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CONTENTS

Chairman: Mr. Milko TARABANOV (Bulgaria).

Tribute to the memory of Mr. Ivan Bachev, Minister for Foreign Affairs of the People's Republic of Bulgaria

1. Mr. CSATORDAY (Hungary): Allow me to express on behalf of the countries of Eastern Europe our deep sorrow on learning the news of the untimely and tragic death yesterday of the Minister for Foreign Affairs of the Bulgarian People's Republic, Ivan Bachev. We knew him very well personally and we know too that from his very early youth he fought for the freedom of his own people, for the progress and development of all peoples in the world and for the socialist construction of Bulgaria. He was an outstanding leader in his early days in the international youth movement and later, as a diplomat, he excelled as a great promoter of international understanding and international co-operation and as a fighter for international security. He was well known, loved and respected by all here in the United Nations and in other international organizations for his excellent activities. He participated in many bilateral negotiations between his own country and many other countries to foster the ideas of peace and co-operation.

2. His passing away is a great loss for the international community and we express our sympathy and condolences. I request you, Comrade Chairman, to convey this expression of sympathy to the Government of the Bulgarian People's Republic and to the bereaved family of the late Foreign Minister, Comrade Ivan Bachev, on behalf of us all.

3. The CHAIRMAN *(interpretation from French):* Inasmuch as the representative of Bulgaria is not here yet, as Chairman of the First Committee and also as a member of the Bulgarian delegation I wish to offer my very profound thanks for the condolences expressed to Bulgaria on the death of the Minister for Foreign Affairs of our Republic. Ivan Bachev was a man of integrity and an assiduous worker in the field of international relations.

AGENDA ITEM 35 *(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/8421, A/C.1/L.586/Rev.1 and 598)

GENERAL DEBATE *(continued)*

4. The CHAIRMAN *(interpretation from French):* Before giving the floor to the first speaker, I would inform the Committee that Australia, Kuwait and Tunisia have indicated that they would like to become sponsors of draft resolution A/C.1/L.586/Rev.1.

5. Mr. CUDJOE (Ghana): First of all, I should like to associate myself with the words of condolence, deep sorrow and shock expressed by the Deputy Minister for Foreign Affairs of Hungary on the news of the passing away of the Minister for Foreign Affairs of the Bulgarian People's Republic.

6. In response to the appeal of Ambassador Amerasinghe, the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, and in an effort to help expedite our work, my delegation will refrain from commenting on matters of substance, and will only express its views briefly on procedural matters. During the two sessions of the sea-bed Committee held at Geneva in March and July/August of this year, my delegation had ample opportunity to make its views known on various aspects of the work of the sea-bed Committee, and there is no need to repeat them now.

7. It seems to my delegation, however, that in the limited time at our disposal a useful purpose might be served if we briefly assessed the work done by the enlarged sea-bed Committee during the first year of its operation and, in the light of that assessment, considered how the sea-bed Committee might proceed with its work next year, bearing in mind that 1973 has been set as the tentative date for the conference on the law of the sea.

8. First, the question may well be asked: What has the enlarged sea-bed Committee been able to achieve during its first year? This question can only be answered in the light of the mandate of the enlarged sea-bed Committee. It will be recalled that the General Assembly last year in resolu-

tion 2750 C (XXV)–and I quote from paragraph 6 of that resolution–instructed the enlarged sea-bed Committee:

> "to prepare for the conference on the law of the sea draft treaty articles embodying the international régime –including an international machinery–for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil thereof, beyond the Limits of National Jurisdiction, a comprehensive list of subjects and issues relating to the law of the sea referred to in paragraph 2 *[of the resolution]*, which should be dealt with by the conference, and draft articles on such subjects and issues".

9. It will further be recalled that the subjects and issues relating to the law of the sea, which should be dealt with by the conference, as stated in paragraph 2 of the resolution, were:

> "the establishment of an equitable international régime –including an international machinery–for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research".

10. In other words, the Committee was not only to proceed with its original mandate, which, in essence, was limited to establishing a régime, including an international machinery for the sea-bed and ocean floor beyond the limits of national jurisdiction; in addition, the enlarged Committee was to do all the preparatory work for the third conference on the law of the sea. This was by no means an easy mandate, and indeed the extremely complex nature of the task should be the yardstick by which we should measure the Committee's achievements during its first year.

11. Because of the wide-ranging and complex nature of the Committee's mandate, it was immediately obvious and indeed imperative from the start of the first meeting in March that, if the Committee was to make any progress, it was essential that it should first of all properly organize its work. This organization of work, as members of the Committee will recall, took the whole of the first two weeks of the March meetings, half the entire first session. The long hours of informal consultations and the hard negotiations and bargaining which characterized these first two weeks were enough to cause initial disillusionment among some of us new members. Indeed one of the new members ascribed our difficulties to the mutual suspicion among delegations, and also to "procedural impediments arising out of the informal negotiating machinery and the consensus approach".

12. When finally an agreement was reached on the organization of work on 12 March, with the establishment of three Sub-Committees and allocation of various items to each of them, we still had not settled the question of treatment and allocation of the following three subjects. First, there was the question of priority to be accorded to particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed area beyond national jurisdiction; second, the Sub-Committee to which the function of making recommendations to the main Committee on the precise definition of the area beyond national jurisdiction should be allocated, and third, peaceful uses of the area.

13. So rigid were positions on these three subjects that it was not until the very last day of the July/August session in Geneva that agreement was finally reached on them, an agreement which the Ghana delegation not only fully endorsed, but also considered a very significant achievement.

14. It was agreed that the question of the international régime should receive a certain priority, as implied in the terms of resolution 2750 C (XXV).

15. Secondly, on the question of limits, the agreement reached was that, while each Sub-Committee should have the right to discuss and record its conclusions as far as the question was relevant to the subjects allocated to it, the main Committee would not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area had been received, which should constitute basic proposals for the consideration of the main Committee.

16. Thirdly, the question of peaceful uses was allocated to the main Committee, it being understood that each of the Sub-Committees would be free to consider it in so far as the question was relevant to its mandate.

17. With this agreement reached, the organization of the Committee's work was fully completed and, as I have already stated, my delegation considered this a very significant achievement, judging from the considerable efforts that all delegations had to make in order to achieve this compromise.

18. The general debate, which commenced soon after the initial agreement reached on the organization of work on 12 March, and which continued till the end of the August session, was another controversial issue. Several delegations, including mine, that were eager to proceed with our mandate at first considered that, when half the time allocated to our first session had been spent on the organization of work, it would be a further waste of time to commence a general debate when the positions of most delegations were already well known. We were, however, proved wrong when, soon after the commencement of the general debate, we realized that, rather than being a time-wasting exercise and a repetition of well-known positions, the debate turned out to be of a fairly high order,

quite detailed in its substance and very constructive. Furthermore, it not only provided an excellent opportunity for the old members of the sea-bed Committee to restate or clarify their positions on the important issues before the Committee, but also and more important, gave the new members like Ghana an opportunity to pronounce themselves on the complex issues of the law of the sea.

19. During the second session in particular, most delegations addressed themselves to specific issues rather than to generalities, and the positions of many Governments became known regarding the problems of ocean space. This, in the view of my delegation, was another significant achievement. From now on, it should be possible to make much more rapid progress.

20. On the more specific aspects of the mandate of the Committee, my delegation considers that some progress has been made on the question of régime, including international machinery, more than on any other aspect of our mandate. Perhaps this is only to be expected, considering that this was the main problem with which the sea-bed Committee had been grappling for three years before the enlargement of the Committee. At the 1971 sessions of the enlarged Committee, various drafts and working papers were presented, which formed a very useful basis for our discussions. These formulations and proposals submitted by various delegations will be further examined at the 1972 sessions of the Committee, as the Committee proceeds to the next stages of its work.

21. My delegation agrees with the assessment contained in paragraph 84 of the sea-bed Committee's report *[A/8421]*, to the effect that during its sessions in 1971 the sea-bed Committee made progress towards the preparation of draft treaty articles embodying the international régime –including international machinery–for the area and its resources, as requested from the Committee by resolution 2750 C (XXV).

22. On the question of the list of subjects and issues, although the Committee has not yet drafted any articles, here again some progress was made. The Sub-Committee dealing with this item completed its general debate and started the preparation of a comprehensive list of subjects and issues relating to the law of the sea. These lists were submitted by delegations or groups of delegations, and what remains to be done is to establish a compromise list, and for this purpose a working group was formed. Once agreement is reached on a compromise list, it should be possible to proceed with the actual drafting of articles with greater speed.

23. Here again my delegation agrees with the assessment contained in paragraph 111 of the sea-bed Committee's report, to the effect that the work accomplished by the Committee in 1971 on the question of the list of subjects and issues, constituted an indispensable step towards the completion of its tasks.

24. On the question of the preservation of the marine environment, the third aspect of the mandate, the relevant Sub-Committee held a general discussion which took account of matters relating to the preservation of the marine environment, including the prevention of pollution, and also matters relating to scientific research. On the whole there was general recognition of the grave dangers that marine pollution presented to the entire marine environment.

25. It was generally agreed that adequate and effective measures should be taken within the context of the environment as a whole, and that in adopting such measures due account should be taken of the interests of all States, particularly coastal States.

26. It was further agreed that special attention should be given to the interests and needs of developing countries in participating in scientific research and in the sharing of results of such research and the benefits derived therefrom.

27. Here again my delegation would say that some progress was made in identifying the issues involved.

28. With regard to other procedural matters, such as the venue and duration of meetings of the sea-bed Committee scheduled for 1972, my delegation is of the view that both the spring and summer meetings should be held at Geneva, as proposed in operative paragraph 3 of the draft resolution contained in document A/C.1/L.586/Rev.1. We should also favour a 10-week meeting in 1972, and although we have no strong views on the duration of each of the two sessions, our preference would be for five weeks in March-April and five weeks in July-August.

29. In conclusion, although my delegation would be the first to admit that whatever progress has been made by the sea-bed Committee in 1971 can only be described as modest, yet we believe that anyone with an average understanding of the complexities of the problems involved would agree that even this modest progress is noteworthy.

30. The Ghana delegation still maintains the hope that the proposed conference on the law of the sea will be held as planned, that is, in 1973, if possible. We realize that, in order to ensure its success, thorough preparations will have to be made for it and this is the task to which the sea-bed Committee must bend every effort. It is our hope that, with the basic groundwork that has been done by the sea-bed Committee in 1971, the foundation has been laid to enable the work of the Committee to proceed with greater dispatch during the forthcoming year.

31. In this regard, my delegation shares the view of the Chairman of the sea-bed Committee that the major problem facing the Committee, and one that will need to be disposed of as a matter of priority, will be the reaching of agreement on a comprehensive list of subjects and issues to be discussed by the conference on the law of the sea, and that it must receive the highest priority because it is that list that will constitute the agenda of the conference.

32. My delegation hopes that Committee members will heed the Chairman's advice as to how the sea-bed Committee should proceed in this matter, so that we can look forward to an intensive and productive series of meetings in 1972 which would enable the Committee to discharge the mandate entrusted to it by the General Assembly in resolution 2750 (XXV).

33. Finally, the Ghana delegation has already had the occasion to welcome the representatives of the People's Republic of China into our midst. We hope that their interest and participation in the work of this Committee on matters relating to ocean space will be of tremendous value to us, and we look forward to their participation.

34. We also hope that adequate provision will be made for the People's Republic of China to participate in the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

35. Sir Laurence McINTYRE (Australia): I should like first of all to associate myself with what has been said by the Deputy Minister for Foreign Affairs of Hungary, Mr. Csatorday, and to express the deep regret of my delegation and my Government over the death of the distinguished Minister for Foreign Affairs of Bulgaria, and to ask you, Mr. Chairman, to convey to his family and to your Government the profound condolences of my delegation.

36. In his statement at the 1843rd meeting, the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Ambassador Amerasinghe, appealed to members of that Committee to exercise, in his words, a certain degree of self-restraint and to abstain from renewing the general debate during the discussion of the sea-bed item in the First Committee this year. He said that he was sure members of the sea-bed Committee could profit by hearing the views of States that were not members of that Committee.

37. My delegation is happy to comply with this suggestion and this appeal. Our views on the matters of substance that are before the sea-bed Committee, in its new role as the preparatory committee for a conference on the law of the sea, have been set out in detail during the two sessions of that Committee this year. They are, therefore, a matter of record and we do not propose to repeat them now. In any event the force of circumstances, in the form of the approach of the end of this Assembly session, should point us naturally in the direction of verbal modesty.

38. At the same time, let me say that my delegation looks forward with keen interest to hearing the views on matters of substance of those States, over 40 in number, which are represented here but are not members of the preparatory committee. These States, of course, will be present at the conference on the law of the sea in 1973, but in the meantime their opinions will be of great value and interest to those of us who are involved in the work leading up to that conference. We hope that they will seize this opportunity to put on record what they think about the subject matter of the conference.

39. In the light of the foregoing, my delegation will limit itself in this intervention to consideration of two questions. The first concerns the sort of resolution that we might approve this year; the second concerns arrangements for work in the preparatory committee next year.

40. Looking at the first of these two matters, my delegation considers that we should aim this year for a resolution that is brief, procedural and non-controversial. Essentially, the only job we really must do now is to approve a draft which would send the preparatory committee back to work next year. The only text before us at the moment is that contained in document A/C.1/L.586/Rev.1, which has a large number of sponsors. My delegation considers that this would serve our collective purpose well enough, and, accordingly, we have joined in sponsoring it.

41. Representatives will recall that Ambassador Amerasinghe, in his statement, asked us to try to reach early agreement on the number, duration, timing and venue of the sessions of the preparatory committee in 1972. My delegation's views on these matters are simply stated. We would favour having two sessions of five weeks each, one in the spring and one in the summer, and, on balance, although we have had some doubts about this, we would see merit in having both of them at Geneva. We hope that it will be possible to resolve this problem in a satisfactory manner as soon as possible, to enable both Governments and the Secretariat to make the necessary preparations.

42. There is a further subject that could be appropriate for attention at this session of the Assembly, and that concerns the name of the preparatory committee. Resolution 2750 C (XXV), which gave the sea-bed Committee the task of preparing for the conference on the law of the sea, by so doing supplemented the original mandate of that Committee. In the light of this fact, it may seem timely to consider whether it is desirable to change the name of the Committee to reflect more faithfully its new set of duties. My delegation would be willing to support efforts in this direction, which we hope would not be controversial in light of the self-evident fact that the Committee is now fulfilling a different, wider mandate.

43. I should like now to turn to the second of the two questions that I raised at the beginning of this statement. This concerns arrangements for work next year. It will be apparent to us all that the preparatory committee still has a good way to go before it can accomplish the task assigned to it by the General Assembly of preparing for a comprehensive conference on the law of the sea, to be held in 1973. The work it does, or does not do, next year, will therefore have a major significance for the conference and possibly for the future disposition of the law of the sea as well.

44. A study of the report of the sea-bed Committee on its activity this year *[A/8421]* indicates that two important procedural steps have to be taken before the appropriate Sub-Committees can reach the stage of consideration of specific proposals on individual items. These steps, in brief, are agreement upon a programme of work concerning the régime applicable to the sea-bed beyond national jurisdiction for Sub-Committee I, and agreement on a list of subjects and issues relating to the law of the sea in Sub-Committee II.

45. The report of Sub-Committee I, which is responsible for the preparation of draft treaty articles embodying the régime, including an international machinery, indicates that at the beginning of its first session in 1972, that Sub-Committee will give specific consideration to particular subjects with a view to clarifying them sufficiently, so that in due course it could proceed to the drafting of articles. In

an effort to promote this objective, the delegations of Australia and Jamaica submitted a working paper *[ibid., annex III]*, which suggested a tentative programme of work for Sub-Committee I next year. The Sub-Committee was unable, in the time then available to it in Geneva, to reach agreement on this matter, but, according to the report, the Sub-Committee felt that it might be possible to reach provisional agreement on a programme of work before the end of the Assembly session.

46. My delegation hopes that informal consultations leading to provisional agreement on a programme of work for Sub-Committee I in 1972 will be initiated in the near future and will be successful. We would be ready to join in such consultations at any time, and we consider that on the basis of the provisional agreement which, hopefully, will emerge from them Governments will be able to prepare themselves more thoroughly for participation in the work of Sub-Committee I next year. It would be a relatively simple matter to convert the provisional agreement into a decision of the Sub-Committee at the outset of the first session in 1972.

47. Delegations will be aware that, under the agreement on organization of work reached at the first session of the sea-bed Committee in its role as preparatory committee for the conference on the law of the sea, last March, Sub-Committee II has the task of preparing a comprehensive list of subjects and issues relating to the law of the sea and of preparing draft articles thereon. The Committee may decide, however, to begin drafting articles before it completes the entire list. At the second session of the sea-bed Committee, in July and August last, numerous proposals were made in regard to the list. The report of the Sub-Committee says that a working group, consisting of representatives of 12 States, was set up to facilitate agreement on a comprehensive list. Lack of time prevented the group from discharging this task, but the group agreed that similar efforts should be pursued as soon as practicable.

48. In his statement, the Chairman of the sea-bed Committee rightly drew attention to the importance of reaching agreement on the list of subjects and issues. He said that the matter must receive the highest priority, and urged that consultations should be held at the end of the Assembly session and before the sea-bed Committee met again, to reach an understanding that would make possible a quick confirmatory decision at the first session of the Committee.

49. My delegation fully shares these views. We consider that it is urgently necessary to agree on a list of topics of a nature that would enable the process of tabling and debating specific proposals on individual items to be carried forward. As we said in the sea-bed Committee during the year, we consider that it will be impossible to finalize the list until much nearer the point of the conference, so that delegations, by agreement, will still have the chance to add to it any subjects that they may regard as important and warranting treatment at the conference. The report of Sub-Committee II notes general agreement in the Sub-Committee to the effect that the task of preparing the list should at this stage be undertaken with a certain flexibility in order to provide for the adjustment of the list in the light of progress of future work. We would regard this approach as being an eminently sensible one.

50. Informal consultations on these two important matters of procedure, leading first to informal agreements thereon and later to early confirmatory action when the sea-bed Committee meets next year, would clear the way for the beginning of the second stage of its preparatory work, namely, the specific consideration in Sub-Committees of individual subjects. This would comprise the tabling and debating of specific proposals. Then, as something approaching a consensus position is reached on subjects, the second stage would give way to the third, namely, the drafting of articles or recommendations. The final objective, of course, is that these three stages of work should lead to the beginning in 1973 of a conference on the law of the sea which was the product of thorough preparatory work and which, therefore, would be the more likely to succeed.

51. My delegation has a further suggestion to make in regard to the arrangements for work in 1972, which, we hope, might be generally acceptable. This concerns the Committee's report for the forthcoming year. We would hope that it would be possible to reach an early consensus agreement at the outset of the first session in 1972 to the effect that the Committee's report would be essentially factual and related strictly to actions and decisions taken during the year. The reasons for this preference are, we believe, both self-evident and compelling in the light of the Committee's experience during this year.

52. That is all my delegation would like to say on this item at this stage of our deliberations.

53. Mr. PATRICIO (Portugal) *(interpretation from French)*: As chairman of the group of Western European and other States I should like to express to the delegation of Bulgaria, and to you especially, Mr. Chairman, our most sincere condolences on the occasion of the death of Mr. Ivan Bachev, Foreign Minister of Bulgaria, of whose death we have just learned.

54. My country is not represented in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, but it has taken part in the work of the Committee as an observer and closely studied the report presented by the Committee to the General Assembly *[A/8421]*.

55. In view of the number and complexity of the tasks entrusted to the Committee, the procedural problems which had to be resolved, the diversity of interests at stake and the extreme difficulty of conciliating different viewpoints, one could not expect greater progress from the Committee at this stage of its work. As far as we are concerned, we did not expect that many achievements. The Committee undertook a general debate on all the items within its terms of reference during which Member States propounded their points of view. A controversy arose which made it possible to judge the nature and the scope of divergencies by identifying and clarifying the specific problems with which the Committee will then have to deal. Member States presented a considerable number of working documents which, although reflecting almost in their entirety the specific positions of States or groups of States, nevertheless already constitute an important starting-point in the task of drafting articles of the treaty. Therefore,

generally speaking one can consider that the work of the Committee has led to a positive balance-sheet, which is reflected in the excellent report presented to the General Assembly.

56. Despite the progress achieved by the Committee this year, my delegation considers that the General Assembly was over-optimistic in thinking that it would be possible to convene the third conference on the sea in 1973. We think that no delegation now thinks that this is still possible. Be that as it may, we consider that it is more important for the Committee to work well than to work fast. The Committee will have to move cautiously and to strive patiently for the conciliation of interests and the rapprochement of points of view until it reaches unanimity. This will be possible only if minds are open to understanding and accommodation. The road still to be travelled is extremely difficult. The debates in the Committee stressed profound divergences whose conciliation will be hard to achieve. In the search for solutions to the pending problems the Committee will not be able to be guided by criteria of majority. No pressure will legitimately compel a State to discharge contractual obligations which it has not willingly accepted. If a régime acceptable to all cannot come from the forthcoming conference on the sea, past efforts will not have been very useful since reservations, lack of agreement, sources of dissension, absence of a decision and insecurity will subsist.

57. It is therefore essential for the Committee to choose the road of unanimity. As Ambassador Galindo Pohl of El Salvador stated in his remarkable statement at the 63rd meeting of 5 August in a plenary meeting of the Committee, in view of the composition and the mandate of the Committee one could consider that the third conference on the sea has already started. It is regrettable that one third of the States of the world should have been excluded from it. My delegation would have preferred the Committee to be open-ended. The fact that its membership is limited to 86 members has not only deprived the Committee of contributions which could have been made by the States thus excluded but will also make more difficult the task of the future conference. The inclusion of these States would not have made the work of the Committee more difficult; its work is already so difficult because of the large number of members.

58. My delegation does not think that it is useful at the present time to analyse in detail the various questions considered by the Committee. We think that the task entrusted to the Committee should be envisaged as one of adaptation and not of substitution. It should accomplish this task by sacrificing as little as possible of the existing law. The law of the sea was born naturally from the maritime activities themselves. The men of the sea, more than politicians and jurists, have built it. Thus, basically, it reflects the natural order of the safeguard of maritime interests. It must therefore essentially remain as it is. Of course, some corrections and additions will have to be made, and they are important. There are well-known problems which await a juridical solution or require a uniform discipline. Furthermore, other problems that are just as important have appeared, originating fundamentally in the spectacular scientific and technological progress of recent times. This has greatly affected the balance of interests that have been established and has produced consequences of legitimate concern to many States and to the world at large. The law of the sea will have to seek answers for these new problems by adapting itself to new circumstances which require the introduction of important changes in the international legal régime of the sea, but not amendments of such scope that they would make it difficult to recognize that régime. Nothing justifies the abandonment of fundamental established rules and their replacement by a new contractual order. That would be tragic. The law of the sea would lose the force which the principles of customary law worked out during the centuries confer upon it. They are the important principles of customary law which sustain and are the support of international order.

59. The principle of the freedom of the seas must therefore be maintained as a fundamental legal rule in the field of the use of maritime spaces. This rule will of course have to be subjected to restrictions and exceptions. Nobody doubts that the mere implementation of a philosophy of *laissez-faire* is not possible any longer. This is imposed by man's need to survive, by justice itself construed in the light of the present conditions of life in this world. But this merely signifies that one must regulate the freedom of the seas. Neither the need to survive nor the imperatives of justice justify those restrictions and exceptions having such a scope that in practice they would lead to the denial of this general principle.

60. My delegation expresses its best wishes for the success of the work of the Committee in 1972. In 1971 some progress has been achieved; we hope that next year more will be achieved, and that such progress will enable the Committee successfully to discharge its most difficult task.

61. Mr. BONNICK (Jamaica): I should like to associate my delegation with the statement of the deputy Minister for Foreign Affairs of Hungary on the death of the distinguished Minister for Foreign Affairs of Bulgaria and to offer the profound condolences of my delegation to the family of the late Minister and to the People's Republic of Bulgaria.

62. The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has placed before us in document A/8421 its achievement and to a certain degree its lack of progress in carrying out the expanded mandates entrusted to it by the General Assembly at its twenty-fifth session.

63. The report the Committee on the sea-bed has placed before us rectifies the mistaken assumption of the major metropolitan maritime Powers and the technologically advanced countries that the developing countries are unaware of the real meaning of the law-of-the-sea revolution. The report also makes it clear that the phase of helplessness of the developing countries has come to a close. The developing countries in the 86-member sea-bed Committee are making it clear that the time has come to consider what the purpose of the expanded Committee should be and what aims it ought to pursue.

64. For those of us who have participated in the work of the Committee over the past year it would seem that there is little point any longer for the major metropolitan

maritime Powers to continue to engage in the rhetoric of yesteryear. The time is overdue when the developed countries should advance fresh concepts and new ideas –something more than bureaucratic toil and conference room lobbying.

65. To my delegation it is apparent that statesmanlike moves are now called for. Otherwise the third opportunity to give the law of the sea shape and direction for the benefit of all mankind will be missed.

66. In recent years we have witnessed a phenomenon with respect to the law of the sea. It is a phenomenon that has spread from the metropolitan, maritime and technologically advanced countries to the developing countries. From this technological phenomenon has developed a revolution which seeks to break the gap between rich and poor countries, between developed and developing countries, between technologically advanced and technologically backward countries.

67. We have seen the prospects offered by the marine environment for the correction of a historic imbalance of which the developing countries are now victims. We have noted, however, that this possibility must begin with a dialogue. That dialogue, as the report of the sea-bed Committee has shown, has not struck a realistic reponse in the developed countries. So far they have not shown a willingness to develop the resources of the marine environment for the benefit of all mankind.

68. It is clear that things cannot be changed by those who cling unfalteringly to things past. Let us accept that a past error is no excuse for its perpetuation. In this regard the developed countries would do well to bear in mind what was said in Sophocles' *Antigone*–that all men make mistakes but a good man yields when he knows his cause is wrong and repairs the evil; the only sin is pride.

69. If I may, I should now like to draw the Committee's attention to that section of the sea-bed Committee's report which deals with the philosophies behind the different working papers. These philosophies are contained in paragraph 53 of the report. Here I should like to stress, particularly for the benefit of those members of the First Committee not members of the sea-bed Committee, that these summaries of philosophies were provided by the sponsors of the various papers put forward on the question of the international régime and machinery.

70. My delegation will not now go into the details of the philosophies behind the various working papers, but I would ask my colleagues–and particularly those from developing countries not members of the sea-bed Committee–to study them carefully. A clear understanding of their approach will certainly be of distinct advantage to every delegation in future deliberations on the question of the régime and machinery.

71. Earlier in this presentation my delegation suggested that the response of the developed countries has not been realistic, and this can be borne out by the different philosophies they have advanced. It is the view of my delegation that, unless and until a fundamental shift is made by the developed countries regarding their philosophy on the régime and machinery to be established, no progress–I repeat, no progress–can be made in the sea-bed Committee. In particular, a drastic change is essential in their attitude to the concept that the international sea-bed authority should be enabled to exploit directly and to regulate the exploration and exploitation of the resources of the sea-bed area.

72. Let me now turn briefly to the future work of the sea-bed Committee. The dimensions of the deadlock on the organization of the sea-bed Committee's work both in Geneva and in New York earlier this year is historic in the annals of United Nations meetings. It is a historic event my delegation would not wish to see emulated at forthcoming meetings of the sea-bed Committee. It was clear to many of us that the difficulties which will be encountered at any future law of the sea conference should not prevent us now from negotiating in good faith. The deadlock in the organization of work this past year made it apparent that the unity of the conference for which the developing countries had fought for more than two years was being eroded by the negative attitudes of the developed countries towards a comprehensive conference. It is the hope of my delegation that the First Committee will not find it necessary to determine the detailed work programme of the sea-bed Committee or of its Sub-Committees.

73. I shall highlight a few of the procedural problems that could seriously affect the substantive work of the sea-bed Committee next year. Our approach to these questions, however, is based on fundamental principles; hence we see no need to delve into a long procedural debate over the details involved.

74. On the work of Sub-Committee I, the delegations of Australia and Jamaica submitted a working paper on a tentative programme of work for 1972. That working paper constitutes annex III of document A/8421. My delegation trusts that that proposal can serve as a basis on which Sub-Committee I can begin its work at the next session. While my delegation would not now consider it appropriate to undertake a substantive debate on this matter, it should be understood that we are not prepared to support any proposal that will lead the sea-bed Committee or its Sub-Committees into an interminable general debate.

75. Regarding the work of Sub-Committee II, my delegation regrets the failure of the working group at Geneva to reach a consensus on the list of issues. We believe that a consensus on that list must be reached, either inside or outside the working group. However, such a consensus must be within the framework of the sea-bed Committee as a whole.

76. On the question of the mandate of Sub-Committee III, particularly concerning marine pollution, my delegation, as a member of the sea-bed Committee, wishes to make it clear that we would welcome any recommendations or proposals emanating from the United Nations Conference on the Human Environment, to be held at Stockholm in 1972. Such recommendations or proposals, however, cannot and should not be considered final and should in no way pre-empt action by the sea-bed Committee until such time as that Committee has been able to pronounce itself on such proposals or recommendations.

77. Mr. NANDAN (Fiji): The Fiji delegation has now had the opportunity of reading the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor Beyond the Limits of National Jurisdiction *[A/8421]*. We have also heard the statements on the progress of that Committee's work since the twenty-fifth session of the General Assembly by the Rapporteur of the Committee and by its Chairman, Ambassador Amerasinghe of Ceylon *[1843rd meeting]*.

78. My delegation is keenly aware that that Committee, in its preparatory work for the Conference on the Law of the Sea, has a very difficult and complex task before it. In spite of its initial difficulties, we hope that the rate of progress it has made will be accelerated in the coming year. Realizing the importance of the Committee's work and the great significance that Fiji attaches to the forthcoming conference on the law of the sea, my delegation, though not a member of the committee, in order to contribute to its work, took the opportunity to address that Committee at the 62nd meeting during the July/August 1971 session at Geneva. Our representative expressed the Fiji Government's views on some of the issues being considered by that Committee. It was my Government's main objective to present to the Committee Fiji's proposal on the question of archipelagos.

79. Since Fiji is not a member of the preparatory committee, we trust that its views and position on this vital question as set out in the statement presented at Geneva last August by our observer will be fully borne in mind during the Committee's work.

80. For the benefit of members of this Committee, however, my delegation thought it would be appropriate for it to participate in this debate and to reiterate some of the main points made in our Geneva statement.

81. Centrally situated in the South Pacific Ocean, the Fiji group consists of some 844 islands, of varying size, geology and fertility. The islands are scattered between 15° and 20° latitude south of the equator, with the 180th meridian passing through their midst. The group has a land area of 7,055 square miles, and a population of 525,000 people. Fiji is a developing country. Sugar has been the mainstay of its economy for many years, but production is, of course, limited by the International Sugar Agreement and the state of the world's markets. Strenuous efforts are being made to diversify the economy, but the available acreage of arable land is strictly limited, while the small size of the local market and the apparent lack of major resources and land are obstacles to industrialization.

82. In a situation of increasing population and limited prospects for economic activity on the land, the importance of the sea and the sea-bed are obvious. We are an oceanic people, dwelling in an oceanic archipelago. The sea and the land of Fiji are entirely interdependent; our people look to one as much as to the other as elements of their environment. The sea is considered not as separating the many islands of our archipelago but as joining them. It is our roadway; it has ever been a source of sustenance to our people, and to many of them it is the major one. As increasing population puts more and more pressure on our limited resources on land, we must look more and more to the development of marine resources, including submarine mineral resources, for the support of our people.

83. Steps are being taken to develop a commercial fishing industry, but one of the most discouraging factors is that our vessels must compete with foreign fleets, which at present use the seas within the Fiji archipelago for the large-scale taking of fish, with superior techniques.

84. In addition to the development of a fishing industry, the Fiji Government has encouraged intensive mineral exploration programmes, which have been undertaken in the shallower offshore areas. The people of Fiji are, in consequence, deeply aware of the importance to them of their marine environment and the necessity for control over the resources of their archipelagic waters and of the sea-bed and subsurface of the sea-bed in the vicinity of the archipelago.

85. The position of Fiji as a mid-ocean archipelago is not unique, for there are many other small nations and emerging territories elsewhere and in our part of the world with roughly similar geographic features. However, Fiji is more dependent than most on the development of its marine environment for economic improvement. It is therefore of importance to such countries, and of vital concern to Fiji, to control the development of their marine environments in order to ensure that such development is in their best interests and to prevent any form of depredation or pollution that may endanger the environment or that may deplete its resources.

86. The case of Fiji is thus not an isolated but a common one, and is considered by my Government as one that has not yet been given adequate consideration in the development of the law of the sea. Archipelagic claims have been considered in the past, but have tended to be regarded as legal aberrations rather than as serious problems. It is our contention that those claims must now be considered and a solution found for the problem of mid-ocean archipelagos. That, in our view, is one of the essential prerequisites for the revision of the Geneva Conventions[1] and the establishment of any new form of international régime for those areas of the sea and the sea-bed beyond the limits of national jurisdiction.

87. At the July/August 1971 session of the sea-bed Committee at Geneva, my delegation indicated that the Government of Fiji supported the concept of the establishment of such a régime, provided that the thorny problems of determining the limits of the areas of national jurisdiction of archipelagic States could first be overcome and an acceptable solution found to the question of the limits of the continental shelf.

88. Our primary concern is with the establishment of the limits of areas of national jurisdiction of the archipelagic States. We do not seek any substantial departure from the existing rules set out in the Geneva Conventions, but merely to obtain confirmation of the integration of the archipelagic principle in existing international law in such a way as to accommodate the interests of archipelagic States

1 Adopted at the United Nations Conference on the Law of the Sea, held at Geneva from 24 February to 27 April 1958.

without disproportionately affecting the interests of other States or of the world at large.

89. Archipelagic proposals have now been considered for many years. However, no conclusions have been reached as yet, in spite of State practice of comparatively recent antiquity. The Fiji representative in his statement at the Geneva session of the sea-bed Committee last August took the opportunity to enumerate the historical details of the various archipelagic proposals. I will not repeat them here. Suffice it to say, however, that one of the most important steps in relation to the development of the law of the sea in its application to archipelagos resulted from the judgment of the International Court of Justice in the Anglo-Norwegian Fisheries Case in 1951,[2] which gave approval to the principle that, in determining the points in relation to the coast line from which the breadth of the territorial sea is to be measured, straight base lines may be drawn following the general direction of the coast, instead of following all the sinuosities of the coast.

90. The importance of this part of the decision lies in the rejection by the Court of the previously commonly held opinion that the maximum closing distance permissible for bays and other sinuosities of the coast was ten miles, thereby destroying the very basis upon which the ten-mile base lines for the delimitation of archipelagic waters rested. In fact, the Court accepted base lines as long as 44 miles.

91. Another important feature of the judgement in this case was that the Court, in determining the criteria to be applied in testing the validity of delimitations within territorial limits of waters previously considered to have formed part of the high seas, permitted reference to the economic interests peculiar to the region. This is, of course, very relevant in Fiji's case.

92. Whilst the judgment of the Court in the case applied to coastal archipelagos, it is my delegation's submission that the principle utilized by the Court should not be confined only to coastal archipelagos but is of equal application to mid-ocean archipelagos. The condition that a base line must not depart to any appreciable extent from the general direction of the coast is of equal application to mid-ocean archipelagos if it is recognized that this is in itself merely a method of expressing the requirement for an intrinsic relationship between a line of natural features and the land to which those features form a barrier. The essence of the mid-ocean archipelago thereby is that such a relationship exists between the features themselves so that the situation is analogous to that of a complex coast of a continental country. A group of islands cannot be considered as an archipelago without a centripetal emphasis giving coherence to the group as a whole and expressing itself as an outer periphery that is the equivalent of the general direction of the coast as applied to coastal archipelagos.

93. It is my delegation's submission that the rules applicable to coastal archipelagos are of equal application to mid-ocean archipelagos, and that the effect of the judgment of the Court was to emancipate the entire archipelagic question from the confines of precise limits and shapes and from the abstract definition into which all previous discussions on the question had sought to retain it.

94. Although a number of archipelagic claims have been made, there has, in fact, been no significant advance in the solution of the archipelagic question since the Anglo-Norwegian Fisheries Case. The principal reason for this was that the question was excluded from the text of the 1958 Geneva Conventions. The subject was, in fact, given only cursory attention by the International Law Commission in drafting its text on the law of the sea, and after a brief and somewhat superficial debate it was agreed that whilst the Commission recognized the need to deal with the question it lacked the time and the requisite assistance of experts. The question was accordingly shelved with a recommendation that the United Nations Conference on the Law of the Sea, to be held at Geneva in 1958, should try to solve the complex and controversial problem of archipelagos. Although three countries—the Philippines, Yugoslavia and Denmark—did attempt to take up the question at the Geneva Conference in 1958, they were unsuccessful.

95. In fact, that is where the matter stands today, and we are now concerned to see that it is taken up and a solution found to it.

96. As we see it, one of the fundamental difficulties in finding a solution to the archipelago problem is in relation to the right of passage through archipelagic waters. This difficulty arises from the acceptance in the course of the debate in the International Law Commission of the view that waters enclosed within archipelagic base lines would become internal waters with consequential closure of those waters to the right of international passage. This view does not, in fact, accord with that generally accepted in the debates at the Conference for the Codification of International Law held at The Hague in 1930.

97. In those debates the view taken was that the waters enclosed by the archipelagic base lines would become territorial waters and in consequence subject to the rights of innocent passage. The same view has been taken by the jurists who have in the past supported the archipelagic principle.

98. It is this latter view that is adopted by the Government of Fiji. As indicated earlier in this statement, it is our concern to see that the interests of the archipelagic States are accommodated without disproportionately affecting the interests of other States or of the world at large. This we feel can be achieved if there is acceptance of the view that the enclosure of waters by archipelagic base lines does not have the effect of depriving other States of their rights of innocent passage. This right is, however, in our view subject to the regulations of the archipelagic States concerning police, customs, quarantine and control of pollution and without derogation of the exclusive right of the State in respect of the exploration and exploitation of the natural resources of the waters so enclosed and the subjacent sea-bed and subsoil of the sea-bed.

99. My delegation is appreciative of the problems that underlie the unrestricted right of innocent passage but feels that these are not insurmountable.

2 *Fisheries Case, Judgment of December 18th, 1951: I.C.J. Reports 1951*, p. 116.

100. Account must be taken of the need to keep open shipping channels, whose closure by an archipelagic State may have serious economic consequences for other States. We consider that this can be achieved by acceptance of the principle that the waters so enclosed are to be regarded as territorial waters subject to the right of innocent passage.

101. So long as the limits of national jurisdiction remain uncertain, my delegation feels that no solution can be reached concerning the exploitation of the sea-bed beyond those limits. We accordingly seek an early solution to the archipelagic question. It is Fiji's own proposal to draw a base line in the form of a polygon around the outer extremity at the low-water-mark of all the islands or the drying reef of the Fiji group with the exception of remoter islands, namely, the Rotuma group, the Ono-i-Lau group, the island of Vatoa, and the Conway reef. The limits of the territorial sea should be at a distance of three miles outward from these lines and an exclusive fisheries zone should be established within a distance of 12 miles outward from these base lines.

102. With regard to the outer islands of the Rotuma group, the Ono-i-Lau group, Vatoa and the Conway reef, it is proposed to establish territorial waters and an exclusive fishing zone around each of them.

103. With regard to the second question that we consider requires a solution as a prerequisite to the establishment of an international régime, namely, the establishment of the limits of the continental shelf, my delegation takes no firm stand on the determination of the limits of the continental shelf and welcomes any reasonable proposal that may be put forward for the solution of this problem. One aspect that is apparent to us, however, is that to establish boundaries by reference only to the depth of water without regard to natural physical characteristics could well lead to serious anomalies. The test of exploitability on the other hand can only result in an expansion of boundaries in view of the rapid technological developments which facilitate exploitation. This will, of course, favour the developed more than the underdeveloped countries, as is already evident.

104. It is our suggestion for the solution of this problem that the limits over which a State is to have control of the resources of the sea-bed and the subsoil thereof outside its territorial waters should be determined also by having regard to water depth in relation to natural characteristics as opposed to the single determining factor of water depth regardless of the physical characteristics of the area under consideration.

105. Another criterion which may well be considered is that of defining the boundary of the legal continental shelf by reference to distance from the coast. This may be in substitution for or in addition to the criterion of water depth.

106. I have just outlined the general position of my Government in relation to these problems. It is our view that our position is reasonable and that once the problems that have been referred to in this statement have been solved the way may well be clear for the establishment of an international régime for the areas of the sea and the sea-bed beyond the limits of national jurisdiction.

107. Turning now to the draft resolution contained in document A/C.1/L.586/Rev.1, while my delegation is prepared to support it in principle, it will nevertheless reserve its position with regard to the convening of the two meetings of the sea-bed Committee in 1972 referred to in operative paragraph 3 of the draft resolution.

108. Mr. BEESLEY (Canada): The Canadian delegation would like to associate itself with the expressions of sympathy and condolence already heard, and we should like the representative of the People's Republic of Bulgaria to convey to the Government and people of his country the most sincere sympathy of the Canadian delegation and the Canadian Government at the loss of the Bulgarian Minister for Foreign Affairs.

109. Mr. Chairman, the Canadian delegation will heed your plea and that of the Chairman of the sea-bed Committee to speak as briefly as possible and to confine our comments to the procedural questions requiring our urgent attention that are raised by the draft resolution contained in document A/C.1/L.586/Rev.1 of 7 December 1971, of which the Canadian delegation is a sponsor.

110. Before beginning, however, I should like to pay a tribute to the Chairman of the sea-bed Committee, Mr. Amerasinghe, and to the Rapporteur, Mr. Vella, for their excellent introductions to our debate through the reports they have given us *[1843rd meeting]*. Precisely because of the comprehensiveness of their reports, our task is much easier, and the Canadian delegation sees no purpose in reiterating the points they made.

111. We wish also to respond to some of the points made this morning, so that we can in a sense join issue and determine as we go the extent to which we agree on some of the procedural and work programme questions that confront us. We have heard varying assessments of the work of the Committee, contained in the Chairman's report and in that of the Rapporteur and in other appraisals by the representative of El Salvador *[1844th meeting]* and this morning by several delegations. Our own assessment of the work of the Committee so far is neither very optimistic nor very pessimistic. We have some reservations about the pace of the work of the Committee and about the manner in which we have organized our work at various stages, but we consider that many of the difficult issues of a procedural nature have already been disposed of in a way that gives us promise of successful work. However, this morning we have been reminded of further problems that must be handled if we are going to be allowed to attack the range of substantive issues facing us, and I refer to comments made by the representatives of Ghana, Australia and Jamaica. With respect to the list of issues in particular, we should consider it unfortunate if we were to devote a large part of the next session of the sea-bed Committee to debate on that particular topic. I will come back to that point a little later, but we recall, as have others, that efforts were made at Geneva which achieved some measure of progress but were not finally successful. We recall that we agreed that the working group would attempt to carry forward its work as soon as practicable. I think we all know that it has not

proved practicable for the working group to achieve anything at this session. We ourselves are hopeful that this will still prove possible, perhaps through informal discussions in January or even later.

112. Before turning to the particular procedural points raised by the draft resolution before us, I should like to remind the members of the Committee of the other related conference that is facing us, the United Nations Conference on the Human Environment, to be held at Stockholm in June of next year. Although much of that Conference involves issues wholly unrelated to the work of the sea-bed Committee, it is, we think, important to bear in mind those areas where there is a clear interrelationship. One field where this is obvious is the field of marine pollution. Last month at Ottawa there was a meeting of an Intergovernmental Working Group on Marine Pollution, which tackled some of the very issues facing us in one of the Sub-Committees of our sea-bed Committee, and some progress was made in working out, *ad referendum* and subject to reservations by some Governments, substantial agreement by some 32 countries on a list of principles on marine pollution; we think it would be extremely helpful to the work of the sea-bed Committee if that report were made available to the sea-bed Committee, not necessarily as a sea-bed Committee document but, in order to save time and expense, simply for information from the Preparatory Committee for the Stockholm Conference. I understand, indeed, that it is intended by the Secretariat that that report will be made available to the sea-bed Committee, and I should like to endorse the suggestion made by the representative of Iceland that we receive that report.

113. There is another related document that has not been given substantive consideration by the sea-bed Committee as yet; nor will it be given substantive consideration in this Committee, because of the problem of time and because of the tacit agreement that we shall attempt to avoid substantive discussion. However, I should like to remind the Committee of the draft resolution sponsored by Norway and Canada on the question of the prevention and control of marine pollution, which can be found in annex V to the report of the Committee *[A/8421]*. In drawing the attention of the Committee to that draft resolution, I would simply point out that it reflects an attempt to stress the importance of national action, while avoiding any difficult or delicate questions concerning jurisdiction.

114. I turn now to the procedural questions before us. Obviously one possible question—something of a hypothetical one—is whether the Committee should be maintained or whether there is such ground for discouragement since the passage of resolution 2750 (XXV) almost a year ago as to call in question the desirability or the possibility of holding a third conference on the law of the sea.

115. I raise this question only in order to brush it aside, because my delegation has no hesitation in rejecting such a pessimistic view of our work. In our view, the Committee must be maintained because of the importance of its work, and indeed the progress it has already achieved gives us some ground for encouragement. The Committee is charged with a very heavy mandate involving a wide range of issues, theoretical, political and economic and, indeed, even raising very delicate questions of boundaries, and it is understandable that that kind of Committee with that kind of mandate should encounter certain difficulties.

116. I think that we are all disappointed with the amount of time spent at the first session of the sea-bed Committee on procedural issues, but at the same time I think that we are all aware that, as is often the case, these were not mere questions of procedure but were basic matters relating to our programme of work, which had very clear substantive implications, and the fact that we were able to resolve those difficulties augurs well for the eventual success of the Committee. We think too, as do others, that the progress has at times been slow and uneven, with rather more progress on some questions than on others. But this too is understandable. When we look at the precise kinds of problems being faced and bear in mind their interrelationship, it is very difficult to go very fast or very far on any one of the major problems facing the third conference on the law of the sea without taking into account the implication of any solution to that one problem for the other unresolved issue.

117. Taking all this into account, we are not discouraged and indeed we would go so far as to say that the sea-bed Committee has in fact begun the process of negotiation which will be concluded at the third conference on the law of the sea. We think that it is not an exaggeration to say, as did the representative of El Salvador in his very lucid and illuminating statement, that the third conference has already begun. The Committee does not consist of non-governmental experts attempting essentially to clarify issues and suggest possible solutions without knowledge of specific governmental positions. The Committee is more than that. It is composed of governmental representatives with knowledge of governmental positions and thus is in a far better position than even the major law-making organs of the United Nations, such as the International Law Commission, to know the kinds of problems being faced and the kinds of possible solutions which might meet with the approval of Governments.

118. In our view, the sea-bed Committee is already beginning to seek out the basis for possible future accommodation. If I may be permitted one comment with some substantive overtones, it is in our view already evident from the work of the Committee that new concepts and new approaches are going to be required in order to bridge differences not only between States but between the present law and the new needs of the international community. One has only to look at the various annexes to the report of the Committee to realize the extent to which most Governments are trying to think out new approaches to problems, some old and some new. Obviously such a process is an extremely difficult one and it is not surprising that our progress is not as rapid as some of us might wish. It is worth recalling, however, that not all of the progress can be reflected in the report of the Committee.

119. From the nature of things many of the discussions and informal negotiations have not reached a state where they can be reflected in a text or even in a statement in Committee. I also think that it is important to bear in mind that there are organizations, regional and other, working seriously on these problems, in a sense outside the Committee but at the same time in a way closely related to the work of the Committee.

120. Taking all these things into account, I think it is fair to say that we have advantages that did not exist at the time of the preparations for the 1958 and 1960 conferences on the law of the sea. Large numbers of Governments are working very seriously on these problems and the results of their labours will undoubtedly be reflected in the work of the Committee.

121. Having said what I have, I must recognize a difficulty raised by the representative of Portugal concerning those Members of the United Nations who are not represented on the Committee. I think it is important to bear in mind that the membership of the Committee is representative in two senses, in that we do not merely represent our own Government, but we must represent also the Members of the United Nations who are not on the Committee. I think it is fair to say that to the extent that this is ever possible, this is in fact what is occurring. Gradually it becomes increasingly apparent that this Committee cannot work on the basis of any clear-cut concept such as geographical representation. There are positions of coastal States, positions of land-locked States, positions even of a group which I believe calls itself the "shelf-locked States" although I am not at all clear as to just what that term means. But there are varieties of approaches and varieties of interests to be reflected. It does seem though all the more essential in our view that we continue to hear the kind of statements we heard this morning from the representatives of Fiji and Portugal, and it is essential that all the members of the Committee take these statements very seriously so as to ensure that we are working in a realistic way.

122. The other difficulty which must be overcome is for the non-members to have an opportunity to make a serious appraisal of the work of the Committee. We have heard very interesting suggestions by the representative of Australia on questions of work programmes and on other procedural issues. We share this approach almost entirely, but we have some misgivings, in spite of the difficulties we encountered in producing the report before us today, about attempting to have a merely factual document. If one thinks of the difficulties of a non-member in coming to grips with exactly what is going on, it is almost essential that we produce the kind of report we have, which reveals trends of debate and ranges of issues. Perhaps the representative of Australia meant to include that kind of approach in the sort of report he was suggesting. It is a difficult problem but it is not time wasted when we try to produce an accurate and meaningful report.

123. Since we can take it for granted that the Committee will be maintained, a second question of a procedural nature which arises is whether the present mandate of the Committee is adequate to its task. On this question, as with the first, the Canadian delegation has no hesitation whatsoever in reaffirming the mandate of the Committee and indeed only raises this question in order to set it aside, since it is quite evident that the Committee must have a broad mandate in order to be successful even on a limited basis.

124. We think that the report of the Committee gives ample evidence of the continuing agreement of the vast majority of the Committee and of the United Nations on a broad conference which would deal with the establishment of an equitable international régime including machinery, a precise definition of the area, and also a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea, including the question of its breadth and the question of international state and contiguous zones; fishing and conservation of the living resources of the high seas, including the question of the preferential rights of coastal States; the preservation of the marine environment, including *inter alia* the prevention of pollution; and scientific research. What many of us were saying a year ago has now been amply illustrated in practice in the work of the Committee, namely, that all of these questions are interrelated and that they must all be tackled if we are to be successful in any.

125. Some of the secondary procedural issues that we must consider relate to the number, timing, length and venue of the meetings of the sea-bed Committee. With respect to the number, obviously at least two are needed, and this position is reflected in the draft resolution contained in document A/C.1/L.586/Rev.1, of which Canada is a sponsor.

126. There are those who consider that possibly a third meeting, either formal or informal and perhaps relatively brief, might be considered in order to work on the unsettled question of the list of issues. We have an open mind on that particular matter in the sense that we are willing to attack the problem in any way that seems likely to promote success. We do not have an open mind on the problem in the sense that we consider it unimportant. Indeed, we consider it essential that we try to arrive at an accommodation on the question of the list of issues as soon as possible. We have no specific proposals to make at this time, but we should like to make it clear that we are open to suggestions concerning the possibility of holding informal negotiations. We recall, as several speakers have pointed out, that a Working Group was established, and it may be that that Working Group or an expanded version of it, or perhaps a working group under the chairmanship of Ambassador Amerasinghe or perhaps the Chairman of the Sub-Committee in question, might attempt to carry forward work on that question. Obviously, if there is to be any kind of an informal meeting it will almost certainly have to be held in January in order to give some time or thought to the various possible solutions.

127. With respect to the length of the sessions, the position of the Canadian delegation is reflected, of course, in the draft resolution before us. We have given considerable thought to this problem, as have many other delegations, and it seems difficult to come up with a solution that is really convenient to any of us. On the one hand, we want as much time as possible; on the other hand, I think we are all aware that if we gave too long a period to the Committee it would tend to become counter-productive because we would lack the necessary sense of urgency at the beginning of our session and we would tend to lose representatives from time to time who could not be away from their capital for lengthy periods.

128. I would have gone so far as to say that if we could have reached agreement on the list of issues, we might have been able to accept sessions as short as three weeks. But given the present uncertainty, we think that four weeks are needed, and conceivably even five weeks.

129. With respect to the venue of the meeting, the Canadian delegation supports Geneva as being the most likely solution, but once again we have an open mind on this question and we would be quite willing to consider the possibility of one of the sessions, or conceivably even both, being held in New York. But we are not, of course, attempting to speak for other sponsors. We think, however, that we all are agreed that the major considerations should be efficiency and cost. In thinking of the problem of cost, however, we recognize that we must not only consider the cost to the United Nations as such, but also the costs to individual Member States. We have heard from a number of representatives of developing countries that they would find it expensive to come from their capitals to New York for both or even one of these sessions. We have heard from some representatives of developing countries that are represented on the Committee by their representative here in New York that they would find it costly to go to Geneva, and for that reason would prefer to have one meeting in New York. Surely on a question like this one we can work out a solution that accommodates as many people as possible.

130. We have been wondering whether we should not try at some stage to devise some sort of formula for determining the over-all costs to delegations of meeting in Geneva or New York. I am thinking, in other words, of the costs delegations would have to pay if there were extra costs for the United Nations, as compared with the costs they would have to pay in getting to these places and living there. Some delegations have the advantage of national airlines, and some do not. But it seems a pity that we have to go through this process each year. It would be preferable for most of us if we could do better advance planning. Obviously though, we have to go further into the question of costs in order to do that. The Canadian delegation would be glad to collaborate in any such study, perhaps in consultation with the Secretariat.

131. There are some possible remaining questions concerning size and membership of the Committee, but these are not raised directly by the draft resolution before us and, as a consequence, I shall not comment on them.

132. There is also the question of the name of the Committee, the possibility of its change. There is no draft resolution before us on that question. My only reason for commenting on it is that we are one of the two delegations that have prejudged that question, perhaps quite improperly, but we have done so in order to convey to the people whom we thought to be interested in the proceedings of the Committee its real nature. We have already for some time, I am afraid, used the name "preparatory committee for the conference on the law of the sea", in addition to the name of the sea-bed Committee. But once again we think it would be unwise for us to spend time debating such a question when we have other matters requiring our attention.

133. To sum up, we, as a member of the Committee, have had ample opportunity to make our views known. We intend to go on in this process of negotiation in seeking accommodation between States, and indeed between individual States and the international community as a whole. We should have preferred to come here with a report of greater progress, but we are not discouraged and we feel confident that the process that has been begun will be carried forward and that we shall find it possible to work through to the accommodations which many of us think are already beginning to emerge.

134. Mr. DIAZ CASANUEVA (Chile) *(interpretation from Spanish)*: It is particularly gratifying to my delegation to note the encouraging progress made by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction in the work that was done during the spring and summer sessions at Geneva and in the course of the current year, the results of which are set forth in the report submitted to the General Assembly *[A/8421]*.

135. I should like to convey my delegation's congratulations to the Chairman of the Committee, Ambassador Amerasinghe, to the Secretary, Mr. Hall, and to the Rapporteur, Mr. Vella, for the able and intelligent manner in which they have concluded the work of the Committee.

136. At the second Geneva meeting a final decision was taken on the organization of the Committee and its work, providing it with a structure and efficient procedural machinery. Important stages were reached in the discharge of its mandate, expanded by the terms of resolution 2750 C (XXV), and the clear trends set forth reflecting the interests of groups can serve as a basis for the start towards a final solution.

137. At the procedural level, after negotiations that were by no means easy, agreement was reached on the structure of the Committee—a plenary conceived as a sort of second hearing for all the work, which also was given the specific task of dealing with the peaceful use of the oceans. Three Sub-Committees were set up: one responsible for the régime of the sea-bed; a second which would deal with general problems of the sea, and a third which would take up the specific items of the preservation of the marine environment and scientific research.

138. The mandate given the Committee comprises two fundamental points: the preparation of a treaty that would set forth the international régime of the sea-bed, and a list of subjects and questions that the conference might take up. In both areas substantial progress was made.

139. Concerning the first area, 10 drafts of a treaty on the régime of the sea-bed were presented, including a Latin American draft *[ibid., annex I, sect. 8]*, of which Chile is among the sponsors. That draft repeats the overriding principle that the sea-bed and ocean floor beyond the limits of national jurisdiction, and their resources, are "the common heritage of mankind", and that the benefits derived from the exploitation of those resources should be distributed equitably among all States regardless of their geographical position, and giving special consideration to the interests and needs of the developing countries, whether they be coastal or land-locked. With respect to the exploitation of the resources of the area, the draft attempts to ensure their conservation and to reduce to a minimum fluctuations in the prices of minerals and raw materials, produced on dry land, which might result from this exploitation and adversely affect the exports of the

developing countries. The authority having jurisdiction over the area and its resources, and administering the zone on behalf of mankind, has been conceived of as having sufficient powers to carry out on its own the activities of exploration and exploitation of the zone and in so doing it could draw on the services of natural or legal persons by using either a system of contracts or by setting up joint companies.

140. My delegation considers that other ideas proposed, such as for example the creation of a system of licences or concessions, are incompatible with the principle–for which acceptance was gained at the cost of such arduous labours–of the "common heritage of mankind" contained in the declaration of principles proclaimed in resolution 2749 (XXV). The opposition that has been expressed to the United States draft[3] is based on two considerations: first, that the system of licences would permit control of production to be exerted by super-businesses which in the past have controlled substantial economic and political structures and which, through a licence granted in a selective area, could manipulate or have a decisive influence on the markets of certain minerals, control prices, and in general exert power which might go beyond certain vital necessities of the international community; secondly, that it is essential to regulate future production in order to avoid fluctuations in the prices of certain raw materials, which means that the régime and the agency must be provided with real power over the area and its resources.

141. With respect to the definition of the area of the sea-bed lying beyond national jurisdiction, my delegation has held that the criterion of depth, which some countries would like to impose, is unjust and inefficient in our search for united solutions in the treatment of zones that are geomorphologically dissimilar. The representative of El Salvador, in this connexion, mentioned *[1844th meeting]* the inequities that would result from the application of the criterion of depth alone. He explained that at some points along the coasts of the United States and of the Soviet Union the isobath of 200 metres occurs at a point 250 or more miles from shore, whereas, on the other hand, at certain points along the coast of Peru it is as close as four miles. My country is not only in the same disadvantageous position as Peru, but, what is more, at some points along our coast, we have no continental shelf whatsoever. This situation had already been outlined by my delegation in previous debates and has given rise to the constitution of a group of so-called "shelfless countries".

142. In the light of the circumstances, we were in favour of a criterion of distance up to 200 miles for the delimitation of the international zone. Without prejudice to what I have just said, we accept the introduction of other criteria, such as the combination of depth and distance or the geomorphological criterion.

143. With respect to the international machinery, I should like to dwell for a moment on the economic repercussions upon certain developing countries that are producers of raw materials which would flow from the entry into force of the régime. My delegation was a sponsor of resolution 2750 A (XXV) which asked the Secretary-General to prepare a study on this point. The report to which I refer, a summary of which appears in the report of the Committee *[A/8421, annex II, sect. 1]*, is an important contribution towards the clarification of this question. None the less it evokes certain reservations in the mind of my delegation, particularly having regard to the fact that it states, in unduly categorical terms, that there would, practically speaking, be no negative effects for the developing countries that are producers of minerals.

144. The statement made in the report by the Secretary-General would appear to be contradicted by the statement made by the representative of UNCTAD at the twentieth meeting of Sub-Committee I held on 13 August 1971, and also published in the report of the Committee *[ibid., sect. 2]*. That statement, apart from bringing out the importance of co-operation between the Secretary-General and UNCTAD, indicates that it cannot be taken as proven that the exploitation of the minerals in the sea-bed beyond national jurisdiction would have no unfavourable economic impact and that, taking certain circumstances into account, the additional output from the sea-bed would lead to economic losses for existing producers, including the developing countries. The statement added:

> "It would seem important, therefore, to safeguard the position of existing mineral producers in developing countries by ensuring that they were not adversely affected by such developments, the likelihood of which may be enhanced by the accelerating pace of technological change."

145. For the developing countries that are producers of raw materials, like my own, this matter is of the utmost importance and interest and clearly raises issues that should be studied seriously and in depth, for they involve the economic future of our countries. My delegation considers it fundamental that the secretariat of UNCTAD should continue to bend its valuable co-operation in the preparation of studies and proposals for a solution in this area.

146. In this connexion the meeting of the "Group of 77", which was recently held at Lima, Peru, adopted a resolution concerning the resources of the sea, operative paragraph 4 of which states:

> "To support the understanding that, in establishing the provisions for the administration of the said area, appropriate measures should be taken to foster the healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effect caused by the fluctuation of prices of raw materials resulting from such activities."

147. With respect to the preparation of a full list of subjects and questions relating to the law of the sea, which was allocated to Sub-Committee II, various working papers were submitted, one of which *[ibid., annex I, sect. 14]* was prepared by various Latin American countries, of which my delegation is a sponsor.

148. In the preamble to the document to which I have just referred, it is expressly stated that sponsorship or acceptance of that list does not commit the position of States

3 *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21*, annex V.

concerning the items on it nor the order in which they are submitted, nor does it signify acquiescence to having all the questions mentioned on the list discussed and dealt with in draft articles. In the final analysis, the list would only be a point of reference for the debates.

149. The philosophy that we have tried to present in respect of the list of items could be summed up as follows: first, that the Conference should be broad, that is to say, open to all of the problems involved in the law of the sea of our times; and unitary, that is, it should consider the problems of the region of the ocean and the sea-bed as a single whole—the preparatory work should have a similar character; secondly, that despite the foregoing it should be confined to existing questions, that is, those that have practical force in the law of the sea; thirdly, that the criterion of the progressive development of international law should be followed; in other words, we should bring custom up to date with the new realities of all kinds; and fourthly, that the list should not prejudge substantive positions but, on the contrary, should allow for a discussion of all of them.

150. My delegation considers that it is not appropriate on this occasion to go into substantive discussion of the various subjects and questions which make up the list. We think that at a subsequent stage we should submit draft lists of items with a view to approving a pre-agenda of the preparatory work. At a second phase we shall have to start a substantive discussion on the various items on the list, and only at a third stage would we proceed to the drafting of the articles.

151. With respect to the procedural debate raised in Sub-Committee III on the decision as to which items should be considered and how they should be considered, my delegation was of the opinion that the Sub-Committee should come to grips with the study of all of the items related to the preservation of the marine environment, including the regulation of the freedom of the high seas and the establishment of a possible régime for the oceans and seas.

152. My delegation laid special emphasis on the point that marine pollution should be taken up as a whole, and we also stressed the need to work out rules for the area situated beyond national jurisdiction, on the understanding that the work of the Committee should have absolute priority over that of other organizations and conferences in everything that has any bearing on the oceans and seas. We also said that it was urgent to prepare articles on the question of the whole body of research, taking into account the results of the United Nations Conference on the Human Environment and the reports of technical organizations. Finally, we stated that, in our opinion, Sub-Committee III was the most appropriate body to deal with the important question of the peaceful uses of the sea-bed because of its link to the preservation of the marine environment and scientific research.

153. Having made this brief analysis of the position of my delegation on the work of the Committee, I should like to emphasize in equally brief terms some points of particular interest to my delegation.

154. My delegation supports the legal principles of the Latin-American Declarations of Lima and Montevideo *[see A/AC.138/28 and 34]*, texts which in clear and well-defined terms bring out the right of every riparian State to exploit the resources adjacent to its coast and the sea-bed and subsoil of the sea itself in order to promote the maximum development of its economy and to raise the level of living of its peoples.

155. In accordance with that fundamental principle we have in those Declarations proclaimed the right of every State to fix the limits of its sovereignty and maritime jurisdiction in accordance with reasonable criteria, having taken into consideration the country's geographic features and the rational use and enjoyment of its resources.

156. Guided by those principles, Chile, together with various other Latin American States, has proclaimed a territorial sea ranging up to 200 nautical miles, measured from the coast, which is designed for the preservation, exploration and exploitation of its resources. The basis for the zone therefore reflects economic considerations, to protect our economy and utilize our resources, under which the State exercises the necessary jurisdiction and authority without affecting freedom of navigation for ships or of overflight of aircraft regardless of nationality.

157. As was stated by the Minister for Foreign Affairs of my country in his statement to the General Assembly:

> "Chile will continue to participate actively in the debate on the law of the sea in order to contribute to the establishment of norms and regulations which, while recognizing the just interests of other States particularly in the field of international communications, will guarantee the right of the coastal States to exercise their sovereignty over the natural resources of the marine areas adjacent to their coasts." *[1948th plenary meeting, para. 163.]*

158. We may state with satisfaction that the "200-mile doctrine," as it has come to be known, has been winning more and more converts from among the members of the international community—particularly those of the third world—as is demonstrated by the agreements of the Asian-African Legal Consultative Committee *[see A/AC.138/34]*, the working paper on the list of topics presented by the Afro-Asian Group *[A/8421, annex I, sect. 16]* and, in general, the support received in the debates of July and August this year at Geneva.

159. The presence of the People's Republic of China in the United Nations and its repeated statements of solidarity and support for our cause open up prospects of immeasurable promise. We consider it essential that China should be represented in the sea-bed Committee and that it should forthwith participate in the preparatory work for the conference on the law of the sea.

160. Permit me briefly to emphasize the results achieved by the "Group of 77" at the recent meeting held in Lima, at which a resolution on the resources of the sea was adopted. In that text two substantive principles of our premise were reaffirmed: first, the principle of the authority of the riparian States in exercise of their sovereignty

to dispose of sea resources within the limits of their national jurisdiction; and secondly, the principle that in the establishment of those limits account should be taken of the needs of a country for its development and the well-being of its people. In other words, the "Group of 77" has endorsed the economic basis which should be taken into account in the determination of international jurisdictional limits. I shall not labour this point further because it has already been discussed in brilliant fashion at the outset of our debate by the representative of Peru, Ambassador Arias Schreiber *[1844th meeting]*, in terms with which my delegation is in full agreement.

161. I would conclude by expressing the faith and optimism with which my delegation views the future work of this Committee. The road travelled thus far has been long and tiring, but the results have amply made up for the effort expended. The path towards international social justice on the seas lies open ahead, and our action should be designed to achieve the goal successfully. The era has ended in which a few countries, relying on the outmoded system of the so-called freedom of the high seas conceived in the era of economic liberalism and colonialism, divided among themselves the seven seas and their resources. The hour has come in which the coastal States, the large majority of which are developing countries, should gain recognition of the legitimate rights which are rightfully theirs, and which our people are urgently demanding to exercise.

162. The CHAIRMAN *(interpretation from French)*: I call upon the representative of the United States, who wishes to speak in exercise of his right of reply.

163. Mr. LEONARD (United States of America): I wish to reply quite briefly to several references that have been made by certain representatives to the geographic situation off the coast of the United States and to the effect of proposals of the United States Government in this regard.

164. As we have indicated in the past, the United States does have a broad continental shelf in some areas of our coast and a narrow one in others. Therefore, while in a very few areas the 200-metre isobath is located slightly over 200 miles from our coast, in other areas, such as off the State of California, our continental shelf is as narrow as that of many of our neighbours to the south bordering on the eastern Pacific Ocean.

165. The average distance of the 200-metre isobath from the United States coast is less than 50 miles. Thus I should like to point out that under the United States proposal for a 200-metre limit for national jurisdiction over the sea-bed, the United States, as a coastal State, would acquire on the average less than 50 miles-worth of exclusive national jurisdiction.

166. In this connexion I should also like to note that with respect to an intermediate zone beginning at the 200 metre isobath and extending seaward from there my delegation has made clear the flexibility of the United States Government regarding the establishment of an outer limit for such an intermediate zone.

167. Miss DE BARISH (Costa Rica) *(interpretation from Spanish)*: Since Costa Rica is currently the Chairman of the group of Latin American States, on behalf of the Latin American delegations I have the honour to associate them with the expressions of condolence that have already been extended to the Bulgarian delegation on the sudden death of the Foreign Minister of Bulgaria, Mr. Ivan Bachev. I would ask you, Mr. Chairman, to be good enough to convey our deep sympathy to the people and Government of Bulgaria and to the family of that distinguished statesman.

168. Mr. HARMON (Liberia): At a time when the world is beset with growing and involved diplomatic and social problems and, through the joint efforts of leaders of all countries, we are in a concerted effort seeking solutions to some of those complex problems, my Government has learned with deep regret of the passing of the Minister for Foreign Affairs of Bulgaria. Speaking, therefore, on behalf of the Liberian delegation, I wish to extend to you, Mr. Chairman–also a distinguished and illustrious son of Bulgaria–and through you to the Government and people of your great country, the sincere condolences of my Government and people.

169. The death of the Foreign Minister of Bulgaria, one who served his historic country well and strove to bring about closer tries and understanding between it and other countries, is a loss that we of the world community share. We sincerely trust that, as he died at his post of duty, his efforts on behalf of his country and people will continue in future to influence in some way the wish and desire of this world community for lasting peace and closer mutual understanding and ties among all countries of the world–a goal to which we are committed.

170. Mr. SIYOLWE (Zambia): Mr. Chairman, on behalf of the African group of countries, I should like to express our deepest regret on the untimely death of the Minister for Foreign Affairs of Bulgaria. Through you, Mr. Chairman, we should like our condolences to be conveyed to his family and to the people and Government of the Republic of Bulgaria.

171. Mr. CHRISTOV (Bulgaria) *(interpretation from French)*: In the name of the Bulgarian delegation, I should like to thank the representatives of Ghana, Australia, Portugal, Jamaica, Canada, Costa Rica, Liberia and Zambia, who were kind enough, on behalf of their delegations or groups, to express their condolences on the occasion of the sudden demise of the Foreign Minister of the People's Republic of Bulgaria, Ivan Bachev. In this hour of grief for my country and my delegation, emotion prevents me from stating how touched we are by these expressions of sympathy, which we shall transmit to the Bulgarian Government and the family of the deceased.

172. Mr. IMAM (Kuwait): May I express my delegation's deep and profound condolences and sympathy on the demise of the Minister for Foreign Affairs of Bulgaria, may God rest his soul in peace. My country and Bulgaria maintain cordial and indeed fruitful relations. In the name of Kuwait and on behalf of my delegation, I extend my profound and heartfelt condolences, and I request you, Mr. Chairman, and the Bulgarian delegation to convey my condolences to the Government of Bulgaria.

The meeting rose at 1.20 p.m.

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