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**Chairman: Mr. Radha Krishna RAMPHUL**  
(Mauritius).

**AGENDA ITEM 36 (continued)**

**Reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction and use of their resources in the interests of mankind, and convening of a conference on the law of the sea: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/8721 and Corr.1, A/C.1/L.621, 622, 632/Rev.1 and 634 to 638)**

1. Mr. SAMUELS (Guyana): When at the twenty-fifth session of the General Assembly, my delegation voted in favour of resolution 2750 C (XXV), which decided that a comprehensive conference on the law of the sea should be held, we were not unaware of the enormity of the task which that resolution implied. Because of that awareness, my delegation did not expect that we would be able to settle at a single session of the conference, unless it were very protracted, all the issues which require resolution. Agreement on the list of items mentioned in paragraph 23 of the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction to the twenty-seventh General Assembly [A/8721 and Corr.1] has confirmed our anticipations.

2. Therefore we share the hopefulness expressed by the Chairman of the sea-bed Committee at the 1902nd meeting and support his suggestion that, although we may not be fully prepared for a conference, we should nevertheless decide to make a beginning, press on with our preparations and accept the invitation of the Government of Chile to hold our first session in Santiago early in 1974. My delegation notes with satisfaction that many delegations share that view. At this point my delegation wishes to express its appreciation to the Government and people of Chile for offering their capital as the site for the first substantive meetings of the forthcoming conference on the

law of the sea. This seems to be the place to ask whether the Government of Chile would be able to complete preparations for meetings of such magnitude if we should postpone until the twenty-eighth session of the Assembly any final decision on the question of the conference. The Government of Chile must necessarily wait until then before beginning preparations because it cannot know until that time whether the conference will in fact be held in Santiago.

3. It appears to my delegation that if the Government of Chile is to be our host, the General Assembly must decide at this session that the first stage of the conference on the law of the sea should be held there. Even a provisional decision leaving final determination for the twenty-eighth session of the Assembly will leave too much uncertainty and lead to postponement of the beginning of preparations while awaiting that decision.

4. The reluctance to make a final decision at this session seems to spring from the fact that preparations are incomplete and the fear and apprehension that they are not likely to be completed by the proposed time of the meetings in Santiago. Disregarding for the moment the question of the merits of a decision at this session to meet in Chile, my delegation wishes to mention that we share the views of all those delegations which have urged an early beginning. If we accept that an early beginning is necessary, it then becomes necessary to consider how we can best advance our preparations and most of all advance the success of the proposed conference.

5. My delegation wishes to express its support for the proposal of Mr. Galindo Pohl of El Salvador [1903rd meeting] that we should list those items to which the sea-bed Committee should devote itself in 1973 in preparation for the meeting in Chile early in 1974. We expect, of course, that those items, if any, which must be settled as the basis for other items will form the core of the subject matter to be discussed in Santiago and that that will be the approach to each session of the conference.

6. It is the view of my delegation that that the decision made at the twenty-fifth session of the General Assembly to hold a comprehensive conference on the law of the sea should be adhered to and that we should regard each session in whatever capital as only a session within a larger conference; therefore those items which are not settled at any given session should be called forward to the next session until the final session, when all the decisions will be adopted together in a single instrument. Signs indicate clearly that if we treat each session as strictly compartmentalized, requiring the resolution of all the questions before it, we are not likely to achieve much success. Therefore my delegation would propose for consideration that we should

treat agreement on the work of each session as the desired objective, but that there should be sufficient flexibility to allow for matters which were not capable of agreement to be re-examined in the sea-bed committee in the light of the most recent discussions.

7. If we could decide to treat the meetings in various capitals as sessions of the conference on the law of the sea, we could also accept the kind offer of the Government of Austria and agree to hold our second session in that country.

8. Because of that concept of the conference, and having regard to the state of our preparations, my delegation wonders whether it is feasible at this time to fix the final session of the conference for 1975, as has been proposed. The situation seems to suggest that we should wait until we have entered upon the conference and can better judge the progress of work before fixing a conclusion date. If we should decide to fix a conclusion date at this session, my delegation wishes to suggest that it should be with the understanding that it will be subject to review at subsequent sessions of the General Assembly.

9. My delegation hardly needs to reiterate that whatever decision we may make, time and circumstances press upon us and that there is an enormous amount of preparatory work to complete. But my delegation suggests that we should not regard 1973 as the final preparatory year. Preparations should not be regarded as impossible of continuation once the conference begins. They can continue in stages, working towards each session of the conference. That approach would tend to relieve the sense of emergency that prevails at the moment and increase the chances of success of the conference, for the likelihood is that participants are not likely to reach agreement if they feel that they are being hurried towards it. Moreover, my delegation cannot help but feel that now that the list of items has been completed the progress of the preparations will be quite rapid, for the list has settled the subjects to which we must direct our contemplations in order to arrive at agreement.

10. My delegation is not averse to deciding at this session that the conference on the law of the sea should, in accordance with resolution 2750 C (XXV), begin in 1973 during the twenty-eighth session of the General Assembly and that the first session should be held in New York and be devoted to procedural questions mainly, leaving the commencement of the substantive work for Santiago. It seems to my delegation, however, that we shall have to decide some time early in the twenty-eighth session on those to be invited to the conference.

11. In concluding, my delegation would like to take this opportunity to express our appreciation to the Governments of both Austria and Chile for offering their capitals as a site for the forthcoming sessions of the conference on the law of the sea.

12. Mr. CHEBELEU (Romania) (*interpretation from French*): The Romanian delegation would like to make some comments very briefly on the subject now under discussion in the First Committee.

13. After several years of sustained effort both in the General Assembly and in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, prospects for a new conference on the law of the sea have become better. The Committee took an important step in this direction when it approved at its last session a list of subjects and questions related to the law of the sea [A/8721 and Corr.1, para. 23]. We are gratified by this, particularly since Romania was among the 56 sponsors of the list.

14. Of course, this is only a beginning, but a beginning the importance and significance of which cannot be disregarded. Although the consensus obtained regarding the list was rather weak, it nevertheless made it possible during the long process of negotiation to clarify the positions of various States and to gain a better understanding of the problems raised by the law of the sea and the use in the interests of mankind as a whole, of the sea-bed and the ocean floor beyond the limits of national jurisdiction.

15. Certain other progress, mentioned in the Committee's report [A/8721 and Corr.1] and highlighted during this debate, has been achieved. In this regard we should like to congratulate the officers of the Committee and the Committee as a whole. We should like to pay a particular tribute to the Chairman of the Committee, Mr. Amerasinghe of Sri Lanka, whose competence, energy and conciliatory spirit greatly facilitated the search for acceptable compromises, thus making possible the progress I have mentioned.

16. At the same time it must be recognized that a great deal remains to be done in the Committee if it is to discharge its mandate as laid down in resolution 2750 C (XXV). The preparation of draft articles on the international régime is still at an early stage. Also, draft articles on subjects and questions relating to the law of the sea are not yet available. Thus, the holding of the conference on the law of the sea cannot be contemplated for 1973 as provided in resolution 2750 C (XXV). In these circumstances, we agree that we must renew the terms of reference of the Committee so that it can continue in 1973 the preparatory work for the conference.

17. We well understand the reasons put forward in the debate both by those who are in favour of proper preparation for the conference and by those who insist on convening the conference as soon as possible. In the decision we are going to take on the subject of the conference it is necessary, in our view, to take account of both those criteria. On the basis of this idea, the Romanian delegation is ready to subscribe to the proposal, which seems to be supported by many States, to convene the first session of the conference on the law of the sea towards the end of next year in New York to deal with questions of organization. But the important thing is for the Committee to speed up its work in the two sessions it will be holding in 1973 in order to make possible this first session of the conference.

18. Without wishing now to go into the various problems raised by the law of the sea and the peaceful use of the sea-bed and ocean floor, on which Romania has stated its views in the Committee, the Romanian delegation would like to repeat its view on the nature of the future

conference on the law of the sea. In our view, this conference should make it possible to hold wide-ranging discussions in a constructive spirit on all aspects of the subject of the sea, in order to find equitable solutions which win the support of all States. It is only in this way that the conference will be able to make a genuine contribution to the development of international co-operation. Furthermore, the Romanian delegation feels that broad consultations should be held among Member States and that their views should be taken into account as to the organization and administration of the future work of the conference.

19. With regard to the site of the conference, we heard with satisfaction the invitation of the Chilean Government, repeated in the General Assembly at the 2096th meeting by President Allende, to hold the conference on the law of the sea in 1974 in Santiago.

20. We have always thought it a good idea to hold United Nations meetings away from the traditional places because such meetings bring a greater number of countries into close touch with the Organization, make its activities better known and appreciated in the world and, at the same time, permit representatives of Member States to get in touch with the situation of other countries and to understand them better. This is a way of serving the cause of rapprochement and co-operation among nations, which, after all, in the final analysis, is one of our primary objectives.

21. Apart from this, we have further reasons for welcoming the Chilean invitation and expressing the hope that it will be accepted, because Chile is not only a country to which we are bound by many relations of various kinds, but also a country whose devotion and active participation in the work of the United Nations, and particularly the work of the Committee on the sea-bed and the ocean floor, is something we highly appreciate.

22. It is in the same spirit that we welcome the offer of the Austrian Government to have the conference in Vienna in 1975 if other sessions of the conference prove necessary.

23. We will confine ourselves to these comments at the present stage, but before concluding I should like to express the determination of Romania to work with other States and make a constructive contribution to the accomplishment of the tasks facing the Committee on the sea-bed and ocean floor in 1973, in order to make it possible for the future conference on the law of the sea to be a success.

24. Mr. MHIANGA (Zambia): The task currently before this Committee is of significant importance to the future maintenance of international order. As we consider the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction [A/8721 and Corr.1], it should be our role to facilitate the successful accomplishment of its work and in that way to ensure that the third conference on the law of the sea does not suffer from the shortcomings which were manifested at the preceding conferences on the same subject.

25. It is the view of my delegation that preparation for this conference should be thorough; yet, at the same time,

in order to keep abreast of the progress in marine technology, the conference should be held as early as possible. The success of the conference thus calls for the maximum co-operation of States and international organizations. As has been the case with other earlier committees and conferences, we should also rely on the Secretary-General for assistance whenever necessary.

26. Currently before the Committee are four draft resolutions, two of which my delegation is happily sponsoring. I am referring here to draft resolutions A/C.1/L.632/Rev.1 and 634, which are obviously complementary and should be given the support they deserve.

27. The former, which is sponsored by 31 countries, including my own, in essence provides for a request addressed to the Secretary-General—who enjoys the confidence of all of us—to prepare a comparative study of the extent and the economic significance, in terms of resources, of the international area that would result from the adoption of any of the various proposals for limitation of national jurisdiction.

28. Considering that after the able introduction by the representative of Singapore of the now 31-Power draft at the 1904th meeting it was supported by a good number of delegations and that those who had misgivings have had the benefit of listening to explanations now contained in the verbatim record of this Committee, it appears unnecessary at this stage of our work to state once again the numerous advantages that would result from the preparation of such a study.

29. The forthcoming conference on the law of the sea will, *inter alia*, deal with the establishment of an equitable international régime, including international machinery, for the area. In view of that, it is obvious that at one time or another a decision will have to be taken on the limits of national jurisdiction. In fact my delegation feels that it is necessary to determine the extent of the area before deciding on elaborate provisions concerning the régime and machinery. In deciding on the status, scope and powers of the authority, for instance, we have to take into account the area over which the authority has to be exercised.

30. It is the conviction of my delegation that, owing to lack of marine technology, developing countries are currently unaware of the possible economic implications of any decisions on limits. For that reason it would be very useful if the study were prepared and made available, especially to developing countries. In other words, given the facilities available, we would not want to go to the conference blindfolded, as it were, as regards this very important subject, if we could help it, and in the view of my delegation we can help the situation.

31. My delegation is mindful also of the fact that various important decisions have been made from time to time by the international community concerning limits, and that various bodies and countries have upheld those decisions. Yet, for reasons which have been explained, various countries have acted in rejection of those decisions.

32. My delegation is also aware of the fact that the Committee whose report we are now considering has



postponed consideration of that important subject from time to time. It is the earnest contention of my delegation that, had the international community, and indeed the Committee itself, had before it a study such as is proposed, the question of limits could have been solved satisfactorily quite early in the course of the progressive development of international law.

33. My delegation does not understand why no reference is made to operative paragraph 3 of that draft resolution. It is the view of my delegation that reference to the provisions of that paragraph would lessen the misgivings currently being expressed.

34. Concerning the latter draft resolution, my delegation is of the opinion that it should be given the necessary support, if only for the good reason that we should like to keep abreast of the rate of progress of marine technology in developed countries.

35. My delegation would like to join delegations which have preceded me in expressing my appreciation of the tremendous progress that has been achieved by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction during the year 1972. That success is due in no small measure to the skilled and able chairmanship of Mr. Amerasinghe of Sri Lanka, with the assistance of the other industrious and devoted officers of the Committee.

36. My delegation would like to end by thanking the Government of Chile for its generous invitation for the convening of the first substantive session of the conference in Santiago, and to the Government of Austria for the invitation to convene any subsequent session in Vienna.

37. Mr. CAROKIS (Greece): Just a brief remark to say that the Greek delegation is happy to associate itself with the suggestion of the French delegation, made at the 1912th meeting, that the Secretariat should inform the Committee as to the feasibility of the study mentioned in draft resolution A/C.1/L.632/Rev.1. This would seem to us an eminently logical approach to the whole question, helping us to keep our feet on the ground, so to speak.

38. The question how long that study is estimated to take is also highly relevant, we think, in terms of the time-table envisaged for the conference.

39. Like the delegation of Australia, my delegation would like to make it clear, however, that our comment does not refer to the substance of the question before us.

40. The CHAIRMAN: The list of speakers in the general debate is now exhausted. I shall now call on those speakers who have inscribed their names to speak on the draft resolutions and amendments that are before the Committee in connexion with this item.

41. Sir Roger JACKLING (United Kingdom): I wish to state very briefly the position of my delegation on the drafts before us.

42. We have noted with great satisfaction that there seems to be emerging a general consensus in favour of the draft

resolution sponsored by 45 countries from a wide spread of geographical areas and circulated as document A/C.1/L.634. For its part, my delegation can also support the provisions of that draft resolution and we look forward to its early adoption.

43. We also look forward to participating in the intensive programme of work envisaged for the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in 1973. The prospects for the success of the conference on the law of the sea will greatly depend on it. The fact that we shall continue to benefit from the guidance of Mr. Amerasinghe in the Chair, however, makes me optimistic as to those prospects.

44. That programme, as set out in operative paragraph 2 of the draft resolution, has been carefully worked out and represents a balance of the views of the countries represented here. My delegation hopes very much that this balance will remain undisturbed.

45. We come now to operative paragraph 4 of the draft resolution. The delegation of the United States has observed that the provision of eight weeks for the conference itself compares oddly with the longer total period for which the sea-bed Committee has been accustomed to meet each year and will again be meeting in 1973. It has therefore been suggested that provision be made for a longer period for this session of the conference. My delegation also takes the view that more than eight weeks may very well be necessary. If the sponsors of the draft resolution were able to impart a bit more flexibility on this point, we should welcome it. We have noted the suggestion by the representative of Tunisia that this point could be met by the review by the twenty-eighth session of the General Assembly provided for in operative paragraph 5 of the draft. The planned duration of the conference in Santiago could certainly be reconsidered in the light of the progress made in the sea-bed Committee, but we are still inclined to think that to make provision now for the possibility of a longer session would be more satisfactory. In any event, the Secretariat will no doubt bear in mind the possibility of a longer session in making its administrative dispositions.

46. In this connexion, my delegation attaches importance to the General Assembly's keeping control of the arrangements for sessions of the conference on the law of the sea, particularly in view of the financial implications. For this reason my delegation could not support the first amendment to the draft resolution submitted by the delegation of Malta in document A/C.1/L.635 and indeed would be obliged to vote against it if it were pressed. As regards the other amendments proposed by the delegation of Malta, we should welcome an agreement between the sponsors and the delegation of Malta which relieved us of the need for a vote. If the representative of Malta were able to facilitate such a development we should feel ourselves, as so often before, deeply in his debt.

47. Finally, my delegation wishes to join in the general welcome that has been given to the proposal that Santiago be the site for the conference for the duration of 1974. We normally favour holding such meetings at the Headquarters of the United Nations, here or in Geneva, but, given the



generous Chilean invitation, we would not wish to press that view on this occasion and look forward to our visit to Santiago. We also welcome the equally generous offer by the Government of Austria that Vienna be the site of any sessions of the conference needed in 1975.

48. I find myself unable to comment at this time on draft resolution A/C.1/L.632/Rev.1 without having heard the answer of the Secretariat to the questions that were put to them at 1912th meeting, by the representative of France.

49. Mr. DEDE KABIKA MWENE NGABWE (Zaire) (*interpretation from French*): Speaking in the debate to explain our vote before the vote, the concern of my delegation will be to try to reply to two types of questions: on the one hand, to lay to rest the suspicions that seem to surround us and that come from a number of countries which, not knowing our geographical situation, which is a unique one, accuse us of trying to play the game of the developed countries; and, on the other hand, to set forth a general view of the subject before us, which is of great importance to us.

50. Speaking to the General Assembly at the 2044th plenary meeting, the Commissioner of State in charge of Foreign Affairs and Co-operation of the Republic of Zaire, His Excellency Nguza Karl-i-Bond, ended his statement with a denunciation of the hypocrisy that prevails in international relations. But it is openness that will characterize our words today in explaining to you the main lines of Zaire's foreign policy in questions relating to the sea.

51. As is true in other areas of international life, the diplomatic action of Zaire is based on one principle: neither left nor right. That is what is stated in our Manifesto. We therefore systematically reject all slogans, all cant, from whatever side they come. There is only one foundation on which all our efforts and actions rest; it is a truism, but we are not ashamed to say that it is the national interest. Zaire therefore makes its own decisions, acting for itself in full sovereignty and in keeping with its own interests, with no desire to oppose anyone but seeking to harmonize our views with those of the other parties in accordance with the principle of mutual benefit or advantage. This is not vulgar egoism; it is self-interest in the finest sense of the word that guides us; it is eclectic and selective pragmatism; and we intend no hurt or harm to anyone. After all, charity properly begins at home.

52. A rapid glance at any map of the world will show that Zaire is a country with a unique geographical situation, the main characteristics of which are the following. Despite its vast, continental area, its coastline is a bare 40 kilometres in length. The submerged part of the coastline is very narrow, and, as a result of the natural configuration of our coastline, our continental shelf extends beyond 12 miles. The marginal coastline is narrow and ends in an abrupt fall into the ocean depths. Without attempting to be technical, this will explain why Zaire holds to the position it has adopted. As a coastal State which is almost cut off from the sea, we share to a certain extent the disadvantages of the land-locked countries. Therefore, in our conduct and relationships we follow a double course. Having a merchant marine, we would like to be able to ensure for ourselves access to the ocean, and we would never permit any limitation of our

right of access to the sea and our freedom of navigation on the high seas. The exercise and enjoyment of that right cannot be subject to the good will of a neighbour in accordance with the prevailing feelings. Possessing, as we do, a fishing fleet, Zaire wishes to ensure access to the sea and to maintain its fishing rights in areas of the ocean.

53. That is the premise, and this is the corollary. Given its geographical situation and our aims, Zaire could never consent to an excessive extension of the territorial sea subject to national jurisdiction alone. A breadth of more than 12 nautical miles, whether set by the parallel-line method, by polygonal delineation or by the tangential curve, from the line of low tide, would cut off our access to the sea.

54. There is another reason, a political one, and that is the need to avoid any conflict in this field. But experience shows that, because of its particular configuration, the African continent is fraught with dangers of this nature. I need mention merely the recent incident between Gabon and Equatorial Guinea. Unilateral and repeated extensions of the territorial sea would create a number of *casus belli* that should be prevented here and now. Nor are other parts of the world safe from this type of latent belligerency: for instance, the case of Iceland vis-à-vis Germany and the United Kingdom.

55. It is true that as far as the principle is concerned our position would seem to be very close to that of a number of developed countries, but this is in appearance only and it is for completely different reasons. If we are with them in principle, we differ from them considerably as to motives. When the developed countries say that the width of the territorial sea should be reasonable and equitable they are trying to reaffirm the power of their military, economic and technological monopolies. Since we are unable to fish in their waters or carry out prospecting, exploration, research, or exploitation of their territorial seas, they want to come to us, and as close as possible to our coastline, to fish and to carry out the extraction of ores and resources. When a group of coastal States wants to stop this by widening the limits of their national jurisdiction, they too are acting according to motives of self-interest. If that were not so it would be impossible to understand why they do not share our view, the view of our developing group of States.

56. But, as a point of departure we have the safety valve of the international zone beyond the limits of national jurisdiction, with its resources, which quite justifiably, has been proclaimed the common heritage of mankind. That is the second cause of discord: the great Powers would have it reduced to the minimum, devoid of any possible use, whereas we want it to be as wide as possible with as much wealth as possible.

57. This is our answer to those who accuse us of collusion with the great Powers, and we would tell them that we oppose any effort to impose a maritime hegemony or any improper unilateral extension of the limits of national jurisdiction over territorial or other waters.

58. It is for this reason that Zaire is a sponsor of draft resolutions A/C.1/L.632 and 634. The bathymetric limits proposed for both the surface and the depths, with their

respective economic implications, are not the result of a mere whim. No one is unaware of the fact that beyond the 12-mile limit, which is tacitly accepted by everyone, some States would like to extend their territorial seas to 40, 50, or even 200 nautical miles. These are points based on objective facts. The same applies to the 200 metre as well as the 500 metre isobath. I shall not dwell further on this matter because others more qualified than myself have already studied all aspects of this question. However, we do not understand the manoeuvre of those who have submitted amendments [A/C.1/L.637] to our draft resolution A/C.1/L.632 calling for a global geological study of the sea-bed and ocean floor. We have no objection in principle to such a study, but in view of the urgency of the matter it occurs to us that such an undertaking would not be feasible in the short term.

59. As I am speaking for the first time in the course of this debate perhaps I may be allowed to dwell a little longer on the subject before us and to speak more generally on the matter of the law of the sea.

60. As far as terminology is concerned we reserve our position because, at least with regard to the French language, words like “régime”, “machinery”, “heritage” and “mankind” do not seem to fall within the purview of clearly defined juridical terms. If necessary we will come back to this matter.

61. As regards the timeliness of the holding of the conference on the law of the sea, my delegation can only stress the urgency, for the simple reason that there is a gap which must be filled. Some have spoken of chaos, of anachronisms and of anarchy when defining the present state of the law of the sea. I am more inclined to refer to a lack and a legal vacuum. We all know that the First United Nations Conference on the Law of the Sea, held in 1958, was a failure and that its results were disappointing. Very few countries ratified the instruments that were adopted at that time, and others, after having adhered to them, denounced them wholly. So far no agreement has been arrived at on the redoubtable question of the limits of the sea. Now we have to go back to Bynkershoek, who in the eighteenth century set the three-mile limit, which represented the range of a cannon at that time, according to the adage *ibi finitur protestas, ubi finitur armorum vis*. Today the old practice has changed and the three-mile limit has lost its essential nature as one of the elements of custom: the *opinio juris ac necessitatis*—in other words, faith in its binding force.

62. In the light of the debate that is going on here I should not like to conclude my statement without drawing the attention of the Committee to celebrated disputes that in many respects can be compared with the present ones. I would recall those of about three centuries ago which divided two very important jurists—Selden, the Englishman, and Grotius, the Dutchman. Each, on behalf of his own national interests—and I stress this—stood for a different type of imperialism. Having become great seafarers and having learned, from experience of the fortunes and vicissitudes of the sea, that they could not overthrow England as mistress of the waves, the Dutch fought for the principle of *mare liberum* against the pretensions of the all-powerful Albion which, like the Romans, claimed the

empire of the seas—*mare nostrum*, or *mare clausum*. We must bear in mind these lessons of history in order to understand what is at stake in the battle that will take place over the question of the law of the sea and its resources. After his triumph, Grotius has today been overthrown and toppled from his pedestal, and now it seems that Selden has assumed the pedestal. It would be premature to speak of just claims, just as it would be inappropriate, as regards international relations to recall the law of dichotomy of the philosopher Bergson. Neither school of thought, let us hope, will prevail. In the law of the sea of the future, neither the sea *nullius* nor the sea *res communis* will be accepted, but rather the formula dear to Professor Gidel of *res nullius communis usus* which seems to be more in keeping with the idea of the heritage of mankind.

63. We can therefore only hope that the forthcoming conference will not be like that once held in Berlin on what I would call the right to partition Africa. We are confirmed in this hope by the choice of Santiago as the site for the holding of the conference. This is almost symbolic. None of us was present in Berlin when the partition of Africa was decided upon. When it is a question of avoiding the partitioning of the sea we will all be present in Santiago, proud capital of one of the countries of the third world with which Kinshasa is honoured to have the friendliest relations.

64. Mr. UPADHYAY (Nepal): When last I spoke on the agenda item under consideration [1905th meeting] I indicated that if the need arose my delegation might have to speak again and I should like to do so now.

65. While doing so I wish to take the opportunity to thank the representative of Thailand for presenting so eloquently draft resolution A/C.1/L.634 at the 1908th meeting. As one of the sponsors of that draft resolution my delegation is fully convinced that it will pave the way for an orderly and effective preparation for the conference on the law of the sea. My delegation associates itself with all those who wish the draft resolution to be adopted unanimously.

66. My delegation has been listening with keen interest to the deliberations so far on the current item of the agenda and has benefited greatly from the most valuable opinions expressed by many representatives; at the same time, it feels constrained to comment on certain remarks made by a few representatives on draft resolution A/C.1/L.632/Rev.1.

67. First of all, the 31 delegations, including my own, which are the sponsors would least like to be identified as the ones which are causing a radical division in this Committee and creating a confrontation, even among the developing countries, by submitting the resolution in question. Contrary to the apprehensions inherent in that hypothesis, a sizeable group of countries—not a minority, but 31 countries, out of which 23 are developing ones—was animated by the innocent motive of saving all from groping in the dark before going to the forthcoming conference on the law of the sea, and sought illumination through the results of a study on the economic implications of the various proposals regarding the limits of national jurisdiction. The need for such a study becomes more urgent because the nature and function of the organ of inter-

national machinery will have to be determined by the scope and the features of the international régime. Thus, the result of the study, even of a preliminary kind, could be an eye-opener and should facilitate the decision on the selection of an acceptable limit of national jurisdiction, for the equitable sharing by all mankind of the benefits derived from exploration and exploitation of the area beyond the limits of national jurisdiction. Common heritage means the common property of mankind. None is supposed to enjoy the benefits of common property for individual gain. Therefore, in order to terminate such a practice, the area has to be delimited. Also, the area to be covered by the international régime must be meaningful, that is, it must have some immediate economic value. Therefore we must be sure to what economic implications the various claims of economic zones give birth.

68. It has been said that the draft resolution calls for an impossible task for the Secretary-General and that it entails enormous financial involvement. As far as the question of impossibility is concerned, I suppose, the sponsors may not have looked for this in the dictionary referred to by Emperor Napoleon but they have at least come across results of similar studies made by some coastal countries on the implications of two proposals for limits for the 118 countries having sea shores. The compilation of those reports, with the co-operation of those countries, and those at the disposal of the Secretariat, could in the opinion of my delegation form a reasonable basis for the type of study sought by the sponsors of the draft resolution. So far as accessibility to such information is concerned, I doubt if any country which has undertaken such a study will be hesitant to disseminate the information, especially in an era of international co-operation and transfer of technology. As was envisaged also in the draft resolution, the report of the Secretary-General may not be all-embracing, but whatever the Secretary-General could provide on the basis of data and information at his disposal could be of great help to the entire international community. The apprehension that the draft resolution implies a shift of the responsibility for choosing the limits of national jurisdiction to the Secretary-General seems misplaced, in the opinion of my delegation. There are the United Nations Charter and the rules of procedure, which we all respect. That an innocent resolution, which simply seeks the co-operation of the Secretary-General in a study, should be interpreted in such a way is a matter of regret to my delegation. As a matter of fact, it may be relevant to recall United Nations resolution 2750 C (XXV) calling for, among other things, utilization to the fullest extent possible of the staff resources at the disposal of the Secretary-General to render to the conference and the Committee all the assistance they may require in legal, economic, technical and scientific matters and to provide them with all relevant documentation of the United Nations, the specialized agencies and so on. Has the draft resolution gone beyond the expectation of the said resolution?

69. To those who are cost-conscious, I would simply say this: as a matter of principle, which of the two—the urgent need on the one hand and the cost factor on the other—should have precedence in the United Nations decision-making process? Naturally, the cost factor should not be any impediment to the making of vital decisions. So far as the draft resolution in question is concerned, no

controversy at all arises on this account as it does not seek any more information than is at the disposal of the Secretary-General.

70. One representative said that such a study should fall within the purview of a body such as the United Nations Conference on Trade and Development, therefore the First Committee should not deal with a request like the one made in the draft resolution in question. My delegation is of the opinion that all matters pertaining to the current agenda item should be dealt with by this Committee. This has not only been a practice but is also justifiable. United Nations resolution 2750 A (XXV), which originated in this very forum, requested a similar study to:

“Identify the problems arising from the production of certain minerals from the area beyond the limits of national jurisdiction and examine the impact they will have on the economic well-being of the developing countries, in particular on prices of mineral exports on the world market.”

and said that the study should be made in the light of “world demand for raw materials and the evolution of costs and prices” and should propose “solutions for dealing with these problems”.

71. Let me refer also to the amendment submitted by Canada, France and Malta contained in document A/C.1/L.637. The amendment seeks to obtain valuable information and, if it had been sought separately, this would have gained the support of my delegation in principle. But it is presented in the form of an amendment and not only tries to tamper with the spirit underlying our request for a study but aims at obstructing wholly our desire for access to the study so vital to us. Therefore, my delegation is constrained to say that the amendment is completely unacceptable to it. My delegation requests the sponsors not to press this amendment to a vote.

72. The amendment presented by Kenya and contained in document A/C.1/L.636, and the other presented only a few hours ago by Peru, contained in document A/C.1/L.638, are receiving the attention of my delegation. The amendment put forward by Peru seeks a comprehensive study by the Secretariat which, if it were possible for it to be undertaken, could be very useful, but we have heard in this hall the observations of some that even the less comprehensive study is impossible.

73. The representative of Singapore presented some revisions to draft resolution A/C.1/L.632 this morning at the 1912th meeting. The five limit proposals, which were taken from the various records of the deliberations of the sea-bed Committee, not just plucked out of the air, created unnecessary suspicion on the part of a few delegations. The deletion of the mention of those five limit proposals and the insertion of an additional operative paragraph 4, which declares that nothing in the resolution or the study shall prejudice the position of any State concerning limits, the nature of the régime and machinery, or any other matter to be decided at the forthcoming conference on the law of the sea, will now, I hope, help those delegations to abandon their apprehensions about the draft resolution prejudging anything.



74. It is regrettable that the draft resolution has created some doubts and misunderstandings on the part of a few delegations. My delegation hopes that, with the explanations and the revision of the amendment, the position is now clear in their minds and they will find it possible to support the draft resolution.

75. Mr. BERASATEGUI (Argentina) (*interpretation from Spanish*): I should like to refer to the different draft resolutions and amendments before the First Committee on the item on today's agenda.

76. May I begin with draft resolution A/C.1/L.634 which speaks of the convening of the United Nations conference on the law of the sea. This draft resolution is the result of intensive consultations in which a number of delegations participated actively; it therefore is a compromise solution and one generally agreed to in the Committee. As such, of course, it is not wholly satisfactory to all the delegations which have expressed their views in the Committee, and this is true of Argentina. However, we note with satisfaction that in the excellent presentation made of the draft resolution [*1908th meeting*], the representative of Thailand stressed that this document, and particularly operative paragraph 5, expressly recognizes the authority of the General Assembly to decide on the dates for the convening of the conference. It is on this understanding that we will support draft resolution A/C.1/L.634.

77. The representative of Malta has suggested a number of amendments to this draft resolution in document A/C.1/L.635. We admit that, as is the case with us, the text may not be perfect from the point of view of Malta. We certainly understand the intention of the delegation of Malta in proposing those changes, but by the same token, as the representative of Kenya has pointed out, draft resolution A/C.1/L.634 represents a very delicate balance which would be affected by those amendments. Therefore my delegation would venture to ask the representative of Malta to be good enough to reconsider his initiatives, for the reasons that I have given.

78. I shall now go on to draft resolution A/C.1/L.632/Rev.1. In its previous statement in the First Committee [*1911th meeting*] the Argentine delegation expressed itself as being against the original version of that paper. Since that time, a number of delegations among the sponsors have tried to dissipate the serious and, we feel, justifiable doubts that we had regarding this draft resolution. None of the arguments adduced, we must admit frankly, proved convincing. Today, a revision of draft resolution A/C.1/L.632 has been circulated but although it shows some effort on the part of the sponsors—an effort that I am the first to recognize—we do not feel that the meaning of the document has been essentially modified. I say that it has not been modified for the following reasons. The new text has two points of difference from the previous one. There is a new operative paragraph 1, which we consider to be fundamental and substantive within the context of this draft, but although at first sight this would appear to increase and expand the original enumeration, it is still subject to the statements made by a number of sponsors that the Secretary-General could drop from his study those criteria that do not significantly modify the conclusions of that study. But we wonder whether the significant criteria

are not precisely those that the sponsors had in mind when they submitted the first draft, since it is perfectly just to presume, as others have said here, that the five criteria in the original draft were very carefully chosen and not haphazardly included.

79. With regard to the new operative paragraph 4, we believe that, although it shows an effort to meet the legitimate concern expressed in the Committee, practically speaking the effects of this operative paragraph are nullified since in operative paragraph 1 and in the third and fourth paragraphs of the preamble the original approach is still maintained in the first draft of the resolution—an approach which we believed prejudged matters to the detriment of the coastal State. My delegation has followed very carefully the statement made today by the representative of Kenya on the negative consequences of the draft in its present wording. I should like to state for the record that we entirely share his views.

80. Today, too, at the 1912th meeting, the representative of the Netherlands referred to our previous comments on this draft and said that he agreed with our approach and our idea that the advantages and disadvantages that might result from this study should be carefully assessed as far as the position of the coastal States is concerned and depending on which criterion for delimitation is selected. The representative of the Netherlands added that this suggestion might also be expanded to include other criteria. But—and I am sorry that this is so—the new version of the draft resolution does not contain any indication of that being the intention of the sponsors. On the contrary, the statement made at the same meeting by one of the sponsors leads us to the opposite conclusion, particularly when, despite the inclusion of the new operative paragraph 4, such assessments as “unilateral and arbitrary declarations” are made when speaking of the legal value of certain positions adopted on these questions of the law of the sea. We believe that those manifestations are more than revealing of the objectives and consequences of this draft resolution, and again, these views were voiced not by only one but by other sponsors of draft resolution A/C.1/L.632/Rev.1.

81. For these reasons we do not believe that it is by chance that this draft resolution contains no reference whatever to the advantages and disadvantages for the coastal States of the different criteria for the study requested of the Secretary-General. We therefore consider that the amendments submitted by the delegation of Peru, in document A/C.1/L.638, are extremely apposite and we fully support them.

82. I think it only appropriate to mention also that we have not taken a rigid stand against any approach that will balance the contents of the draft and might contribute to a constructive settlement of the very acute differences and divergences that exist. Therefore we still nurture the hope that the sponsors of the document, taking a similar stand, will accept the amendments submitted by the delegations of Canada, France and Malta in document A/C.1/L.637.

83. Should that prove impossible despite the conciliating efforts of the three delegations, which we greatly appreciate, we shall vote in favour of the amendments and we trust that they will be included in draft resolution A/C.1/L.632/Rev.1.

84. Mr. SARAIVA GUERREIRO (Brazil): The Brazilian delegation, together with those of Peru, Algeria, Oman and Senegal, some weeks ago introduced draft resolution A/C.1/L.621. Those who have seen that draft resolution and who may have heard the statement of the Brazilian delegation during the debate, at the 1905th meeting, know, of course, that we did not favour the calling of an organizational meeting of the conference in December 1973 and that, on the other hand, we considered it very important that the General Assembly keep control and political responsibility for the calling of the conference, something of which it could not very well divest itself at this session.

85. The text of that draft resolution was the basis for our negotiations with our Latin American colleagues. We also had contacts with delegations from the African and Asian Groups. A considerable effort was made to find the point of harmonization of interests and to balance the different positions.

86. Now we have before us the text of draft resolution A/C.1/L.634, which is the result of those careful consultations, and the Brazilian delegation is in a position not to insist on a vote on its proposal and to support and vote for that draft resolution.

87. I want to avail myself of this opportunity to thank the sponsors of that draft resolution for their understanding and the real effort they made to accommodate all that was essential in the different viewpoints, including our own.

88. The representative of Thailand, Mr. Panyarachun, very ably presented that text to this Committee, and on that occasion he made some comments which I should like to quote now. Referring to operative paragraph 3 of the draft resolution, where the question of the organizational meeting of the conference is dealt with, he remarked:

“... if operative paragraph 3 is read in conjunction with operative paragraphs 5 and 7, it is quite clear that, because of the possibility of reviewing the preparatory work, this decision, although firm and definite, cannot be regarded as final.” [1908th meeting, para. 74.]

In connexion with operative paragraph 5 of the draft resolution, Mr. Panyarachun gave this explanation:

“This paragraph is designed to incorporate some flexibility in our approach to the question of the convening of the conference, in that the twenty-eighth session of the General Assembly would have a chance to review the progress of the work and take action, if necessary, to speed up or facilitate the completion of the preparatory work, or any other action it might deem appropriate. Here, of course, the words ‘any other action’ would include practically anything, and it is implicit in such wording that even the possibility of considering the scheduling of meetings would be included in that phrase.” [Ibid., para. 78.]

89. While I have referred again to the importance that we attached and still attach to continuing control by the Assembly and the possibility that at the twenty-eighth session we shall be able to take responsibly any decision

that at that moment seems to be the right one, I want to make it quite clear that this does not mean in any way any desire—such as some might see—to delay things. On the contrary, the Brazilian delegation is aware and considers it really important that a serious effort must be made during 1973 so that by the twenty-eighth session of the Assembly everything that is foreseen in the draft resolution we are going to adopt—unanimously or nearly unanimously, I hope—will come to pass, that is to say that the time-table can be followed with precision. That is our intent and our wish.

90. Because of the nature of draft resolution A/C.1/L.634, which, as several speakers have said, is a “balancing act”, the result of very careful consultations, any change in it would probably tilt it in one direction or the other and might create many difficulties. It is because of that, for instance, that I would add my voice to those who appealed to Mr. Pardo, the representative of Malta, to show us again, as he has many times in the past, his very generous and co-operative spirit, and not press for a vote on his amendments.

91. I also want to say that I quite understand the serious reasons that led the representative of the United States to suggest that we should now plan for two sessions of the conference. It is very probable that that will come to pass, but I would hesitate very much to ask the Assembly to enter into these details now, particularly if the idea is to have the draft resolution foresee two sessions in one year. For many countries it is rather difficult to digest the results of a long session of a conference lasting six or eight weeks, co-ordinate different internal organs and come to a conclusion, and prepare for another round of negotiations just two or three months later. I think it would not be practicable for many Governments. If by any chance, as I said a moment ago, we felt that the conference in Santiago should be adjourned and resumed later on, I really believe that we should need a longer period between one session and the other and that probably we should have to go into the year 1975. I hope, however, that in 1974 we shall be able to finish our work in one session.

92. As regards draft resolution A/C.1/L.632/Rev.1, we consider it to be very partial in spirit, but we could vote for it provided that the amendments submitted by Canada, France and Malta were accepted, or if the amendments submitted by Peru were accepted.

93. The CHAIRMAN: I thank the representative of Brazil for the spirit of co-operation he has demonstrated in his withdrawing the draft resolution which he submitted earlier.

94. Mr. ZEGERS (Chile) (*interpretation from Spanish*): I have asked to speak in order to express on behalf of the delegation of Chile our appreciation of the very warm welcome that has been given by members of the Committee to the invitation that was issued earlier by my Government that Santiago be agreed to as the site for the United Nations conference on the law of the sea in 1974. We trust that during that year the conference will be able to complete the work entrusted to it. I should like to express our appreciation first of all to the developing countries, all of which spoke enthusiastically from the very beginning of

this proposal. My appreciation is addressed also to all the other countries which, overcoming some scruples regarding their general position on the sites at which of international conferences are held nevertheless decided to support the holding of the conference in Chile.

95. We trust that if the Committee approves the draft resolution before it we shall prove worthy of the honour done to us by those delegations that have supported the acceptance of our invitation.

96. I also wish to express our appreciation to those delegations which have spoken so kindly both of my country and its contribution to the work of this Committee in the United Nations.

97. The CHAIRMAN: We have thus concluded both the general debate and the general observations on the draft resolutions and amendments.

98. I should like to inform the Committee that the Secretariat has told me that tomorrow morning it will make a statement to the Committee on the question raised this morning by the representative of France and other representatives in connexion with draft resolution A/C.1/L.632/Rev.1 and the proposed amendments thereto.

99. I am requested to announce that Guyana has become a sponsor of draft resolution A/C.1/L.634.

*The meeting rose at 4.50 p.m.*