community, particularly the developing countries with small continental margins.

The Delegate of MALAYSIA enquired of the U. S. Representative as to the distinction between the expressions 'innocent passage' and 'free transit', which he had used in his statement made in the third meeting. The U.S. Representative explained that according to the view of his Government the doctrine of innocent passage could be subject to arbitrary interpretations and that in the adoption of that doctrine the possibility of addition of 100 or more international straits as a consequence of the acceptance of 12-mile limit was not contemplated. He added, in the view of his Government it was absolutely necessary to assure a right of "free transit" through such straits. He also said that his Government considered the establishment of the right of free transit through such straits as a logical adjunct of the freedom of navigation and over-flight on the high seas.

The Delegate of CEYLON, commenting upon the 'trusteeship concept' propound by the U.S.A. in regard to sea-bed, observed that it was stretching the concept of trusteeship too far. He felt that the U.S. proposal was more in the nature of a concession in land given on the basis of concessional terms and held on concessional terms by the international community. The Delegate commented that the so-called trusteeship concept was a kind of *quid pro quo* to the countries which had accepted the exploitablity test in the continental shelf. He suggested that the Committee should have an open mind about this question for three reasons, namely (i) the exploitability test was itself extremely vague; (ii) all the Member Countries of the Committee were not parties to the Continental Shelf Convention; and (iii) even though the exploitability test might be clearly understood as having given substantial advantages to the coastal States earlier, it was entirely up to the parties to that Convention to interpret it themselves to revise or renew it.

Sixth Meeting

The Delegate of KENYA stated that the Committee should do its utmost to assist the Asian-African Governments in the task of preparing for the forthcoming Conference on the Law of the Sea. In regard to the proposal for the establishment of an international regime for the sea-bed and the ocean floor beyond the limits of national jurisdiction, the Delegate expressed the view that the Declaration adopted by the General Assembly in December, 1970 could form the basis of working, and in that connection he suggested that Asian-African and Latin American countries must try to ensure that the said Declaration was translated into an effective multilateral treaty of a universal character.

Concerning the four Geneva Conventions on the Law of the Sea, the Delegate said that most of the States in Africa had not participated in their formulation. He was of the view that by and large these conventions had codified only those rules of the Law of the Sea which had been evolved by the developed countries in their search for markets and scramble for empires, and that if at all they served the interests of developing countries, it was by coincidence and not design. Therefore, in the light of the above, he said that his country would not accept the proposition that the future Conference on the Law of the Sea should be devoted only to issues left unresolved in the previous conferences. However, he added, he did not advocate a general revision of the rules embodied in those conventions, but that the Conference must have the competence to re-examine such of those rules which perpetrated inequity.

One of the key issues to be solved at the proposed Conference, he indicated, was the question of freedom of fisheries on the area adjoining the territorial waters of a State. Irresponsible interpretation of this freedom, he pointed out, had already led to the extinction of many a specie of the fish. He suggested that either an appropriate and reason-

able belt of territorial waters should be recognised, or if a 12-mile limit was taken as the limit of the territorial waters, a further area of exclusive fishery and conservation zone beyond 12 miles must be recognised.

In regard to international straits, the Delegate said that he did not favour creation of corridors as, is his view, the present law on innocent passage was more than adequate to ensure freedom of transit.

Referring to the Tanzanian proposal, earlier circulated in the Committee, the Delegate said that he was in agreement on many points of that proposal. However, in regard to the United States proposal, he explained the various reasons for not accepting the two fundamental concepts of that proposal, viz. (i) the proposed delimitation of the continental shelf at 200-metre isobath and (ii) the proposed creation of a trusteeship zone between the 200-metre isobath and the continental shelf.

According to the Delegate of JORDAN, the 12-mile limit of the territorial sea was desirable and appropriate. He, however, pointed out that some of the coastal States had adopted the marine limit of 200 miles which, in his view, could be justiciated for economic and security reasons.

In regard to the sea-bed and ocean floor lying beyond the limits of national jurisdiction, the Delegate expressed the view that the modalities of the proposed international regime therefor should be worked out as suggested by the Delegate of Ceylon during the second meeting.

Concerning the fisheries question, the Delegate expressed the opinion that a coastal State should have a right to establish a fishery and conservation zone adjacent to its territorial waters and that it should also have the concomitant preferential right to the allowable catch in the conservation zone.

As regards the regimes of contiguous zone and the

continental shelf as dealt with in the Geneva Conventions, he felt that they needed further elucidation.

The Delegate of INDONESIA explained in detail the special geographical position of his country and pointed out that these conditions dictated the need for his Government to adopt and continue to maintain the archipelago concept for reasons of political stability, economy, national defence and security. He added that the views of his country on the Law of the Sea were, therefore, very much influenced by those special conditions.

On the question of breadth of the territorial sea, he pointed out that his country did not sign or ratify the Geneva Convention on the Territorial Sea and the Contiguous Zone on account of the fact that the Convention did not properly reflect their Djuanda Declaration of 1957 which had stipulated the principle of archipelago for Indonesia. The Djuanda Declaration, he added, was subsequently incorporated into their Law No. 4 of 1960 according to which : (a) Indonesian waters consist of internal waters or territorial waters ; (b) the breadth of Indonesian territorial waters is 12 nautical miles measured from the baseline—the waters toward the land side of the baselines are considered Indonesian internal waters ; (c) the baselines are drawn from the outermost islands ; and (d) the right of innocent passage of foreign ships is guaranteed and to be regulated further by a Government regulation. The Delegate pointed out that it was absolutely necessary to have a uniform extent of territorial sea for all the States, and what was required was a clear and reasonable extent of territorial waters taking into account the specific conditions of each country. He added that should the territorial sea of one State overlap the territorial sea of another, the matter should be settled peacefully through negotiations as Malaysia and Indonesia had done in the Strait of Malacca which was less than 24 miles wide. He emphasised that the future Conference on the Law of the Sea must recognise the

principle of archipelago, especially in respect of delimitation of the width of the territorial sea.

In regard to the regime of the international straits, the Delegate pointed out that Indonesia recognised by its Law No. 4 of 1960 the principle of innocent passage, and not the right of free transit for foreign ships through Indonesian waters and that Regulation No. 8 of 1962 regulated the same. In the view of his Government, he added, a passage was innocent so long as it did not endanger the security, public order, interest or peace of Indonesia. In the view of his Government, he observed, the problem of innocent passage should primarily be regulated by national legislation.

In regard to the special rights of coastal States concerning fishing, the Delegate said that Indonesia had signed the Geneva Convention on Fishing and Conservation of the Living Resources of the Sea, although it did not ratify it. He was of the opinion that a coastal State had an absolute and exclusive right to fish in its internal or territorial waters and that it had also the special right of fishing on the high seas adjacent to its territorial sea, simply for the reason of proximity and propinquity. His country, he pointed out, was also of the view that fishing in the territorial sea was closely interrelated with fishing on the high seas adjacent to the territorial sea. His Government, he added, considered that it was for the coastal State to decide what would be the nature of its special rights in fishing on the high seas adjacent to its territorial sea. As regards the limit of such rights on the high seas, he stated that his Government had not taken a decision in that regard. He was attracted towards the concept of gradual special fishing rights of the coastal State in the adjacent sea, He suggested that the Committee might consider the criteria of absolute right for fishing within the territorial sea, exclusive right for fishing beyond the territorial sea but adjacent to it, and special right for fishing beyond the area of the exclusive right. For possible cases of overlapping of the above kinds of fishing zones with the zones of other

States, he suggested that they could be negotiated and settled.

On the question of the sea-bed and ocean floor within national domain, the Delegate pointed out that Indonesia had issued a Declaration on February 17, 1969, defining its continental shelf exactly in the same terms as the Geneva Convention on the Continental Shelf. He explained that what was meant by continental shelf was not in a geological sense, but in a legal sense, referring only to the area of the sea-bed outside the limit of the territorial sea. Indonesia, he pointed out, subscribed to the exploitability criterion of the Geneva Convention which was the basis of their Declaration of 1969 for the area beyond the 200-metre isobath.

In regard to the sea-bed and ocean floor beyond the limits of national jurisdiction, the Delegate said that Indonesia supported the Declaration adopted by the General Assembly on December 17, 1970. He expressed the view that an international organisation under the aegis of the United Nations armed with broad powers should be set up to effectuate the proposed international regime.

On the question of delimitation of the continental shelf, the Delegate observed that although Indonesia subscribed to the exploitability criterion, it was prepared to study the precise limit in terms of depth or distance or combination of both. He added that in the view of his Government it would not be wise for various reasons to determine the limit of continental shelf only at 200-metre isobath.

In regard to the convening of a new conference on the Law of the Sea, he stressed two principles, viz. (*i*) the desirability of holding a comprehensive conference, and (*ii*) the need for extensive and thorough preparation.

The Delegate of the PHILIPPINES made a detailed statement pointing out that his Government considered that archipelagos like the Philippines and their territorial waters which, in his view, fell into the category of 'historic waters', constituted recognised exceptions to any general Law of the Sea.

Dealing with the concept of archipelago, the Delegate observed that there was no recognised rule of international law governing the territorial sea of archipelagos. Explaining the distinction between inland waters of an archipelago and its territorial sea, he pointed out that the inland waters of the Philippines were all the waters around, between and connecting the various islands of the Philippine archipelago irrespective of their width and dimension. He declared that the sovereign rights of the Philippines over its inland waters were absolute, exclusive and unlimited except for the privilege of innocent passage, non-negotiable and beyond the scope of international law. For the above reasons, he did not accept the description of the Mindoro and Surigao Straits and the Sabutu passage as international straits as was given in the Brief of Documents prepared by the Committee's Secretariat.

In regard to the Filipino territorial waters, the Delegate asserted that they formed 'historic waters' and therefore an exception to the Law of the Sea, and consequently the Philippines had a vested right to them. Explaining the historical background, the Delegate pointed out that it was by the Treaty of Paris of 1898 that the Philippines was delimited as a perimetre of the sea in terms of degrees of latitude and longitude. He expressed the hope that the Commitee will exercise its influence in securing recognition for the archipelago concept of internal waters and the perimetre concept of the 'historic' Philippine territorial waters.

The Delegate of IRAQ pointed out that although his country did not accede to the four Geneva Conventions, it recognised the reasonable rules embodied in them.

In regard to the breadth of the territorial sea, the Delegate said that Iraq had fixed the limit of its territorial sea at 12 nautical miles measured from the appropriate baseline. Iraq, he added, had also reserved the right to establish a contiguous zone adjacent to its territorial sea.

On the question of delimitation of the continental shelf,

he was of the view that this should be done with reference to the baseline of the territorial sea of the mainland of each country.

Concerning the international regime proposed to be set up for the sea-bed and ocean floor beyond the national jurisdiction, the Delegate observed that the recent U.N. Declaration would serve as a concrete basis of discussion at the forthcoming Conference on the Law of the Sea. In regard to peaceful uses of the area, he suggested setting up of an international organisation with full international personality and powers to administer the same.

On the question of international straits, the Delegate observed that Iraq as a State interested in maintaining universal co-operation in maritime transport and trade would like to ensure free access to and navigation through those straits which would fall within territorial seas in the event of adoption of 12-mile rule. The passing ships, he added, must comply with the laws and regulations of the concerned coastal State, which ought to be within the accepted rules of international law.

In regard to special rights of the coastal States, the Delegate expressed the view that the coastal State had a right to fish in the waters adjacent to its territorial sea, a right to reserve a part of the total catch on the high seas adjacent to its fishery zone, a preferential right to adopt conservation measures and the right to allowable catch in the conservation zone.

The Delegate laid stress on formulating anti-pollution measures for the benefit of the entire mankind.

The Delegate of GHANA made a brief statement in the course of which he pointed out that Ghana had extended the limit of its territorial sea to 25 miles. He said that his country had a coastline of about 500 miles only. In regard to continental shelf, he found it difficult to support the view that the 200-metre isobath should commend itself for general acceptance.

The representatives of *Ecuador* and the *United States of America* made short statements.

At the end of the aforesaid discussions a Sub-Committee comprising all the Member Delegations of the Committee was constituted to give detailed consideration to the subject. Mr. C.W. Pinto (Ceylon) was appointed its Rapporteur.

Eighth Meeting

The Rapporteur of the Sub-Committee on the Law of the Sea presented the Report of the Sub-Committee together with the Sub-Committee's recommendations regarding the programme of work of the Committee on the Law of the Sea in preparation for the proposed Conference of Plenipotentiaries. The Report of the Sub-Committee and its recommendations were approved by the Committee.

The Delegate of the PHILIPPINES expressed his appreciation to the Sub-Committee for its sympathetic consideration of the archipelago concept which was proposed by his Delegation alongwith the Delegation of Indonesia. He said that apart from this his Delegation had raised the question of historic waters which should be considered by the Committee at its next session and by the Sub-Committee during its inter-sessional meetings.

The Delegate of JAPAN made a detailed statement explaining his country's point of view on the various aspects of the Law of the Sea. He observed that although there seemed to be a substantial divergence of view between his Delegation and some of the other Delegations at present, it was his belief that by gradually extending the areas of agreement rather than by stressing areas of difference that consensus could be reached.

Reiterating his views on the extent of the territorial sea and fishing rights of coastal States in the area adjacent to the territorial sea, he stated that Japan could agree to consensus being reached on fixation of the maximum limit of the

territorial sea at 12 nautical miles from the coast, but it would not recognise beyond that limit the right of a coastal State to claim exclusive jurisdiction for regulating the exploitation of the marine resources as, in its opinion, such unilateral extension of jurisdiction either in terms of territorial sea or of the fishing zone did not meet either the common object of conserving the marine resources or the interest of the coastal States which wished to develop their fishing on the open seas. However, considering the limited capacity of the developing countries to fish in the area of the high seas adjacent to their territorial seas, he pointed out, his country favoured establishment of a universal regime which would recognise certain preferential status for the developing coastal States in order to protect their fisheries in the areas beyond the 12-mile limit. In furtherence of the aforesaid view, he then put forward the following guidelines :—

> "In cases where a developing coastal State is engaged in fishing by small fishing vessels in any given area of the high seas adjacent to the 12-mile territorial sea and where the fishing activities of such small fishing vessels are substantially affected by the fishing activities of distant water fishing countries, these distant water fishing countries shall make necessary arrangements with that developing coastal State with a view to establishing open and closed seasons, closing specific areas to fishing, prescribing the methods or instituting catch limitations for any particular stock of fish etc., so that the fishing activities of such small fishing vessels of the developing coastal State be adequately protected. Any dispute which may arise concerning such arrangements shall be submitted to a special commission of experts nominated by the States concerned, unless the parties agree to seek a solution by another method of peaceful settlement, as provided for in Article 33 of the U.N. Charter".

———

VII. LIAISON OFFICERS OF THE PARTICIPATING COUNTRIES

ARAB REPUBLIC OF EGYPT	Miss Khadiga Aladin, Embassy of the Arab Republic of Egypt, New Delhi.
BURMA	U Tha Tun, Embassy of Burma, New Delhi.
GHANA	Mr. E.W. Okyere-Boakye, High Commission for Ghana, New Delhi.
INDIA	Dr. S.P. Jagota, Joint Secretary & Legal Adviser, Ministry of External Affairs, Government of India, New Delhi.
INDONESIA	Mr. Slamet, Embassy of Indonesia, New Delhi.
IRAN	Mr. M.A. Kardan, Embassy of Iran, New Delhi.
IRAQ	Mr. Sabah Al-Rawi, Embassy of Iraq, New Delhi.
JAPAN	Mr. Eiichi Furukawa, Embassy of Japan, New Delhi.
JORDAN	Mr. Saad Batainah, Embassy of Jordan, New Delhi.

KENYA	Mr. A. Rosana, High Commission for Kenya, New Delhi.
KUWAIT	Mr. Khaled H. Al-Khamees, Embassy of the State of Kuwait, New Delhi.
MALAYSIA	Mr. N.G. Bak Hai, High Commission for Malaysia, New Delhi.
NEPAL	Mr. N.B. Shah, Royal Nepalese Embassy, New Delhi.
NIGERIA	Mr. B.A. Adeyemi, High Commission for Nigeria, New Delhi.
PAKISTAN	*(Vacant)*
PHILIPPINES	Mr. Romeo O. Fernandez, Embassy of the Philippines, New Delhi.
SIERRA LEONE	Mr. E.W. Okyere-Boakye, High Commission for Ghana, New Delhi.
SRI LANKA	Mr. G.D.I.G. Seneviratne, High Commission for the Republic of Sri Lanka, New Delhi.
SYRIAN ARAB REPUBLIC	Mr. Mohammed Samir Mansouri, Embassy of the Syrian Arab Republic, New Delhi.
THAILAND	Mr. Thawee Manaschuang, Embassy of Thailand, New Delhi.

MEMBERS OF THE A.A.L.C.C. SECRETARIAT

SECRETARY-GENERAL	Mr. B. Sen
DEPUTY SECRETARY-GENERAL	Mr. K. Ichihashi

RESEARCH DIVISION

Assistant Secretary-General and Director of Research	Mr. S.S. Basnayake
Assistant Director of Research	Mr. V.C. Govindaraj
Attache	Dr. (Mrs.) Aziza Morad Fahmy
Legal Officers :	Mr. P. Velayutham
	Mr. D.S. Mohil
	Mr. P.K. Jha
	Mr. R. Asray

ADMINISTRATION DIVISION

Administrative Officer	Mr. Baldev Raj
French Translators :	Mrs. M. Rego
	Mrs. P. Singhal
Private Secretary to Secretary-General	Mr. Shiv Nath
Senior Office Assistant	Mr. D.K. Vij
Office Assistants :	Mr. Ashok Kumar
	Miss Neena Ghai