~~z~~ relationship which might set a precedent.

Ambassador Pardo pointed out that the organ really in charge of the operations, the executive body, ought to be a small body appointed by governments, and I think that has been taken care of by the draft.

He said that the scientists and the corporations who are participating in this thing ought to have consultative status rather than~~x~~ equal status with the Assembly. This is one point where I would disagree -- I would dare to disagree with him on the basis that in Europe this thing hasn't worked -- I mean this consultative chambers don't work and do not attract the best talent available in this field, whereas when they are equal participats in a legislative assembly it seems to be functioning much better.

He drew out attention to the problem of weighting

representation according to technological competence or education or wealth or political importance and so on, and this seems to me to raise problems which are not easy to surmount, as a matter of fact I wonder whether we there are going in the right direction. Whether we're making a step forward or a step backward. I do not think that we can go back to systems that have been abandoned on the national level, that is/where the rich individuals or educated individuals, which is the same thing, have more, a bigger voting strength than poor individuals. I think we will have to devise systems which transcend this issue and go further forward & rather than backward. I think that the system suggested in this very tentative and very raw scheme is at least an attempt in this direction, and although I agree with Ambassador Pardo that the method of ~~pro~~ proposed here for composing the segment of the Third Chambers may be unworkable because of -- the UNESCO Assembly is just no good for that kind of thing, and the method suggested may be poor. As a principle I think that to balance political representation

with the representation of the corporations and the entities that are actually going to do the work in the ocean, and the scientists may be a way of getting around this one-nation, one-vote system.

We have talked before about the role of the Secretary-General and the Secretariat and the civil service, which is kept down to a minimum here. The idea being that the first thing that this organ, that this agency should provide is a permanent conference on the laws of the ocean rather than an administrative organism which would have to administer something~~x~~ the entity of which we do not know today. ^R I wholeheartedly agree that the whole thing ought to be geared to the ocean decade and perhaps the first thing that we ~~ought~~ ought to provide is a constitution for~~x~~ the ocean decade. I think that's a very fruitful suggestion and can be easily incorporated into this thing.

I also completely agree that we ought to stay away as far as possible from military matters and concentrate on the economic aspects, the development ~~w~~ problem, and the

positive rather than the negative aspect of the problem. As a matter of fact in this draft all the military matters are turned over to the Security Council.

A number of other suggestions have been made, in detail, which I think are very fruitful, and which will be taken into account in working over this first draft.

As we went on looking over the thing I looked at Ambassador Pardo and then I slipped him a note which said "Please don't look so desperate" because I saw him scribbling notes and ~~maxxaxamad~~ looking very desperate. I think that he has assembled enough notes to now start off giving us some more detailed criticism of this draft which we may use in doing the thing over, and maybe we may move on from that.

CAMPBELL: Before we move on to general discussion, let me ask Ambassador Pardo whether he thinks that the United States proposal for a decade of exploration will be adopted by the

It's
Ad Hoc Committee? before them as a formal resolution.

PARDO: I have no doubt that it will be adopted, and adopted

unanimously, and highly commended, whether it will be adopted by the Ad Hoc Committee or whether it -- I mean it'll be adopted. Whether it will be referred to the ICC or to some other existing organization I cannot say at the present time. It may be that the Ad Hoc Committee may wish to -- after commending and ~~xx~~ adopting this thing, might wish to refer it to the ICC. It's a decade for ocean exploration ~~xx~~ investigation. It is a matter within the competence of an existing organization, and hence could well be referred to the ICC. I say this is somewhat speculative, but I have no doubt that it will be highly commended.

CAMPBELL: But if we refer ~~xx~~ it to the ICC, then it couldn't
 as it were
 be taken over/by whatever proposal comes out of this group thing, out of your thinking... It'll be gone somewhere else

PARDO: I tend to agree with you there, and maybe that the decade of ocean exploration will be over before any statute in effect is adopted. So, really, the link between the two is somewhat tenuous in my mind, but

WHEELER: Why wouldn't the Ad Hoc Committee take it upon itself to give some kind of structure...

PARDO: For a very basic reason. And here I speak personally --

And that is, as far as I'm concerned, I would fear very much that if this were taken over by the Ad Hoc Committee, and if it became one of the main objectives of a permanent committee established by the General Assembly this year, the whole emphasis of the proposals of my government would be diverted. Instead of talking of a treaty, instead of talking of declarations, we would be engaged in a coordinating scientific and research work on a long term basis, with the result that we would be doing useful work, but we wouldn't be doing exactly the work we had in mind when we started this.

And therefore we are not -- probably when this matter comes up for discussion in the Ad Hoc Committee, let us say we'll suggest this be referred to the appropriate body.

WHEELER: I can see your point, but I am bearing in mind the very serious practical considerations that you raised earlier in discussion of the draft proto-treaty that is before you and, in view of those earlier comments about it and your pessimism

about the possibility of arriving at some kind of creative treaty of this sort, why wouldn't it be that the shortest way to the goal would be through the giving some kind of constitutional structure in organizational form to this oceanographic decade, rather than attacking directly these resources that frighten us all?

PARDO: I think there's a misunderstanding here. The organizational structure can be given by IOC. It has given organizational structure

WHEELER: Right.

PARDO: to the Indian Ocean exploration, for instance. It has

HOFFMAN: But you've already suggested that you don't have a great deal of confidence in the way they will do it.

WHEELER: It seems to me this beautiful little leverage here that you have, that you can work with, and that out of it can grow the whole flower of

BORGESE: Flowers don't grow out of leverages.

Noting: Self-wait

PARDO: And I don't agree that this is the most appropriate

leverage to However this is a matter ~~xx~~ for...

I... as a... I can foresee more or less what is going to happen in the Ad Hoc Committee, and there may be some debate on this. But let us say we shall strive, as far as we are concerned, to send it to the IOC.

Rao : If I may add one more to what the Ambassador said, this Ad Hoc Committee is a committee of thirty-five members who have been appointed ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ almost, if I may say so in my personal capacity, at random

Rao : at ~~z~~ random

Rao : and this is the first ~~x~~ time the Committee has met. Even if they have a couple of more meetings, I don't think you would be able to convince them that's how you should start. It's a little premature even to try with this Ad Hoc Committee. Perhaps when it is made into a permanent committee, then you can try it. But this is the first few month's of its existence, and I don't think, including myself, all of us know enough about it.

Kaplan : Does anybody here know ~~hx~~ how the International ~~xxxxixx~~ Geophysical Year was organized and came into --

Are there any parallels? Can we draw any lesson from that?

Amstrong : Yes. The International Geophysical Year was a cooperative affair, with UNESCO, and one or two other specialized agencies. It ~~x~~ wasn't the United Nations at all. The United Nations commended it. In fact there's a resolution commending this, but the United Nations didn't attempt to intervene in any way.

M : Part of the problem with IGY and this Decade of Explozation of the Ocean is it's going to be dominated by scientists. If we try to impose this new regime and control of this decade of Oceanography we're going to run into vested interests in IOC and other organizations that want to control it. The scientists kind of get very bitter because if ~~xh~~ they see engineers coming in to gather practical data concerning economic possibilities of resources in the sea, they're going to get very perturbed that the money isn't going to be spent on their pet projects that they want to be spending the money on, and I think it's going to create a lot of unnecessary controversy, and that it is going to ~~ex~~ give the establishment of this regime ~~the worst~~

that we're talking about a very bad start.

KAPLAN: I'm not sure what Mr. Crawford wants to say, whether it's confirming or not. Maybe ~~we~~^{he} should speak first

CRAWFORD: I would concur with Dr. Mero that~~xxxx~~ the objectives of the type of program that we anticipate coming out of the Decade of Ocean Exploration should not be confused with nor would you anticipate that in any way acting as a catalyst for this program that you're trying to put together here. The word exploration is being used kind of loosely today, and I don't think, as John has indicated, that the exploration program that the scientists are putting together is really going to help you much with this. You're talking about exploitation which incidentally I think is, if I may say, a dirty word, and in American business the word exploitation can often lead to a connotation of doing things the wrong way. I would consider that in the use of the word, that perhaps exploitation might get you in trouble here. Regardless of that point, I think John has made a very accurate -- taken an accurate position that the scientific program will not act as a ~~leader~~^{spur}, I believe, to produce your treaty type of

organization. Ambassador Pardo seems to be the same

Kaplan : I disagree violently, if I may use that word here. I think that this evaluation would have been correct -- both that of Ambassador Pardo and Dr. Rao and Mero and Crawford, I think that their evaluation would have been perhaps correct a decade ago, but not at the moment. We now have a climate in which science is very strongly directed towards the social sciences or behavioral sciences, you might say, in the affairs of the world population. The pollution, for example, the problems of pollution has very dramatically brought forward into the eyes of the scientific community that they have to interrelate very very closely with the public and they cannot function as an isolated body. I think that if ^{some} ~~the~~ United Nations body were to begin with a modest program and eventually develop a more sophisticated program ~~in~~ enveloping both the problems of pollution which ~~are~~ are social problems and problems ~~xxxx~~ of business such as the exploration and the exploitation of the ocean bottom ^{this} ~~it~~ could be done very

well within a framework which begins as a purely scientific program. The IGY, don't forget, was only a one-year program. It was not a ~~decade~~ decade, it was a one-year study, which produced a tremendous amount of information because of the collaboration of the different countries. Here we're talking about a much larger, and perhaps much more all-encompassing program than was envisaged by the IGY, and I see no real difficulties in a group that arises out of the Ad Hoc Committee which will begin planning this, which will not take effect immediately because the idea has only been recently proposed. I'm sure that the planning will not start before a year or so, that if the Ad Hoc Committee could at least come to some agreement within itself within a year it could use the International Oceanographic Decade as a nucleus on which to build, but I think the idea that it has to be in the framework of science without introducing the social and economic aspects is, I think, an invalid one in our present thinking.

MERO: I'm happy to see the scientists are taking that point of view. There's no more way of making them responsible

than of accusing them of being totally irresponsible in this regard, and I must say in all truthfulness the whole idea of being able to mine manganese nodules and things happen to come out of a dredgehaul that was made as part of the IGY program, so that scientists' work isn't x totally insignificant as far as the economics or social benefit are concerned, that some good in that regard can come out their work, but I don't

-- don't you think, Isaac, that there is going to be opposition that's going to spring up in the ICC and other organizations that are in being and have vested interests about who's going to control and coordinate this Decade of Oceanography?

KAPLAN I can't speak for them, but in talking about the general opinion, the world-wide opinion, I don't know about the vested interests of particular groups. I mean this is -- this I wouldn't

_____ : _____ (mike not on)

KAPLAN: I don't believe so, not in the present thinking.

ARMSTRONG: I think I can answer that, in Britain anyway --

There's quite a good -- _____ is the

Committee that's running this and this is fairly well repre-

sented by industry, but of course we've got a lot of facilities and we're working quite close, and I don't think _____
 _____ actually.

BORGESSE: For once I agree with Mr. Mero. I mean I think that there ~~thzxx~~ is at present no organization properly set up to plan anything like the Decade for Ocean Development, and one of the things we've tried to do here was to set up such a thing. And I'd like to draw * your attention to page 19 of the paper where it states that the first ten year plan shall give form and substance to the International Ocean Decade. And I think that the locking of such a Decade may be indeed one of the stimuli that might put into motion the process of setting up an organization of this kind. It could coordinate the IOC, the Ad Hoc Committee, all the innumerable organizations listed there in this report that are at present working in this field. We have to set up something to pull these things together.

KAPLAN?: _____ agree with me (mike not on) It sounds like you're 180 degrees out of disagreement. All I see in the reading is another one of these coordinating

agencies that's being set up to coordinate all the coordinating agencies that have been set up to coordinate the coordinating agencies in the past

BCRGESE: Well that's the way life goes.

MANY AT ONCE

Q: _____ a good point this morning.

It's all going to be determined by -- the political figure in the end is the one that makes the decision that's going to firm this thing up, and if we start letting the tail wag the dog, so to speak, and have the scientific program being that entity which begins this, rather than the treaty type organization you're establishing here -- I'm afraid that the scientific program will soon be the source and the power behind the organization, and I would rather see it the way Ambassador Pardo is expressing it, that the political group are the group that will make the decisions, and that the scientific and industrial, of which I am a part, and ~~xxx~~ others, -- that the scientific and industrial acting as a consultative or advisory capacity. But I don't think that you can have the

scientist or the industrialist attempting to run such organization as this. It's going to get out of hand rather rapidly if you do. We all have our own interests: we want to make a profit, the scientist wants to make sure that you don't take the gh things out of the ground and abuse them -- It becomes very much a fight between factions.

BCRAGESE: And you don't think the politicians have their interests?

CRAWFORD: Theoretically they represent all of us, don't they?

RAC: Mr. Chairman, I don't know if it would be in order to make a few ~~z~~ remarks about the Draft as a whole, and the attitude and approach which it follows, before Ambassador Pardo, I think, is going to probably take it apart. But what I was thinking probably sounds legalistic and too late in the day to say, but I'm sure it will have to contend with what the facts are. Now ~~n~~ we discussed yesterday about the people's concept in the Preamble of the Charter, and why not say that this is all from the people, to the people. We also agreed yesterday that the people are represented through

governments, and, fortunately or unfortunately, we have 124 governments in the United Nations. What are left outside this 124 are the divided countries and some others. I would say about a dozen. So ~~what~~ whatever organization you set up it is going to consist of, I would say, an overwhelming majority of the present member states of the UN. Now there are two approaches. One is, as I said also this morning, that you will have a new organization which has nothing to do with the UN. That's fine. But how to bring about it is another matter. It's a plenipotentiary conference or something else. Now the Draft of the Center is somewhere in between a specialized agency and a completely new organization. Because the Draft uses the General Assembly ~~as~~ for a particular purpose, and also takes some concepts of the existing specialized agencies of the United Nations. At the same time it doesn't follow the pattern, ~~rather~~ rather what has come to be known as the pattern of the specialized agencies. In that sense ~~it~~ it is -- you could call it not ~~has~~ here, not there, but inbetween. But it suits the purpose for which the regime is meant. Naturally we'll have difference of opinion as to whether three organs,

two organs, or one organ. So that is one aspect of it. The second is that if you want to have the UN, even the provision that the General Assembly should ~~have~~ elect so many members to the Commission, I'm afraid it ~~is~~ will be a novel procedure for the Assembly to do. It hasn't done it before. So what do you have, as it is constituted presently? You have certain provisions for the Charter which govern the creation of agencies like this. That is, if you wanted either to be a part of or somehow connected with the UN. Unfortunately the Charter cannot be amended today. It has become a very violently political problem, and I don't see any chance that it will be amended except ^{two or three} in relation to/amendments about membership of Economic and _____ Council and Security Council. But the basic structure will be the same for sometime to come. Now, if that is so, what are we seized of? We are seized of Article 53 of the Charter, which says that if you establish a specialized agency that specialized agency shall have relations with the UN. Now what those relations are also this pattern -- you have about 10 or 11 specialized agencies. There the agreements

are very similar; what they should do to the Security Council, the General ~~Assembly~~ Assembly, blah, blah, so many other things...

Secondly, if you do not want to pattern it on the specialized agency basis; it has to be something different, then again we are caught with Article 103 of the Charter, which says that if you conclude an agreement, including this agreement (?), to set up another regime, if the obligations -- if you contracted, in relation to that treaty, conflict in any way with ^{the Charter} ~~with~~/obligations, which would include Article 53, then the obligations of the Charter shall ~~be~~ prevail. Now all that I am saying is if you are going to create something, one has to be -- one has to look at it from the point of view of the inherent difficulties of the situation in creating firstly a regime, two, in creating an institution, governmental organization, which would take care of this. So one has to look at any Draft with these things in mind, having decided first whether you want to have a specialized agency, in the sense of the Charter, or are you going to have something completely different, detached, separate from the United Nations.

HUTCHINS: Do you see any possibilities in the word sponsorship?

As used by Professor Friedmann.

RAO: At the moment I have very grave doubts whether it would be feasible, because of the tendency would be of the present membership of the UN -- I don't mean any disrespect to anybody -- would be to bring something into the general pattern, and I don't think, at the moment, that they would move away from these concepts. Maybe after five or six years and/shall I say education, that all these things can be patterned and something like the seabed and the ocean floor is a different ~~xxx~~ kettle of ~~x~~ fish, so you need a different kind of organization. It may be so. But all I am saying is today it may be difficult.

CAMPBELL: As I understnad it, the process that lead to _____ and UNEDO (?) (mike not on), ^{the op-}/position of the Secretariat and ~~xxx~~ those working with them to a new kind of specialized agency, was so strong that these new organizations ~~xx~~ have been set up as autonomous groups but within the UN Charter itself, and I should think that this would carry over into any other new kind of organization that

was established. ~~Am~~ Isn't that sound, Ambassador Pardo?
 I recall the feelings ~~x~~ being very strong against any kind
 of new specialized agency with its own board and budget
 outside the framework of the UN.

PARDO: Well as Mr. Rao has said, there are great -- there
 are conceptual difficulties that have to be studied very
 carefully. I would hope that the pattern of UNCTAD OR UNEDCO
 would^{not}/be followed. Not because I disapprove of UNCTAD and
 UNEDCO in any ~~xy~~ way, but because such a pattern would just
 not be politically acceptable to the powers that have to
 accept it, and therefore nothing would happen. There would
 be a fiasco, and so I would hope -- I mean, this is ~~xnother~~
 a matter that has to be studied very very carefully -- I
 would hope that in a certain way the United Nations could be
 a promoting -- just like the United Nations a couple of years
 ago with respect to the Disarmament Conference, passed a
 Resolution, but the relationship of the proposed Disarmament
 Conference to the United Nations was left very ~~g~~ vague, for
 political reasons. The same thing -- the ~~xxx~~ relationship

of the EENDC to the United Nations is very loose. It is a, shall we say, a part of the increasingly wide international structure, related to the United Nations in some way, but with the relationship very loose. And that probably would be more ~~politically~~ politically acceptable. That type of relationship, then any of the existing ~~types~~ types, with the possible exception of the International Bank. But this is -- I mean this is a matter on which opinions of delegations of states have to be heard and in which one tries to have themaximum consensus. And it's very difficult to reason a priori on this.

HAMBERG: _____ Campbell
 Professor ~~Kaplan~~/said what

I was going to say, although in a littler different words. I was going to mention exactly those two organization you mentioned. Not because I think we ought to do exactly the same thing, but because the very establishment of those two things, those organizations, seemed to indicate that where there's a will to establish a new organ or a new institution one finds the way to do it. For that reason we should^{en't} be

too nervous about these text what Dr. Rao mentions -- it's very important, and it's important particularly because he is himself extremely well versed in the United Nations. He knows how the delegates will react. But there's no impossibility of finding new types which we haven't had before, and I should like to mention one other example of that. I will ask particularly Dr. Rao to correct me if I am wrong, but wasn't also the International Atomic Agency a new form of organization, that is not a specialized agency. Isn't that right? It is not formally a specialized agency

RAC: Oh it is.

PARDC?: Ambassador Hambro is correct.

RAC: It has a relationship with the

HAMBERG: Ah, yes, but not as a specialized agency.

_____ : It reports directly to the

RAC: It is like a UNICEF? You have this new family also which satisfies certain of the basic thing, but gaining a different status. But the basic things ~~xxxx~~ are to the plan.

HAMBERG: That's what I'm referring you to, you see, because

to find new types of organization

RAC: Oh yes, that is necessary -- As I said after 4-5 years, after you educate people, then you get it, but today, to spring this; they are not prepared. They would think twice before they accepted anything like this. Unless you tell them it is a special regime for a special purpose and you can't do it any other/^{way}except this way, because you have to combine the interests of not only nations but also organizations, scientific bodies, others which are mentioned. That needs time, that's what I'm saying. I'm not saying that it goes out of the question, but it needs education to make them understand that this is something specially needed for a special purpose

BORGESE: Agreed.

HAMBRO: Yeah, I think that's quite right. But of course there's exactly the same objection ~~xxxx~~ people had and some people still do, in European Communities too. They were something new, it had never been thought of. It was thought necessary to do and people did it.

KHAN: I think we dismissed Mr. Armstrong's suggestion too

lightly. As I see it we are all the time thinking of the normal pattern of the UN to ~~xx~~ have a weighed and watered down political consensus first, and then, after you've got this rather ineffective and diluted consensus, then get the experts to work out some of the details. What he was suggesting was to have consensus among the experts, the scientists of reputation and of some influence in their own countries, and once you have that consensus, then go for the political consensus, through the scientists. As I say, this is one way to overcome some of the present difficulties.

KAPLAN?: I don't think ~~xx~~ you'd get a consensus among the scientists.

KHAN: Well then we are in trouble.

_____: We usually are.

HUTCHINS: I think Ambassador Pardo was going to give us details

PARDO: I'm not at all anxious to go into details

BOERGESE: But we are anxious to have you

PARDO: But I was anxious to underline basic concepts, if I

may. How does one visualize this possible regime? Now, myself, personally, I would like to see an international regime covering the widest possible_x area, if possible the ~~entire~~ entire ocean environment, with the widest possible powers of administration in the interests of everybody. That is the objective. However, this objective is modified, like/^{so}many other cases, by opposing forces. One must think of the viability of this regime. And viability depends on acceptability in the first place to the international community as organized in states. That is one. Secondly, it must give guarantee of equity. It must be an equitable regime. Thirdly, it must give guarantee of efficiency. It must be an efficient regime. Then, and on the basis of this, we have the functions of the possible regime, the objectives and the functions. Now, if one conceives, or if all one is able to get is a type of agency of the type of the specialized agencies, or of the type of UNEDCO, where it is an agency which coordinates all work in the field, UNEDCO -- industrialization in this case, or in the field of marine environment, to coordinate the work of

the agencies, promote scientific research, and so on, so forth, but with no real ~~power~~ powers. There's one type of function, and one type of organization -- ~~in~~ they're different types -- I mean -- Then it would be alright to conform to the standard UN pattern -- unfortunately it would be rather ^{an} ineffective regime. It wouldn't be particularly credible. It wouldn't undertake important political functions, but perhaps it would be better than nothing, I don't know. Anyway, it would add to international bureaucracy. That is one type. Another type is to add to this really effective powers ~~with~~ with regard to certain functions: pollution, ocean resources, not only minerals but all ocean resources, and so on. Then that requires certain -- a different type of organization. We have ~~need~~ to provide not only for promotion, for coordination, and so on, we also ~~we~~ have to provide for a certain degree of administration. If we add to this certain military functions, well, this calls for far wider powers, far greater efficiency, far greater response and more immediate response to challenges. Now, with regard to this draft text, I myself

would feel that very careful consideration should be given to the first part, that is to say Article I, Article II, Article III, Article IV, and Article V, up to function.

And perhaps one could have one or two variants, according to what the possibilities may or may not be. Very careful revision, very careful consideration of the language, of the legal implications of the various words and terms used...

Then I would really leave certain other things out completely.

For instance Article X about a planning agency -- why should it plan on a 10 year period or a five year period? -- I mean

let this develop in the practice of the regime if it is

established. Then -- I don't know -- under D, on page 13,

in integrating such plans the planning agency shall give

consideration to the usefulness of the plan, the adequacy

of the fund... This reminds me of General Assembly Resolutions

which have remained on paper. All these are factors. Perhaps

the usefulness of a plan will depend on the situation at the

time the plan is drawn up, and on the assessment which member

states will make, whether that plan is useful to them or not.

One member state may think a plan's exceptionally useful. Another

-- and others may say no, This is absolutely against our interests. Let all this -- all this detail well evolve itself in the practice, once the ~~xxxx~~ regime is -- Once we have -- If we have -- the agency will concern itself with planning -- planning program of development and so on, and leave it at that in very vague words, ~~xx~~ and then if it's a planning agency, or a planning division, or maybe even a planning section, or -- I don't know ~~xx~~ how the thing will work out in practice, what the members will want. And so on...

I'd rather not go into details here, but go very carefully into the objectives and functions. Now, as a very -- as a minimum I would hope that the regime is -- if it is established -- will bring together the various segments -- scattered throughout the UN system with regard to oceanography and ocean ~~xxx~~ activities -- I mean integrate IMCO, the fisheries division of FAO, ICC, as far as ~~xx~~ science is concerned, WHO with regard to health, and all this at the very minimum. So, here ~~ix~~ in the objectives or in the functions somewhere should be this -- the regime will bring -- will incorporate or bring together or I don't know

exact legal term -- the various -- will first of all be the coordinating agency with regard to ocean development and oceanography and so on so forth at the international level. And will bring together certain parts of ocean activities. Other parts of activities with regard to the ocean, for instance the IAEA, nuclear energy, ~~xxxx~~ well that it may be wise to keep it where it is, because that's -- it's rather specialized and the agency there would have a different type of power, ~~xxxxx~~/^{that}is to review IAEA recommendations with regard to radioactive pollution of the oceans, and integrate that with ~~xxxxxxx~~ regard to pollution from other sources -- and things of that sort. But really sort of review this, make it flexible, and so on. I would give -- as has been emphasized this morning -- very much more attention should be given to the Secretariat, I believe. The Secretariatⁿ is the implementing arm of the decisions of the Agency, and very much attention should be given, I think, to the functions of the Secretary-General, or the Executive Director, ^{it}whenever/is, his responsibilities, his power of initiative, if any -- can he bring certain problems

to the attention of the board of the agency, or not? What type ~~xx~~ of problems can he bring? and so on. This, in a sense is provided in the Charter of the United Nations for example. the Secretary-General may bring up questions regarding the peace and security. Now, here again the functions of the Secretary-General would have to -- his powers would ~~x~~ have to be related to the functions of the agency, and that is why I suggest perhaps one or two different variations ~~xxx~~ according to the functions given to the regime. With regard to membership in the Maritime Assembly -- well, I believe that some type of weighted voting is essential there, to make this whole regime acceptable, but, in addition to weighted voting, should delegates for representing governments have certain qualifications? Should governments be ~~xx~~ requested, perhaps, to appoint delegates with certain qualifications? Which is not without precedent within the UN system. We have it in WHO, and so on. And the fact that, for instance, in the Economic and Social Council, there is no such requirement, has perhaps deprived the Economic and Social Council of a certain amount of its potential ~~perfectiveness~~.

I don't know. There should be clear lines of authority.

There must be clear lines of authority. There -- as between the directing board and the Assembly and the Secretariat, how does the mechanism work? With regard to the ^{court}~~report~~, I was very much impressed this morning by what Ambassador Hambro said. I think the court could be related to the International Court of Justice, the International Court of Justice could perhaps have an appellate jurisdiction. The Court itself deciding the cases of the first instance. In this particular case, I think that it's very important that individuals and private organizations have access to the Court. Very important. There's also a thing about penal law. Now, if we have this -- if a very large part of the ocean environment is under a special type of regime, should a special type of -- shouldn't there be some type of penal jurisdiction with the Court -- and this sort of thing? This raises a whole host of problems -- which -- on which I would defer really to the lawyers here. Very interesting legal problems. Well I won't go into them now. Well, I just raised this, but I

would -- I would urge really the most careful attention be given to the general concept, to the objectives, to the functions, and I won't say the rest will take care of itself, but the rest will be easier to conceive in function of the concept and functions. Well that's all I have to say.

WHEELER: Well I don't know. I'd like to add something for science.

~~hezidxx~~ Just a general proposition. It may be invalid.

It does seem to me, again, that this is a really remarkable opportunity, following on Professor Kaplan's suggestion, and that not only does it present more x fruitful political openings than the direct approach to the resources and their utilization, but also it has on its side what I believe to be the momentum, the organizational momentum of the next twenty or thirty years, with ~~xxag~~ regard to what to what we referred to as the scientific revolution. And I believe that I would incorporate then Mr. Armstrong's remarks about these possibilities and ~~tax~~ his reference to Pugwash, into this general proposition. And the general proposition is that probably this organization, however it comes out, no matter how canny

politicians approach it, with regard to the protection of the presently constituted national rights -- and I would also read into my remarks at this point that Bishop Crowther's remarks of yesterday on the necessity for bearing in mind the possibility of working with the inevitable as well as with the specious and present apparent art of the possible, that it does seem that regardless of how our present-day politicians regard their interests and try to construct a future in accordance with these presently-seen interests, and regardless of how industrialists or proto-industrialists visualize the way in which they are going to exploit these things, this is an area in which inevitably the scientific community is going to be making the crucial decisions in the future. For example, such simple things as are going to come up to any regime as whether or not a license is going to be granted for any particular use; there's no way for the decision to be made by the regime. I don't care who is composing the membership of that regime, without reference to

some scientific community on the basis of what predictable effects the proposed utilization is going to have. There's no way that industrialists or politicians can have a sound view on that. So I should say that the council of wisdom would be built upon the -- what we can reasonably conclude about the nature of the development of this kind of operation in the future.

Bruce : One question. How would -- It's been said that the Decade of International Cooperation could be used as a level to -- in some fashion expedite the organization as set forth in Miss Borgese's outline, there. In what fashion would it be used as that..

WHEELER: By the way in which you would constitute the organization and the administration of the affairs of that project. In other words we'd let us say give it exactly the same constitution in/^arudimentary form that ~~the~~ presently exists in Mrs. Borgese's Draft.

Bruce : But it's already been conceded that this

group would coordinate IOC, FAO, and all of the other UN groups, ^{save} ~~xxx~~/possibly for the Atomic Energy Agency -- that are now extant in the UN. Would you go beyond that and have ^{be} it/come an IOC or have it take over IOC's functions?

WHEELER: Well I should think that this would present Mrs. Bergese with a remarkable opportunity for building upon the examples of functional federalism from Yugoslavia, and making provision for ^{such} ~~xxxx~~/existing organizations in the constitution of her new body.

Krugor : Yeah. Well I'm not attempting to be an advocate one way or another on this. I will say this, that functionally you see the scientific organization separated from the dispositive or administrative land agencies in national land laws. Our country is a good example. You have the Department of Interior that will be charge of ^{disposing} the interests of our country in our public lands, and then in a totally separate but coordinated and related group you will have a one step down in applied sciences, U.S. Geological Survey, then the Smithsonian, then you get specialized regional

agencies like Scripps. And I must -- from what I've seen, my acquaintance with these groups and having studied the land laws of this country and those of other countries, I quite agree with John Crawford and John Mero: I think you've got apples and oranges and I think you'll confuse your dispositive agencies by trying to force into ^{it} essentially a scientific activity. If you do what Elisabeth proposes and what Dr. Pardo proposes, and Dr. Pardo, you will have coordination of the scientific community, but I don't see that you can go much beyond that.

WHEELER: I don't see that that distinction is valid. I would apply here the distinction that Linus Pauling draws today between pure science and developmental science. And I think that we are in a period in which what he refers to as developmental science is almost impossible to distinguish from advanced technology. I would think that the way in which this exploitation will go forward, when it does go forward, will be through enterprises whether or not they are state enterprises as in the people's democracies or through

Comsat, or whatever kind of semi-public corporations as in this country -- that the ~~mutual~~ actual verve that is associated with these enterprises will be reminiscent of that that we associate today with Thomson-Ramo-Woolridge and ~~the~~ the other scientific-technological combines associated with think-tanks.

KRUGER : I'm not quarreling with that concept. I'm just saying insofar as scientific inquiry is concerned that it has -- is functionally best kept apart ^{from} ~~the~~/many business decision as to disposition of

WHEELER: Well then you are quarreling because I'm claiming that with regard to contemporary ~~the~~ developmental science in the technological sense, ~~that~~ that is not any longer the case.

KAPLAN?:

KRUGER: : And in addition to that, we have to view this problem, as in fact has been stated and repeated again by Ambassador Pardo, that we're looking at the very wide wide picture. We're not looking at the narrow facets of the economic aspectz only. If we're looking at pollution, we're going to have to have some system of monitoring it. If we're looking

at mining the ocean bottom, then we're dealing with a completely different concept. If we're ~~isn't~~ looking at ^{then} a very wide aspect, ~~an~~/we have to include means of monitoring and a means of studying.

KRUGER: We're talking about function here. I'm not of course suggesting that the only criterion should be the economic one. What I'm saying is -- and you can have your integrated, interdisciplinary consultations -- what I'm saying is that this group is best in the scientific area left as a coordinating, a data gathering place, as a judgment-making agency, and I would think this IOC is a very highly-organized capable organization -- I would think it would just confuse it's purposes and roll up the scientific community to attempt to structurally change it, and I really haven't yet heard any functional ~~prop~~ purpose that would be ~~ex~~ achieved there. That they would be under this committee.

WHEELER: Well, from a political standpoint, or from a long-run statesmanly standpoint the functional purpose that would be achieved would be, in my view at least, to make ~~it~~ a political possibility for creating ~~for~~ a novel regime with a

potentiality of growth and development that does not exist as a political possibility so long as the problem is directed primarily toward exploitation, utilization and control of actual or visualized resources.

KAPLAN: Maybe what he's trying to say is that there's going to have to be some awfully intelligent management in this group to see that ^{it's} activities are directed in the proper channels. It depends on how you want to define the activity, as whether they are scientific activities, whether they're ~~enginge~~ engineering activities, or exploitive activity, and they are going to be all interrelated. You can't divorce one from the ~~ex~~ other, you know, simply by definition.

Gathering basic data on composition of oceanic ~~d~~ sediments is really a scientific activity. But it's also ~~an~~ engineering activity. You can't divorce them that easily, and they are going to be interacting and it's going to have to be a very ~~wi~~ wise manager -- Where the real difficulties are going to start arising is the scientists wanting the money to be spent for ~~w~~ gathering specific kinds of information.

that the engineers may see as having no value in achieving their ends, and they want the money being spent somewhere else. This is only going to be resolved by having some kind of a manager or management group that can understand and coordinate in getting all these people working together. And that's where those problems are going to be resolved. I don't think they're going to be solved by defining all these activities in the charter of the regime, or deliberations here.

Refer to Memo? : I think those may be very good points in relative to the acquisition of licenses in the United States today.

Within the state of California there are numerous scientific groups relative to pollution, fish and wildlife that offer opinions, and indeed have a very weighted effect upon the acquisition of a license by an industrial body in the state of California today for minerals offshore, but they are not the body that issues that license. This is a -- what would you call it? A semi-political group? I don't know what you would call the state Lands Commission, certainly not a scientific body, or --

KRUGER: Well they have -- it's an integrated governmental decision in that the dispositive agency coordinates with the others in order to come up with a concept of multiple use that ~~will~~ fulfills the broadest interests in this thing.

MERO?: It includes the scientific viewpoint as well as that of the engineers and the politicians, right?

KRUGER: Right.

MERO: I think John's comment is well taken, that it's going to require a very excellent manager to --or group of managers to put this together, and I don't think you can classify him ~~them~~ as scientist or as an engineer or as an industrialist, and perhaps not as a politician. So he has to be a jack of all trades.

KAPLAN: I don't think you can design a constitution any longer that is, you know, going to effectively legislate a distribution of the wealth of the earth or something like into being. ~~And~~ In fact in the United States government it seems to be going that way. The laws are actually made by the administrators in the way they administrate the laws

that Congress passes, and the laws it passes are such vague generalities that it's difficult to say that this is a law requiring human beings to certain course of actions, but the way that it's administered does make that

HUTCHINS: Is it fair to ask what we think about the way in which the natural resources of California and the United States have been disposed of?

KRUGER?: Did you say are they disposed of fairly now?

HUTCHINS: Is it fair to ask what we think about the quality of the decisions that have been made?

KRUGER: Well I think in the past it has been very poor quality in the decisions. But more recently they're becoming better.

HUTCHINS: You wouldn't think then that the incorporation of the scientific point of view in a different way at ~~at~~ a different stage would be preferable?

KRUGER: I think this would -- and I might say here, Dr. Hutchins, that our firm is undertaking, is presently in the process of a report on the ~~an~~ study of mineral development

on the outer continental shelf and reviewing the entire history of the mineral development on our shelf and making a comparative analysis of the laws of well Norway, Great Britain, Netherlands, Australia, Venezuela, and five of the coastal states in this country, and I think that you see on the national level the same thing that is happening on the international level today. In other words people are ~~x~~ taking a second look on at least the international level they're taking perhaps a first look at it. But the federal government, ~~xxxxxxx~~ its component ~~in~~ agencies, is taking a second look and saying is there a valid purpose to -- well, such things as a homestead law on the upland. On the offshore they're saying do we really have effective means of preventing pollution? Are we really coordinating the agencies? Are we taking advantage of the scientific knowledge of the private sector and of our -- of unrelated institutions of the federal government to those granting the leases? And I think in many cases the answer is that probably that the federal government hasn't been, but ~~ix~~ it is a dynamic subject today and -- dynamic subject now in the

(or "mostly?")

federal government, but most/of the coastal states in this country and the developed countries of the world, and I think that most of the concerns you heard^{voiced}/here today are being considered in those

ARMSTRONG: Dr. Hutchins, I have the respect for science, and it is on science which many things have to be based. And in this particular field, of course, political action, or the feasibility of political action must be based on certain scientific facts. But on the other hand I think it is a fallacy to believe that there is such a ~~gx~~ thing as a scientific point of view in a global sense on any ~~px~~ particular question, except on questions which are pretty well agreed upon. And indeed when science and scientists are given a responsibility of decision very often decision is lacking in practice, and this is what has been holding up the work of the IAEA ~~ix~~ in respect of radioactive pollution of the ocean. It is essentially scientific organization in which scientists have a decisive voice, but in the long discussions over a ten year period or more in the IAEA scientists

cannot agree on certain fundamental things. Such as, for ~~xxxxxxx~~ instance, what is the real danger of pollution, the exact monitoring techniques which should be recommended to members states and so on and so forth. Now in -- and this in fact has led to no practical decisions; there's been nothing done; there have been seminars, there have been congresses and so on.

Now, and that is why, while I believe and I am very convinced that scientific opinion must be consulted in very many matters concerning the oceans and the sea bed and the ocean floor, they must be consulted, in fact provisions should be made that, on a certain range of questions, there perhaps should be a scientific consultative committee or ^{scientific} commission which should be consulted. Place certain facts, the facts of the situation, to the governing board, and if there is opinion or disagreement, as there very often is, place what is known to the governing board. But not let the scientists make the decision. The governing board should make the decision on the basis of what facts are known. In addition to

the scientists, the governing board should also consult industrialists, should also consult perhaps military specialists and so on and so forth, and on the basis of all the facts take a decision, and it is a political decision, then, and it is not taken by a scientist or an industrialist or a military specialist, it is taken by representatives of states, as a political matter, on the basis of advice ~~xxxxxx~~ received. That is I think quite a fundamental problem.

WHEELER: One thing should be clarified. I'm in agreement with everyone who believes that science is too important to be left to the scientists, and that isn't the question that is at issue here as I see it. The question is what is going to be the object of activity of the inaugural organization/^{with} which we get into business in the world community regarding this ~~xxxx~~important topic of the ~~xxx~~ deep seas? And it seems to me that the inaugural activity, and not the personnel now necessarily, the inaugural activity that offers the most hope is the advent, the prospect, of this ten year organized piece of activity. And if one were to think of that

as being the object of our first organizational effort, rather than directly approaching the question of the exploitation of the resources themselves, then one can approach that effort in the same way that Mrs. Borgese has envisaged our approach to the more direct problems of exploitation. Not -- the remarks that I have been trying to make have not been directed toward saying the thing we have to do is to empower scientists to run the future of the resources of 7/8s of the world's surface. On the ~~far~~ contrary, it is merely the quite different proposition that ~~is~~ the object of our immediate concern that offers more hope is to concentrate not on the resources themselves but on the way in which we are going to organize these activities for the next ten years.

HAMBRO: _____ a little ~~be~~ bit confused here. It seems to me that the debate is moving in several different directions. I thought this afternoon that we discussed the draft made by Elisabeth, that we discussed how we shall organize this regime, and that we, after that, also discussed how we should try to recommend the organization of the Decade of Oceanographic

Research. And it seems to me that in the last half hour the debate has taken such a turning that it would seem to me that ~~xxxxxxx~~ mostly we are not discussing the ~~xxx~~ regime at all. We are discussing it in such a way that it looks to me as if they want to abolish the regime and concentrate entirely on the ten year research program. And if that is correct I understand the way that the discussion has gone, but my ~~fx~~ feeling was that we should try here today to present some kind of program for the regime and at the same time we should recommend, parallel with that, a ten-year program, or decade, of research. One thing shouldn't take the place of the other. That the regime should be established, because we thought, when we began here, that it was trying to do something to control the sea bed and the ocean floor, and for that reason it was necessary to have an organization straight away, and at the same time we should try to investigate do whatever we could to and/get more information for the future program of that organization. But one thing doesn't exclude the other. They must go simultaneously. And I think the way this discussion goes seems to indicate -- I may be ~~x~~ wrong but it seems

to me that many people here now want to stop the regime and just concentrate the debate on how ~~this~~ we should organize the ~~effort~~/ten-year program. And we ought to be clear on what we want to do. I still think we ought to do both.

ARMSTRONG: Mr. Chairman, I think Mr. Hambro has made a very good point. We are in fact discussing the regime and it is very urgent. The thing I'm frightened about with the development decade is that we'll learn too much in it, and so we'll never be able to come to an agreement on the regime. We must get the regime before we get very much more, otherwise it will be impossible. I think Francis Christie (?) makes this point very clearly, doesn't he, that there are only two moments when you can install a regime, one before you know anything, when people don't -- aren't therefore very exercised, and the second time after they've had all the international wars and they're sick of them, but inbetween you can do nothing at all. I think we must not lose sight of the urgency of getting a Declaration. I^{'m} absolutely delighted with Ambassador

Pardo. He's going to stick to the original proposal, which he has, of getting a Declaration, getting something agreed. But there is no reason of course why the Decade can't fit into part of that. Now, Ambassador Pardo said that he thought -- at least I think he said that he thought the functions should be spelled out very clearly, and that the way the organization developed should develop in fact from the functions. And I noticed that this law of the sea institute of Rhode Island -- I'm I hope I'm not dropping a brick by suggesting that there is another body interested in this -- they have here -- the functions as four-fold. The organization for Security, the organization for Science, by which I imagine they include the things about pollution, the Organization for Minerals and Mining, and Oil and Gas, and the Organization for Fishing. Now, I don't know whether that is comprehensive, but it seems to me to cover a very wide field. Now, I believe we're building a four room, five room house, really. We are building a house with those four rooms, one of which will take the decade, the organization for

science, but we will not forget, in designing our house, that there are the other three. And the fifth room will be to try and sort out ~~xxx~~ the quarrels between the chaps in the other four, that is to say the coordination function which Ambassador Pardo mentioned. Now, it seems to me that we could and should try and go ahead with a broad picture, we should try to present the broad picture, taking in all these things. And I would hope -- and now this is probably controversial, I'm afraid I seem to differ~~xxxxxx~~ from Ambassador Pardo on this -- As you know I'm so frightened about inter-governmental things, but ~~xxx~~ why shouldn't we have a sort of compromise here? That in these four sections, minerals, fisheries, science, and security, that the people be appointed because they know about one of those four things? And that is the main reason why they are appointed. The secondary reason would be that they came from Ruritania. But that -- so as there would be a balance, that somehow or other we play down this business of the importance of being a Ruritanian.

I'm frightened about Mrs. Borgese's blueprint, that it seems to inherit all these mistrusts. We can't really get on unless we have the Ruritanian balanced by the Utopian, and so on. Can we not put it onto the function thing and develop from that basis?

HUTCHINS: I understood Ambassador Pardo to make that suggestion.

PARDO?: Yes yes

CAMPBELL: I was going to support the statement that Ambassador Hambro made that if, as we mentioned earlier today, the British resolution for a ten-year decade in exploration is adopted by the Ad Hoc Committee and is transferred for coordination or activation to the ICC, then it's outside the reach of the immediate proposals I understand you have in mind, with respect to the regime, unless you want to turn ICC into the regime. I'm sure a lot of people would be interested in that but you can't build up what you're trying to do now on that kind of hypothesis. It seems to me to go ahead with the planning for the regime and its function.

My own feeling was, during the first session of the Ad Hoc Committee, ~~xxx~~ that the delegates probably -- I don't know ~~if~~ if this is the line you're thinking in, Ambassador Pardo, would be transferring this function~~xxx~~ ^{to} over/the ICC if it's accepted, I mean if it's approved -- is that right -- to the -- for coordination? They were very strongly represented and they

PARDO: The Ad Hoc Committee has no technical competence.

None of us have, as far as I know, except in delegations of major states, where there are scientific advisors and so on.

There is no permanent committee. The ICC has competence in this matter. Its -- It has organized some very important scientific exploration activities in the ocean in the past.

The -- eventually I would hope that the ICC would be as Mr. Armstrong just said, a part of the regime, one of the parts, but at present we don't ~~xxx~~ have any structure at all, and we have no confidence in this -- How -- I mean I've read with great interest some of the proposals in the proposed Ten Year Decade of Ocean Exploration, about turbidity currents,

the relationship between oceans and weather, and things of that sort -- Well I -- Quite frankly I'm not prepared to discuss these questions and I doubt whether Ambassador Hambro is. This is very specific matters. Doubtless they're useful, but I'm -- The regime is something different.

BUSHA: May I point to one or two phenomena which might have some relation to this ~~mx~~ discussion, about the internal politics of the United Nations family. It seems to me that the tendency to resist the development of new agencies has been counter-balanced by a curious proliferation of new agencies in the past -- in recent times, resulting from the importance given to developed, ^{mnt} that is to say that UNCTAD, ? UNCITRA, UNIDO, represent something that might seem at ~~mx~~ variance with the basic ~~e~~ tendency of the states, certainly of the Western states, to put the -- a damper on the creation of new organs within the United Nations. Such organs as are now existing find themselves confronted with a daily increase in -- increasing difficulty of coordination -- the word is almost

a dirty word in the Secretariats of intergovernmental organizations like mine. This is something which nearly overwhelms the administrative committee of coordination. It is something which gives rise to criticism by the member governments of the United Nations, increasing as they are in number, and the creation of a program is fraught with the utmost difficulty in knowing who is concerned with what.

I have here a letter from -- a copy of a letter from the Director-General of UNESCO to U Thant, written at the end of May, in which in presenting some of the work of the ~~ICC~~ ICC to the Ad Hoc Committee, through the Secretary-General at New York, he mentions first some of the legal work that was done in collaboration with IMCO. He then goes on to make a reference to the integrated global ocean station system, which is something being undertaken by the ICC, connects that in turn with the WMO, with the World Weather Watch, and his letter is an example of the kind of thing that is involved here. I might even point to the fact that UNESCO itself is the Agency in which the ICC is located, that is to say

that the ICC is not an independent, an autonomous, organization.

Now, I'd like to conclude by asking Ambassador Pardo and Dr. Rao, several of you, together, if they think that there is any possibility, one, of looking at this thing in terms of a development, from a development aspect, of enlisting the aid of developing countries to put the same kind of push behind the development, behind the creation of a new organ, as has already been remarked was done in the case of UNCTAD.

And secondly, whether it is possible that such a bringing together of these various organs, such as -- I would even include my own Agency, IMCO, the ICC, and various other functioning, portions or parts of existing organizations, whether that has any political possibility at all in 1968-69?

I think it might lead to some relevant, something in answer to that question -- and might have some relevance to this problem of creating a regime, since in my view there are existing organizations which could easily take on most of function we've been discussing. The IH, The International Hydrographic Bureau, for example, is a licensing organization; IMCO and the FAO in the pollution side; the ICC for the

scientific -- If there were any possibility of unifying
in some new but not duplicatory organization, I should be
glad to know if that exists.

PARDO: Well, there are two ways of looking at this, and of
course one could conceive ~~within~~ a new agency, a new regime
a being just a coordinator of existing activities, and
quite frankly, as far as I'm concerned, personally, I'm not
interested in this concept at all -- I would prefer to see
this new agency -- a new agency established in which many
of the existing activities throughout the United Nations
system would be brought into this. In other words, they --
it would simplify the task of coordination. At the present
time I think all the specialized agencies, without exception,
except perhaps for EKO (?) -- all the specialized agencies
are directly or indirectly involved in this matter of the
ocean. In fact last week at the Committee on Program and
Coordination I was quite impressed by the number of agencies
and the variety of their activities. Well, I would think
that IMCO, for instance, the Fisheries Division of FAO, the

oceanographic activities of UNESCO, some of the activities of WHO, which curiously enough has competence over coastal waters, but not over the high seas. I don't quite know why, but this is one of the realities of the United Nations system. And so on, could all ~~x~~ be brought into the new agency, and it would -- and this would be a part of the general technical and scientific activity of the agency, and it would become one part of this regime. The other part -- of course there are other parts -- I would ~~not~~ hope there would be a military part; I would hope there would be resources exploitation and so on, but the existing activities are of a technical and scientific nature and they could all come into one part of the agency which would be -- and not only coordinat^{ed}~~x~~ but integrated at that point and so you -- and one would solve a tremendous amount of problems. Now as to the political possibilities -- I'm trying to find the ~~reference~~ -- but there has been some work going on within the United Nations system, and I understand that the Fisheries people of FAO are unhappy about being tagged on as a tail to agriculture

and they would like to be independent. And they would like
to get together, and ~~xxxxxx~~ -- with some of the people of UNESCO,
on the scientific oceanographic activities of UNESCO, There
have been meetings, and while perhaps the feelings in terms
of UN politics, the feelings at the highest levels of the
agencies concerned might be somewhat mixed at any proposals
of this nature, in fact very mixed -- there would probably
be a good deal of opposition -- the position of the people
directly involved, that is to say the oceanographers of
UNESCO, or the fisheries people of W PAC would be on the
whole favorable. It would -- this is one of the manyxx=
battles that will have to be fought out if we ever get there.
But I think the opposition within the UN system it's possible
to overcome.

_____ : _____ memberstates?

PARDC: ~~xx~~ from the point of view of member states -- well,
rather difficult to ~~xx~~ foresee, really. As you know, each
agency has a certain clientele in member states, certain --
a certain aura of interest attached to it, and it will depend

really on how these interests will influence I think the position of the state concerned. On the whole I think that if member states are convinced of the political utility -- the political usefulness of an international regime, and of the necessity for having an agency, all this will become a secondary matter as far as ^{the states} ~~the states~~ are concerned. Because in the interests of -- the point of view of the state, the concept of the state -- well -- it has much wider interests in mind and these are comparatively minor, and therefore can be overcome. That is why I feel it is absolute essential to not tackle it from the scientific -- I would say tail or head -- I'd be very happy to say head -- I would not want to tackle it from that point of view, because then we get involved in a number of comparatively secondary battles. But tackle it immediately from the political point of view -- or the political interests. If states are convinced of the need for that, for a need for a solution of that problem, the rest will come -- it will have to come. But this is my point of view and I -- my appreciation of the situation

can be challenged, by people more experienced than I am.

RAE *Nambr*

FRIEDMANN: _____ that is the point isn't it? I mean part

of the point is the circle of developed countries think that have such an enormous advantage over the other states they'd be very ~~xxxx~~ reluctant to see their liberty, their freedom of action curtailed. That is the difficulty with those states.

PARDO: That's why I want to -- the essential thing is to put these states -- confront them with their responsibilities, put the alternatives to them, convince the majority in the General Assembly, and there is a majority, to -- not to give them the possibility of escape or of excuses. Confront them with this. Now if they will take the political responsibility of saying: No, we don't want it because our interests are concerned, alright, fine, but public opinion will know why. And this is what I am trying to do; the whole object of this exercise is to confront ~~xxxx~~ the major powers with their responsibilities and oblige them to take a position. I'm putting it very bluntly.

HAMBRO:

RAM: Yes, but wouldn't it be wise to try to emphasize as much as possible the economic and as you said the development side of the problem, if we want to get it through the United Nations?

PARDO: Right. And I think this is wise.

HAMBRO: And furthermore we have talked about the reluctance of the United Nations to have new agencies, and it was mentioned over there, that side there, I think it was Mr. Busha who talked about it -- that there are certain cleavages there in the United Nations. I think that it's the Western states who have been against proliferation of the organizations, the new organs all the time. My government among them. Whereas, as far as I can remember, the developing countries have no shyness in that respect at all. So if you can get the support of all the new nations, the Third World if you like, and convince them of the necessity it will be much easier to get this through.

PARDO: Yes. But I -- Ambassador Hambro I -- the point is this: I think it would be comparatively easy, in fact I

think one could even get it through by next year, a new organization. But -- that is ~~xxxxxxxxxxxx~~ comparatively easy, and set up an organization like UNIDO, with nine million dollars, and it is impotent, that is easy. But to ~~xx~~ set up an organization which has real power and can do something, as contrasted to what most organizations -- in fact all organizations within the UN system -- they cannot do anything outside the technical and scientific sphere -- to have an organization with political power. And that is far more difficult. Far more difficult. And there it is also not easy to obtain unanimous support from all developing ~~xxxx~~ countries, because some developing -- I mean some countries still, I think, are not convinced -- may suspect, rather, that this may injure ~~xxxx~~ some of their interests. And I would quote in this respect the position of some of the South American countries. They think that this, having claimed 200 miles out to sea, or having claimed this, this in some way might injure their interests. And so it is not all that easy. But if the -- it's just to set up an organization ~~xx~~ on the oceans

with functions typical of FAC, that is comparatively -- I mean it would be comparatively ease. But it would be useless.

HUTCHINS: Professor Andrassy, did I overlook you? Were you going to speak some time back?

ANDRASSY: Yes. I would ask why do you refer so much to the ICC? ICC is dealing with many questions which are not involved ~~xxx~~ here. Dealing with the salinity of the sea waters, and the waves ~~xx~~ and currents and different questions of surface water and deeper waters, but not with the sea bed, so I don't know -- I believe the UNESCO will not give up this commission and give it over to the new organization. Thank you.

GASKIN^{ll} : ICC deals with the sea bed. Deals with marine geology. I've done a lot of geology, years ago. I'm a seismologist. I mean quite clearly you're wrong. It ~~g~~ doesn't just deal with currents and waves. It deals with all the things that we're talking about as well.

ANDRASSY: Yes, but these could be taken over, but not the whole commission.

GASKIN^{ll}: Sure. But it's wrong of you to say it doesn't deal with

these things.

HAMBRO : He didn't say that. He said it deals with lots of other things, too.

CASKELL: No he didn't. He says it doesn't deal with these things.

ANDRASSY: I was misunderstood.

Cowford : Well, I think we should ~~index~~ recall Dr. Mero's remarks yesterday, that industry is indeed looking at the ocean deposits, and as John pointed out they ~~may~~ proceed ^{in fact will} without authority, if such authority does not soon exist. I believe, John, these were your comments, were they not? That there is at least one company looking at a mining situation in the deep who might proceed -- if there are no laws, they will proceed independently of such laws?

MERC: Essentially that they are going to go ahead, with or without. They would like to have a stable regime but it doesn't make any difference to them, now, ^{or} any longer, to these corporations whether they have the regime or not.

A. O.? : Well then you can take my case on the other side where, if we cannot obtain international justice, or law,

whatever you wish to call it, that we can go to a bordering or coastal state, and may anticipate ~~their~~ their giving us such a license by extending their boundaries. I would agree with Ambassador Hambro that what Mrs. Borgese is ~~MEG~~ suggesting here is legitimate and needs action. It's not so much whether we should do it or not as what it should contain within this treaty organization. I think we're getting farther away from the meat of the discussion of the past two days. I would like to see us come back to your draft and attempt to do something before the ~~the~~ day's ~~x~~ over.

TUGWELL: Isn't it quite clear, Elisabeth, that all the UN ~~Com~~ is going to do -- the Ad Hoc Committee is going to do is to have a general Resolution, which is something of the sort that you suggested in your paper and something of the sort that Dr. Rao's -- that's all they're going to do, isn't it?

BORGESE: This year. But that should enable them to do more in years to come.

TUGWELL: Well, what I wanted to suggest is that what we seem to lose sight of is that the draft of a regime is for dialectical

purposes, so that we can see what a regime would be if there were a regime. But it's not expected that the UN this year will have anything to do with such a thing/

BORGESE: I put the date 1971. Arvid makes it 1972.

TUGWELL: Well it seems to me we lose track of this all the time. It's as though we expected the people at the UN to pick up this regime and try to get it through, and that's not the intention at all.

HOFFMAN: It is a problem, it seems to me, that we don't keep the urgency of it before us. Because the aim is to provide an instrument by which the cooperat~~ion~~^{eness} of the world can be ~~px~~ improved. And everybody thinks it's a good idea. Nobody seems to have any real objection to the substance of the proposal, and there might be some~~body~~ people who would want to fix the language here or there, but I think ~~in~~ in order to serve the ~~unanim~~ unanimity ~~fix~~ on the substance of the proposal, but everybody thinks we can't do it, you know? This is a funny state for the world to be in, and there must be some way that it can be made clear ~~to~~ even people

on an Ad Hoc Committee of the United Nations might learn that this was a good and substantial thing to do and it might be pursued, and we might achieve it.

PARDO: Would it help if I sort of anticipated more or less how the United Nations might proceed...?

MANY: yes it would yes

PARDO: And now, being optimistic, I take the optimistic line, not the pessimistic line -- being very optimistic. Hopefully, we could get a Resolution through the General Assembly-- and it must be a near-unanimous Resolution -- at this Assembly, somewhat on the lines of Mr.Rao's Declaration -- or Declaration of Principles. Hopefully, we can get a committee, permanent committee established. There will be a very violent battle on the terms of reference of this committee. There will be some delegations, like Dr. Kaplan, which will want these terms of referencez mainly oriented toward scientific matters -- there will be some countries. There will be others who will want different types of terms of reference. Anyway -- hopefully

BORGESE: Can you classify these countries? I mean can you mention some of them?

PARDO: Well I don't know. I don't want to anticipate the positions of countries. I have a good idea what the countries will do, but I won't anticipate. I don't think it's perhaps wise. They might change their position, after all.

HOFFMAN: If you could do that ??? (mike not on)

PARDO: Then, well, hopefully there will be a committee established with -- basically oriented towards drafting a treaty. On the sea bed and ocean floor, with particular reference to the establishment of an organization ~~xxxx~~ for the administration thereof. Hopefully. The Committee may meet early next year and will subdivide itself. There'll probably be about two or three sub-committees. Whereupon the lawyers will have one of their own sub-committees and they will probably engage in a discussion of the limits of the continental shelf. And that discussion, we can expect it to go on for a couple of years. There, hopefully, the progress

TUGWELL: _____ will be drafting a treaty, I take it?

PARDO: No. Well the ~~ixx~~ lawyers probably -- there'll certainly be a sub-committee discussing the limits of the continental shelf, and this will be complicated because some states will certainly demand a revision of the Geneva Convention, and there may be requests for a conference on this subject, and one can anticipate quite a number of complications just as sub-sub-sub-subjects. This on one side. On the other side, hopefully, another group of people can make progress on defining more or less other aspects... First of all discussing the feasibility of an international regime, and this will probably take a full year. So again being hopeful, again hoping that there will be no unusual complications and so on and so forth, perhaps by the end of 1969 there may be a recommendation to the General Assembly that an international regime is recommended and so on so forth. And then we go into 1970 and ... well, anyway, the whole thing will take some time. In the meantime one has to take into account that while these discussions are going on at the United Nations there will be developments in technology, there will be various

pressures for states to extend their limits, there will be probably little action on some aspects of pollution, so that the seas will get slightly dirtier, there will be very much negotiation going on, both in the General Assembly framework, and possibly consultations on a regional basis among member-states as to the suitability or non-suitability and what position to assume on a regional basis -- The regional groups will -- and so on... It's not quite clear-cut and one has -- I say, optimistically, by the end of 1969 there will be a recommendation. Everybody will agree that an international regime is suitable. You'll have the Declaration this year and next year the General Assembly accepts the international regime is feasible and suitable, and we'll go on from there. But that is

TUGWELL: All this incorporated in the Recommendation for a treaty? At the end of this time? By the permanent committee?

PARDO: Yes. I don't know -- perhaps Dr. Rao has more optimistic views than I, but I don't know -- these are very very optimistic, I'm sure

RAO: I would even put it beyond 1970. As for the treaty,
it depends on how it goes on. It may take the form, first
of a Declaration, after that it may

NB: No tapz for session end (approx 15-20 min)
Hlu