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CONTENTS

Chairman: Mr. Milko TARABANOV (Bulgaria).

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 *(continued)* (A/8421, A/C.1/L.586)

GENERAL DEBATE *(continued)*

1. Mr. ARIAS SCHREIBER (Peru) *(interpretation from Spanish):* Since the representatives on the expanded Committee on the sea-bed met in Geneva last summer, two extraordinary events have taken place: the entry into the United Nations of the lawful representatives of China, and the holding of the Second Ministerial Meeting of the so-called "Group of 77" in Lima, the capital of Peru.

2. I shall not dwell on the general aspects of the first of those events because they have been amply commented on by all those who are aware of what the participation in the United Nations of the People's Republic of China means for the international community. However, I do feel that I should refer to the consequences of that participation for the debate that we are now resuming on the item dealing with the law of the sea. The Deputy Foreign Minister of China, Mr. Chiao Kuan-hua, was very eloquent in his first address to the General Assembly, on 15 November of this year, at the twenty-sixth session, when he said:

> "The Chinese Government and people resolutely support the struggle initiated by Latin American countries and peoples to defend their rights over the 200-nautical-mile territorial sea and to protect the resources of their respective countries." *[1983rd plenary meeting, para. 208.]*

I think that everyone is aware of the importance of those words as a very clear and explicit explanation of the position that China has adopted, shoulder to shoulder with the countries of the third world, in their up-to-now unequal battle against the unjust rules that govern the use and exploitation of the sea. Those statements are consistent with the philosophy of a Government and people truly aware of the problems of the developing countries and ready to help in the establishment of a new régime that will allow the coastal populations to utilize the existing maritime resources neighbouring their territories as a means of achieving well-being and progress.

3. Some time ago we stated that we could not understand why the capitalist nations and Powers that advocate and make efforts to assist the countries of the third world at the same time support activities which reduce the resources of those countries and their development capacity. We also expressed our surprise at the attitude of other States which, having encouraged fundamental revolutions within their own borders to bring justice to the neediest sectors of their population, were now adopting policies of exploitation towards the developing countries which differ little from those they condemned in the capitalist nations.

4. We were told then that the answer to that question was simple and could be found in the two very well-known popular sayings: "Business is business" and "The big fish eats the little fish". However, it is satisfying to note that this view is not generally shared. There are governments able to understand that the welfare of their own people cannot be separated from the welfare of others, that one cannot build by destroying, that if one despoils others of their possessions one ends up by despoiling oneself, because exploitation engenders reaction. The prosperity of a few at the expense of the many mobilizes the latter to achieve justice, and there cannot be peace or security for the one if there is no peace and security for the other.

5. The application of similar concepts to the law of the sea has in fact been denied by those who feel that the profits from their business can be limited only by their capacity to continue to exploit the resources that may exist anywhere in the world, even opposite someone else's coastline. Against that unacceptable claim, we, the countries of the third world, have risen in the course of a process that began in the south-eastern Pacific almost 25 years ago. Little by little, what had seemed foolhardy at first was finally understood as a legitimate cause by other developing countries and by some middle-sized Powers whose interests, understanding or realism led to a belief in a possible meeting of minds. So that today, far from standing alone, we have sufficient support to hinder the adoption of rules that would only benefit the more powerful nations.

6. The support of the Government of China therefore has helped to tip the balance very decisively. Its assistance in the preparatory work for the forthcoming conference on the law of the sea and its permanent presence in the Security Council will help to ensure that adequate formulae can be negotiated to meet the needs of the developing countries and to do away with pressures or fear of reprisals against States that defend their sovereignty. Therefore, as I said at the outset, this is a historic event that has given a new international dimension to the equally new and revolutionary doctrine supporting the 200-mile limit and that should ensure that the sea is not used for purely commercial purposes but remain a factor of social justice, in order to improve the living conditions of the great majority of the human population which is still outside the main stream, still awaiting justice and recognition of its rights to a better life.

7. With regard to the second of the important events, as the Minister for Foreign Affairs of Peru informed the General Assembly *[1988th plenary meeting]* when he reported on the results of the Ministerial Meeting held at Lima from 25 October to 7 November 1971, the representatives of the Group of 77, convinced of the urgency of concerting their efforts to achieve the objectives set, adopted principles and measures of the highest political significance on the subject of marine resources. They can be summed up as follows.

8. First, they reaffirmed the right of the coastal States to protect and exploit the natural resources of the sea adjacent to their coasts and of the soil and subsoil thereof, within the limits of national jurisdiction, the delimitation to take into account the needs of development and the welfare of the peoples.

9. Secondly, among the measures to allow the mobilization of the domestic resources of the coastal developing States, support was to be given to those measures that would encourage the full use of marine resources within the limits of national jurisdiction, so that these resources would promote the economic and social development of those States.

10. Thirdly, they reaffirmed the fact that the developed countries should refrain from adopting any measure that might interfere directly or indirectly with the full and effective mobilization of the domestic resources of the developing countries, on land as well as on the sea or on the sea-bed.

11. Fourthly, an understanding was reached that the area and the resources of the sea-bed and the subsoil thereof, beyond the limits of national jurisdiction, must be administered through an international régime that would assure to all peoples participation in and benefits from the substantive advantages derived from that exploitation, bearing in mind particularly the needs and the interests of the developing countries and, among these, the special needs of the land-locked States.

12. Fifthly, an analogous understanding was reached of the fact that when the provisions for the administration of the area and its resources had been established, appropriate measures would have to be adopted to reduce to the minimum the adverse economic effects that such activities might have on the prices of raw materials exported by the developing countries.

13. Sixthly, a commitment was made to keep periodic consultations alive among the member States of the Group of 77 on subjects dealing with the exploitation of marine resources both within and outside the limits of national jurisdiction, in order to co-ordinate positions that might be of common interest to the developing countries.

14. Thus, the nations of the third world have pinpointed the fundamental premises that must precede the formulation of new rules for the establishment of a régime for the seas, in keeping with the needs of development and the raising of the standard of living of their peoples. The link between these factors and the establishment of the limits of national jurisdiction has been specifically recognized and no one can overlook it in the preparatory committee of the forthcoming conference on the law of the sea.

15. The results of the Lima meeting were received with some surprise by some inexpert observers who hardly imagined that the developing countries might be able to agree on the establishment of a united policy on the utilization of marine resources. Yet those who followed carefully the course of our work knew that the crystallization of common ground had in fact to be achieved.

16. Studies of the distribution of resources, living as well as mineral and for purposes of energy in the ocean spaces, have allowed us to note very clearly how many of them are found in the seas of the developing countries and in the soil and subsoil of such seas beyond the 12-mile limit.

17. Maps published by FAO on the major phytoplankton-producing areas have shown that the intention of certain Powers in refusing to recognize anything but the 12-mile limit was to prevent the developing countries from utilizing for their own benefit the very large fishing banks lying beyond the 12-mile limit, but still within the ecological system of their seas, continental shelves and adjacent islands.

18. Furthermore, maps on the underwater oil deposits have made it possible to understand why those same Powers want the coastal States to renounce their sovereignty over the continental shelf beyond the 200-metre isobathic line and tenaciously oppose the 200-mile limit. While the adoption of the first of these limits would give the enterprises of those Powers the right to claim from the international authority the granting of licences to exploit areas opposite the coasts of other countries, the 200-mile limit would leave within national jurisdiction a goodly portion of the oil deposits whose exploitation would have to be regulated in accordance with the laws of the riparian States. But this applies not only to oil but also to many other natural resources which lie on the continental shelf and in the marine soil and subsoil.

19. The intention of the capitalist Powers to exploit for their own benefit all such wealth was also revealed in the drafts they submitted for the establishment of the international régime. According to those drafts, substantive benefits from extraction, transformation and trading in the

resources of the sea-bed would be retained by private companies which would be granted licences in exchange for rights and royalties which they in turn would pay as compensation. We have already pointed out the incongruity between such proposals and the concept of the "common heritage of mankind". Our observations are not gratuitous but flow from the texts of the drafts submitted, in which it is established that the rights and royalites to be paid to the international agency would first be used to cover administrative expenses and then to encourage efficient exploitation, research, protection of the marine environment and technical assistance to the contracting parties, and only when all those expenses had been deducted would the residue be distributed through regional organizations to the developing countries.

20. It should be no surprise that such proposals, which ask the coastal States to yield their exclusive rights over their continental shelves beyond the 200-metre limit and to allow private enterprises from other countries to rake in the majority of the income, paying out only sums that had been the object of many deductions and allocations, have been compared with the old story of the renunciation of the right of the first-born in exchange for a mess of pottage. But what is surprising is that it can still be thought that the members of the third world are so under-developed as to be willing to accept such a transaction. Just as no one is misled by use of the term "freedom of the seas" to justify the exploitation of its living resources merely to benefit the more advanced Powers, so no one is now misled by confusing the concept of the common heritage of mankind with the establishment of a régime for the sea-bed that would allow the private enterprises of those great Powers to possess themselves of the non-living resources of the sea adjacent to the coasts of the developing countries.

21. Quite the contrary: the latter group of countries, interpreting the "common heritage of mankind" in its true meaning, advocate establishment of an international authority with sufficient powers to administer the area and, directly or in association, to take part in the exploration, exploitation, transformation and merchandizing of the resources thus extracted so that the resultant benefits, once the enterprises have received the amounts due them taking into account their investment, amortizations and reasonable utilities, can then be devoted to the developing countries.

22. The first reaction of the more advanced States to the establishment of a régime of the kind we have just proposed reveals that their interests are not in keeping with the concept of the common heritage of mankind. This is a fact that the members of the third world will have to take into account when they analyse the different drafts submitted thus far.

23. Such an analysis, I think it only timely to point out, cannot be hasty, even though reasons of urgency may be adduced, for such reasons are groundless. The determination of certain States to hurry the adoption of decisions for the holding of the forthcoming conference was explained as a desire to avoid the uncontrolled exploitation of the sea-bed and ocean floor and the subsoil thereof without any international standards of preservation and without benefiting other countries. But the reason becomes evident because, on the one hand, the United Nations, pursuant to the terms of the "moratorim resolution", has already decided that exploitation activities shall be postponed pending the establishment of the régime, and, on the other, existing rules only authorize the coastal States to explore and exploit the resources of their respective continental shelves, but not those of other countries unless with the consent of the latter in accordance with national legislation.

24. We all know full well the interest shown by certain Powers in ensuring the adoption of the international standards and rules that would allow them to take advantage of the exploitation of the resources of the sea-bed, using their greatest scientific, technological and financial means. We know that that undertaking can be hindered when the developing countries, discovering the resources lying in the neighbourhood of their own territories, decide for themselves to extend their jurisdictions—as, in fact, they are doing.

25. Two particularly important problems that call for priority consideration are those that deal with the possible effects of the exploitation of the sea-bed on the biological balance of the sea and the interests of the coastal States and on the prices and markets of the raw material exported by the developing countries. With regard to the first of these matters, we have very accurately to determine the scope of the danger and damage that the exploitation of the sea-bed might do to the life of species and health and other interests of the coastal population. We already know that in certain regions the exploitation of non-living resources is completely exclusive of the exploitation of living resources, and we also have concrete experience of the damage the abuse of the sea-bed has done to beaches and to the food man consumes. To put it mildly, it would be imprudent hastily to adopt agreements authorizing the corporations of the developed countries to explore and exploit the sea-bed without knowing the result of investigations under way on the consequences of such activities as a factor of contamination and deterioration of conditions of life in the sea.

26. With regard to the second of these problems, studies carried out thus far recognize the need for more data to know accurately just how much the exploitation, transformation and commercialization of the energy and mineral resources of the sea-bed and ocean floor can affect the prices and markets of similar land-based products. Because of the importance of raw materials for the economy and trade of the developing countries, it would be irresponsible hastily to adopt commitments without first having sufficient information on the damage that might be done and on procedures to be adopted to minimize or to reduce such damage.

27. To expect us blindly to agree to the establishment of an international régime whose precise consequences are unknown to us is really to ask too much. And to think that we shall allow ourselves to be seduced by proposals that may appear attractive and are submitted to the developing countries as a generous act on the part of certain Powers is to think us too naïve. History has taught us why we must not be so gullible, and why there is a profound difference between what is said and what is done.

28. Had the world we live in achieved the ideal situation to which man has always aspired when acting and working

in good faith; had we been able to establish an international and united society within which States coexisted not only in peace but in justice; had the benefits of nature and civilization been so distributed that luxury and poverty did not exist side by side in the world; had all the peoples of the world been able to develop at levels compatible with the dignity of their members and with their desires and hopes of living without fear, without hunger, without ignorance and without misery; had we truly been behaving as a single group—mankind united in the search for the common good—then we would need no frontiers to separate us on land and no limits of national jurisdiction on the sea.

29. But since thus far we have not achieved any of those premises; since the world is still a mosaic of inequality where the most powerful nations dispute hegemony over the rest of the nations, where we see brutal conflicts of which the developing countries are victims, where we see other Powers struggling to defend their interests, their conceptions and their systems, which each considers best; since we see a world where unilateral measures are adopted which damage the economy and trade of others; since we see a world where power and wealth are accumulated and amassed even at the expense of the needy nations—how, then, can these needy nations be asked to renounce their right to dispose of the resources they need to meet the needs and claims of their peoples.

30. The developed nations should take note of two very fundamental facts: first, that the countries of the third world are not ready to continue to accept the validity of an international order that damages them and have now united to obtain adoption of new regulations on the use and exploitation of the sea that will ensure their right to development; and secondly, that that determination will have to be respected if an equitable régime is to be set up that will contribute to bridging the gap between the wealthy and the needy nations and that will duly meet the requirements of the welfare and progress of all peoples without exception.

31. On this matter the solutions proposed may differ, and have in fact differed, when dealing with the establishment of the most reasonable limit for the exercise of national jurisdiction. I do not intend here to repeat what others have amply dwelt on when analysing the different factors that must be borne in mind. Furthermore, I think that we all know full well the geographical, ecological and socio-economic reasons that have led many countries to establish 200 miles as the outside limit of their national jurisdiction. But in the light of that fact, which is irreversible, it is interesting to see what arguments have been adduced against the 200-mile limit. We shall see that the adversaries have been unable to present well-founded objections and have therefore adulterated the true meaning of the 200-mile limit in a vain effort to avoid what is today unavoidable.

32. In fact, the first of the arguments presented was the malicious contention that the adoption of the 200-mile limit would leave part of France under the jurisdiction of the United Kingdom and part of Italy under the jurisdiction of Yugoslavia and vice versa, just to cite two examples. But those who resort to such levity are trying to pour ridicule on a thesis without realising that what is ridiculous is their objection. Since we are all fully aware of the fact that the establishment of a maximum limit, whether it be 12 or 200 miles, does not and cannot imply its uniform adoption by all States, and that in those regions where distances from coast to coast or other very valid reasons make it either impossible or inappropriate to apply the maximum limits, it is natural and peaceful that lower limits should be set. It appears puerile to have to explain that the maximum limit is nothing but the maximum limit—it is not a single limit. It seems lamentable to us that resort has been made to such arguments that deliberately alter the premises in order to lead to absurd conclusions.

33. The second argument presented was that the establishment of the 200-mile limit would leave the coastal States in possession of 25 or even 40 per cent of the seas and oceans of the world, according to conflicting data coming from the United States and the Soviet Union. Apart from the fact that it would have been much more effective if the two Powers had agreed on their story before putting such figures into circulation, the reponse to this second fallacy results from the response to the first. If the 200 miles are not a single limit, but only a maximum limit to be applied in regions where it is both necessary and possible to do so, it is also not in good faith to carry out any type of estimates or assessments on an inaccurate basis. Excluding those regions where the limit must be set at less, either for geographical reasons or for economic and social factors, the percentage will be far lower than those that were so hastily put forward. But even if the figures were accurate, we would still have to ask: which would be preferable: that more than 100 coastal States possess 25 or 40 per cent of the seas, or that fewer than 15 Powers possess 60 to 75 per cent, as they have been doing up to now? Therefore, when using inaccurate arguments one has to be very careful, because apart from being inaccurate they are not very convincing.

34. With regard to the third argument presented, according to which the 200-mile limit would put an end to freedom of navigation and trade, it is surprising that we should still hear this type of argument when we know full well that the limit proposed responds to purely economic needs, related to the exploitation of the natural resources and the preservation of the marine environment, without in any way setting aside the freedom of communication and exchange which are of equal interest to all States.

35. Furthermore, we must bear in mind the fact that not even with regard to resources are undertakings by foreign firms to be excluded from the 200 miles, but that exploitation will be subject to adequate regulation, that will duly take into account the needs, interests and rights of the respective coastal States. In the case of the living resources, it is a question of reserving for the nationals of the coastal States those species whose existence is conditioned by the ecologic systems of the sea, the continental shelf and adjacent islands, which therefore must be considered as part of the resources of the coastal States, since the latter have sufficient titles to utilize them for the benefit of their own development; while foreign fishing of migratory or pelagic species is allowed subject to the fulfilment of certain regulations in order to avoid their extinction and the payment of modest amounts for registration and fishing licences. With regard to the resources lying on the conti-

nental shelf, the sea-bed and the subsoil thereof, again contrary to what has been said, it is not a question of prohibiting foreign operations but of regulating their exploitation and the distribution of the benefits in accordance with the laws of those States opposite whose coasts the operations are carried out.

36. There are really no valid arguments for continuing to oppose the 200-mile limit as the maximum breadth of national jurisdiction. This has been understood by both the experts and the Governments of an increasing number of countries—large, medium-sized and small—from the five continents of the earth. Even here in the United States we have had the satisfaction of noting that that limit is gradually being supported by representatives of different legislatures. For example, the State of Massachusetts has adopted the necessary regulations to preserve for itself the exploitation of fishing resources as well as of the continental shelf up to a distance of 200 miles from the coast.

37. It is clear that, foreseeing this process, the initial advocate of the idea of the establishment of an international régime to govern the sea-bed, the ocean floor and the subsoil thereof, Ambassador Arvid Pardo, of Malta, to whose vision, initiative and efforts we owe a goodly part of the progress we have achieved, has come to the conclusion, embodied in his draft treaty on ocean space *[A/8421, annex I, sect. 11]*, that the limit of 200 miles is the most reasonable and viable to delimit national and international jurisdiction in the different areas of the ocean space.

38. However, none of this is due to chance or to arbitrary and hasty decisions, but to the understanding of the reasons which underlie the new philosophy of the law of the sea as the instrument of equity among States and of progress and welfare among peoples.

39. We therefore hope that we shall very soon establish over the seas a just, realistic and lasting order, for which the international community has been waiting, that will put an end to the useless controversy between the wealthy and the poor nations, which has been the cause of such unpleasant disputes and harmful confrontations.

40. The adoption of this new régime will be an extraordinarily important step in the field of international relations, and will contribute to speeding up the achievement of the objectives and goals of development, which are inseparable conditions for the peace and prosperity of mankind.

41. Mr. Chairman, I took the liberty of making a substantive statement today, somewhat over-stepping the limits that you had set and that had been suggested by the sea-bed Committee with your endorsement, because not all Members of the United Nations are members of that Committee, and to this must be added the fact that my country was the host and chairman of the Second Ministerial Conference of the Group of 77, where, as I said earlier, matters touching very closely the subject before us were discussed.

42. Despite the liberty I have taken, as a sponsor of draft resolution A/C.1/L.586 I would wish this to be a transitional meeting where basically procedural questions are to be discussed.

43. Mr. GALINDO POHL (El Salvador) *(interpretation from Spanish)*: The First Committee is now considering the report of the Committee on the peaceful uses of the sea-bed and, as is usual in these cases, we are ready now to gauge the work done and to recommend guidelines for the 1972 work. In this connexion, may I be allowed to submit the assessments made by my Government of the work reported upon.

44. Considered in the light of the objectives, namely, the holding of the Third United Nations Conference on the Law of the Sea, the results of 1971 are modest—so much so that with some realism we could even wonder about the holding of the Conference in 1973.

45. 1971 was a hard year—unexpectedly so—for the Committee, and it portends a thorny road for the international community to travel in the field of maritime law. Thus, for example, never in the history of the United Nations have organizational and procedural problems taken up so much time as they did in the Committee during the month of March.

46. Yet, there are some elements which allow us to judge and assess the results from a less pessimistic standpoint. Some observers and even some participants might perhaps deny the existence of any positive results for this year, but as a participant I feel that the Committee's two sessions held in 1971 do indicate a positive balance.

47. I might be asked: what are those positive achievements? I might be told, furthermore, that the Committee has shown itself unable to draw up a list of items, which must be the preliminary stage of the forthcoming Conference. While it is true that one of the negative results might be the lack of such a list, we do have concrete proposals on the matter and, after considering those drafts, it would appear that the consensus on a unified list is not too distant.

48. Furthermore, the lack of a list is compensated for by other facts, since they imply a substantive step towards the next stage of preparatory work. Very often, committees touch on different stages of their work at the same time, which, from a methodical standpoint, should be successive. Thus, although this year the Committee was unable to draw up the list that I mentioned, it did nevertheless, with significant results, take a few steps towards the identification and pinpointing of elements that are very important for the establishment of conversations aimed at a future régime of the sea; and it did so with a very detailed, substantive and concrete discussion of the various national positions, at times with heartening frankness. Never as clearly as in the course of this year were those positions so specifically defined, and it is a known fact that no multilateral negotiation can take place without such fundamental, decisive and basic information as are national views, interests and ideas.

49. We have noted, for example, that there are not as many positions as there are countries. Basically, there are three or four fundamental positions, each of which has a number of advocates. We have also noted that there is a group of countries still studying the problems of the sea and taking advantage of the debates in the United Nations

to prepare themselves to take an official stand on the major controversies in the very near future—a group of countries which will doubtless swell the numbers behind the three or four fundamentally different positions that exist.

50. But to assess the work done and to decide on the critical and decisive points for negotiation, I would sum up what my Government considers to be the fundamental questions. Obviously, the success or failure of the third conference on the law of the sea will depend on how these matters are dealt with.

51. Without underestimating the interest or importance of numerous problems, we would, basically, reduce the great questions to the following: first, the nature of the forthcoming Conference from the standpoint of the list of subjects; secondly, the establishment of the international régime for the sea-bed, particularly where it concerns the machinery for exploration and exploitation and the limits of the zone; thirdly, the concept and limit of the territorial sea; fourthly, the rights of coastal States; fifthly, the régime governing straits; sixthly, the safeguarding of the interests of the international community as expressed in all new instruments of maritime law.

52. With regard to the Conference itself, last year's resolution of the General Assembly indicates that it is to be a global conference. Yet, this concept has not sufficiently influenced the course of the work during this year.

53. It must, however, be emphasized that the United Nations agreed to that type of conference when it expanded the mandate of the sea-bed Committee. The stress that some of the developing countries have placed on preparing a conference sufficiently comprehensive to deal with the great problems is due to an approach that is both methodological and political, on the understanding that both points of view are necessary not only for safeguarding national interests, but also to ensure that appropriate measures may be provided to lead to ultimate agreement.

54. If we try to do without reasonable standards of work, we undermine any possibility of future agreement. The importance of global negotiation lies in the fact that it makes possible the harmonization of opposing and seemingly irreconcilable interests through a series of concessions. Such standards, therefore, serve the interests of the international community through exploiting genuine possibilities of agreement in this very complex field.

55. The problem of the list of items could be approached from a constructive standpoint and not only in order to forestall controversies or to gain technical advantages for the forthcoming Conference. The list to be produced must be a neutral one; in other words, it must be made a subject accessible to all the interests involved and then must be given, purely and exclusively, a methodological significance. Any effort to use the list for purposes of advancing the solution of problems must be doomed to failure; but at the same time, any effort to avoid a specific mention of subjects would jeopardize suitable preparation of the forthcoming Conference.

56. At the moment, there are two lists that indicate the extreme positions in the philosophic and political approaches. One is limited to those matters that were left pending or inadequately defined in Geneva in 1958: the breadth of the territorial sea, fisheries, and international straits. The other list, that of some of the Latin American countries, including my own, responds to the idea that the third conference on the law of the sea should not only examine those matters pending in 1958—the breadth of the territorial sea, the régime governing straits, and various additional regulations governing fishing—but should also be a conference that will up-date the law of the sea.

57. In the Latin American list the subjects have been classified as follows: *(a)* matters regarding which a clear and definite international agreement is lacking (thus, for example, but not exclusively, those that may be considered as having been left pending at the 1958 Geneva Conference); *(b)* matters which, in view of new circumstances in the world, call for redefinition because the existing rules are unfair and obsolete, based as they are, respectively, on equal treatment for both developed and developing countries, and on an outmoded technology; *(c)* matters which have not given rise to major controversy but are not governed by any universally or generally accepted rules and, hence, are governed by divergent national rules or local customs; *(d)* matters which, although included in the Geneva Conventions of 1958, are no longer in keeping with the present degree of development of the international community, which reflect to an excessive degree the interests of the maritime Powers and which respond to concepts originated in international law three or four centuries ago.

58. Following the conferences on the sea of 1958 and 1960, a large number of developing countries became aware of the fact that, although those Conventions do codify valuable international practices, they are in some cases drafted to benefit the great maritime Powers and merely reiterate the laws established by the Europeans and later spread abroad in the era of their colonial expansion.

59. The list should be neutral as far as its language is concerned, in the sense that it should not prejudge solutions or give advantage to any party. Some seek to achieve that neutrality by means of bare and abstract formulae, but it may be questioned whether such a procedure does not simply shift or postpone the problems touching on specific questions. It might perhaps be helpful once and for all to face up to the problem of preparing a detailed list, because if the Committee, to avoid difficulties, were to agree on a very general and abstract list it would have failed to fulfill its mandate and would, instead, have shifted elsewhere and postponed the problems.

60. The means must be tailored to the ends, and, in this case, the list of subjects that would be the means must be tailored to ensure the ends, namely, the Conference. It must be so drafted as specifically to guide and direct the work of that Conference. Agreement on the nature of the list could help in achieving agreement on the contents. It might be agreed, for example, that the list is a way of guiding and channelling the preparation of concrete proposals, that it is of a tentative and preliminary nature, that it is subject to additions, to deletions, to changes, until the plenipotentiary conference adopts its own programme of work.

61. From the foregoing will be gathered what the list would not be, and would not be intended to be. It would not be intended to be a document through which States would agree to any concept whatever, not even that certain subjects call for revision. Therefore, the position of countries which feel that the Geneva Conventions of 1958 are valid and sufficient today would in no way be affected, nor would it imply that the third conference on the law of the sea was designed merely to complete those Conventions.

62. The great problem confronting our efforts to find neutral language flows from the fact that the very mention of certain subjects is considered by some as compromising, and implying that they recognize the existence of that problem, thereby sapping the validity of rules which those nations consider to be still in force.

63. With regard to the régime of the international area of the sea-bed and ocean floor, we note today that specific proposals on exploration and exploitation have been submitted to the Committee. We must point out that this year the developing countries have themselves also submitted draft resolutions.

64. Generally speaking, we might say that we note three basic trends concerning exploration and exploitation. The first would reduce the régime to an ordering or registering of licences, and therefore would wholly rest upon private enterprises. The second trend seeks the utilization of the sea-bed through an immense multinational enterprise in which States would be partners and direct exploiters. The third trend seeks the solution in the establishment of a mixed enterprise that would enjoy the administrative ability of private enterprise, but would have at its disposal methods of control that would ensure a rationalized utilization of the resources and the administration, and would avoid having profits squandered on excessive salaries.

65. Obviously, trying to reconcile these three positions will be a laborious undertaking, but I think there is room to hope that formulae of understanding can be devised. My country is among the sponsors of one of the drafts submitted, that dealing with the establishment of a mixed enterprise *[ibid., sect. 8]*. We understand that this draft is flexible enough to bring together the very justified views of those who support different solutions, and lead to an understanding among all the interests at play.

66. We believe that in this case agreement will be difficult while formulae are very general or too abstract. But the solution will be more feasible if we depart somewhat from what is usual in the United Nations when the details are examined and defined. My Government feels that although in the United Nations, as a rule, agreement is achieved through abstraction–which to a large extent empties understandings of their content–in the case of maritime law this procedure can no longer be followed. We will have to work with specific, detailed and concrete elements.

67. Another important question being debated is the limit of the international area of the sea-bed. Again, different positions confront one another, each one supported by its measure of reason.

68. One view would define the limits on the basis of depth–thus the 200-metre isobath. May I say that this would take into account a depth measurement already proposed. But this view confronts another, which is the concept of distance. Those who uphold the concept of distance, including my own country, intend to compensate for the disadvantages of depth, because of the geographical characteristics of our coastline. If we take the 200-metre isobath, we would get the following results: the United States would have a continental shelf with a breadth of approximately 250 miles on the northeast coast, and the Soviet Union an even wider continental shelf in the Artic Ocean. On the other hand, Peru, in certain parts of its coastline, would have about 4 miles of continental shelf.

69. Therefore, it would appear reasonable that a meeting of minds could be established by trying to be equitable in combining the two criteria of distance and depth.

70. Yet the case is not as simple as would appear at first sight, because according to the Geneva Convention on the Continental Shelf[1] some States have continental shelves that are much broader than would appear to be the limit of the distance understood as compensating for the geophysic disadvantages–generally calculated as about 200 miles. These countries do not appear to be ready to yield what they consider to be their acquired rights. In this case another meeting of minds will have to be sought through up-dating these rigid international norms, through an equitable process that weighs each and every case on its merits.

71. Another critical question that has emerged from the debates is related to the international straits. Suppose that with the expansion of the territorial sea some of those international straits are left outside the international area: then the question arises whether there shall be free and innocent passage allowed. While these straits remain international zones, they are free, but when they become part of the territorial sea we will have created a new rule: that of free navigation.

72. This is no novelty for those countries that call for a redefinition of the rules governing the territorial sea and for its division into sub-zones with their own specific rules that would include compatability between the territorial sea and free navigation, setting aside the old binomial concept of free and innocent passage in the territorial sea on the one hand and free seas and free passage on the other.

73. Yet in order to solve this specific case very careful attention will have to be paid to the particular interests of the coastal States bordering on those international straits because, quite rightly, they note the risks that sometimes accompany the passage of ships flying different flags–and not because they are opposed to anyone using their waters but because of the risks entailed in the new gigantic tankers and nuclear ships particularly since there is no regulation concerning damages and no one yet knows what the responsibility in case of a catastrophe might be.

74. The case of the straits, although given less publicity than that of the territorial seas, will be one of the most

1 United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.

critical and important questions to be discussed at the third conference on the law of the sea, and we believe adequate attention must be given to the interests of the coastal States when these specific problems are discussed. The coastal States certainly cannot be unconcerned over what happens in neighbouring waters.

75. We believe that consideration of the question of the breadth of the territorial sea will also be very important and, in fact, the very concept of the territorial sea will have to be studied very carefully. It appears that we now tend to discard the fears of some countries and delegations that a territorial sea of a greater width than that traditionally accepted might imply that wide maritime areas would be placed under the traditional rules governing the area and that we would therefore be arriving at a distribution of the sea areas in accordance with the old concept of *mare clausum.* Yet, those who advocate a wide territorial sea have defined their claims by means of staggered rules governing different distances from their coasts. Other States which disagree on the denomination of this maritime zone have expressed the concept that the reduction of national jurisdictions to the traditional territorial seas and the contiguous zone as defined in the Geneva Convention[2] is now completely outmoded.

76. With different names but with considerable common substance, both groups of countries have agreed that certain national jurisdictions must go beyond the traditional concept of the territorial sea.

77. When writing the history of this complex negotiation to establish a new maritime law more in keeping with the twentieth century than traditional law, it will perhaps be recognized that a catalysing influence was exercised by those countries that were courageous enough more than 20 years ago to proclaim as national maritime zones, under different names, regions that were wider than those they inherited from the teachings and jurisdictions set up by Europe.

78. Be it under the title of territorial sea or patrimonial sea, an increasing number of States, particularly developing States, have declared their dissatisfaction with the existing régime of the sea, which, since it maintains reduced national jurisdictions, thereby increases the area known as the free or open sea and, consequently, the water and subsoil of those regions that only the great maritime Powers can exploit, since they alone possess the adequate techniques and ability to exploit the seas all over the world.

79. The idea has gained ground that the developing countries are capable of exploiting the sea closest to their coastlines and that this is one of the reasons for expanding the "national jurisdiction" regardless of what name is used. All countries which one way or another advocate general or specific national jurisdictions beyond the limits of the contiguous zone as defined in the Geneva Convention on the territorial sea and contiguous zone, advocate a substantive revision of maritime law.

80. Furthermore, it has been recognized that these national jurisdictions cannot be a field closed to countries incapable of exploiting them, but that adequate arrangements must be made in order to ensure exploitation particularly of perishable resources, on the understanding that as the capacity of the coastal State grows, there must be a correlative reduction of the participation of other countries in the exploitation of the region. All this is without prejudice to agreements that may be signed among the interested parties, including the recognition of the historic rights and rules that the coastal States, in reasonable exercise of their rights, may agree to with the fleets of countries that share their biological wealth.

81. My Government has upheld the concept of the physical and ecological unity of the sea and that any division of the seas by men—even of internal or territorial seas—must be subject to regulations that clearly differentiate sovereignty over maritime territory from sovereignty over territory on dry land. Even in traditional international law, innocent passage introduced a specific and very important modality into the exercise of sovereignty over maritime territory. Those specific modalities will probably have to be expanded to satisfy the legitimate interests of the international community.

82. In the light of technological progress, risks of contamination and the feeling of solidarity among all countries, and, furthermore, given the existence of an international community in the process of development, we must consider how and to what extent the interests of that community must be reflected in this new maritime law. In line with those ideas, the establishment of a new régime for the sea could not be considered sempiternal or immutable —it can only be the response to the specific circumstances of the present, among which, and among the most significant, we would include the division of the world into the groups of developed and developing nations, and the at times fruitless efforts of the developing countries to speed up their development and to ensure that the gap between them and the developed nations is maintained if no longer narrowed.

83. Stressing the historic meaning of the new law of the sea, my Government contends that the physical and ecological unity of the waters of the seas must be proclaimed and the interests of the international community in such seas must be recognized. Therefore, specific rules must be set forth in keeping with the zones governed, to harmonize the interests of all concerned, including divergent national interests, without in any way disturbing the interests of the international community.

84. These problems of negotiation are ramified into many questions of detail, and are complex enough to explain the difficulties confronting the Committee on the peaceful uses of the sea-bed. My Government believes that in the course of the present session of the General Assembly it would be appropriate to adopt a procedural resolution taking note of the work of the Committee and urging it to continue it in 1972. We believe that for the moment we should in no way tamper with the mandate given the Committee in 1970. We should be well advised to wait while the Committee continues its work, and next year the Assembly should carry out a detailed, thorough and comprehensive evaluation of the results achieved. The agreement on the mandate of the Committee arrived at in 1970 itself resulted from

2 Convention on the Territorial Sea and the Contiguous Zone (United Nations, *Treaty Series,* vol. 516 (1964), No. 7477).

very arduous negotiations, and any effort to modify it substantively, even though we may admit it was intended to improve it, would give rise to very difficult discussions, and we doubt whether at this late stage in its work the General Assembly could undertake it. But ultimately the General Assembly will not be able to evade two main questions: the composition of the committee–that is, entry into it of a few additional members–and the number and duration of sessions for 1972. However, in all other matters my delegation wishes to support the procedural draft resolution submitted by a number of countries *[A/C.1/L.586]*.

85. The CHAIRMAN *(interpretation from French)*: I thank the representative of El Salvador, Ambassador Galindo Pohl, Chairman of Sub-Committee II of the sea-bed Committee.

86. I now call on the Secretary of the First Committee to respond to a question addressed to him at the last meeting by the representative of Jamaica concerning the title of the question we are discussing.

87. Mr. CHACKO: I would refer to the question raised by the representative of Jamaica at the 1843rd meeting in connexion with the title of the present agenda item.

88. As representatives are aware, this item was included in the agenda of the General Assembly at its twenty-second session on the proposal of the delegation of Malta and was allocated to the First Committee for consideration and report. The title of the agenda item as allocated read as follows: "Examination of the question of the 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 the use of their resources in the interests of mankind".

89. The item was included in the agenda of the twenty-third and twenty-fourth sessions of the General Assembly under the same title, except that at the twenty-fourth session the words "Examination of the" at the beginning of the title were omitted. Members will recall that at the twenty-fifth session this question formed part *(a)* of agenda item 25, which consisted of four parts. There was no title for agenda item 25 as a whole. The title of part *(a)* was the same as at the twenty-fourth session–namely, "Question of the 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 the use of their resources in the interests of mankind". However, resolution 2750 (XXV), which was divided into parts A, B and C, was adopted under item 25 as a whole and bore the title "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". The provisional agenda for the twenty-sixth session was worded in the same way as the title of resolution 2750 (XXV), and was included in the agenda by the General Assembly, on the recommendation of the General Committee, as item 35, in the same form as it is given in document A/C.1/1012, which contains the letter in which the President of the General Assembly informed the Chairman of the First Committee of the allocation of items to this Committee.

90. In this connexion, I might also mention that, beginning with the twenty-third session, the agenda item has regularly included also a reference to the relevant Committee. At the twenty-third session, this was the report of the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. At subsequent sessions, including the present session, the reference was to the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

91. That is the background of the title of the item as it now appears in document A/C.1/1012.

92. Mr. BONNICK (Jamaica): I wish to thank the Secretary of the Committee for the explanation that he has just given in answer to the question that I raised at the last meeting of this Committee. The explanation, however, raises precisely the problems about which my delegation has been very apprehensive.

93. In the first place, I wish to draw the attention of the Committee to the three different titles of the agenda item between the twenty-second and twenty-sixth sessions of the General Assembly. We note that in the first change the first three words of the original title were deleted, namely, the words "Examination of the". In the second change, the next three words also disappeared, namely, "question of the", and several words based on the title of resolution 2750 (XXV) were added at the end of the new title, which we now have before us.

94. Owing to an oversight on the part of many delegations during the last session of the General Assembly, when the Rapporteur's report was presented to the plenary meeting of the General Assembly these resolutions were placed under a collective title. I am sure that a number of delegations missed this particular point then. In addition, several delegations missed the point when the provisional agenda was presented to the twenty-sixth session of the General Assembly and adopted in a plenary meeting.

95. However, I note that no satisfactory reason has been given for these changes, which have, for my delegation at least, certain major implications with respect to the position we shall take in discussing the question of the régime and also in discussing the other, allied questions which fall within the ambit of Sub-Committee II.

96. At this point, all I can say is that my delegation hopes that this kind of surgery or editing will not continue *in vacuo* and without reference to this Committee, to the point where the international sea-bed area is likely to disappear from the title of our agenda item before the convening of the conference on the law of the sea, which is scheduled for 1973.

97. I should like to turn briefly to the title of the present agenda item before us. A close look at the title will show that the word "present" taken against the background of the omission of the words "question of" would tend to give the impression that the United Nations is regularizing the existing respective claims to limits of national jurisdiction. It is the understanding of my delegation that one of the essential purposes of the conference of the law of the sea is

to negotiate in a collective way what these limits should in fact be.

98. As a result, my delegation wishes to place on record formally at this meeting this understanding, which is also buttressed by the reaffirmation contained in the second preambular paragraph of resolution 2749 (XXV), the declaration of principles, that there is an area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction the precise limits of which are yet to be determined.

99. Mr. CHACKO (Secretary of the Committee): The representative of Jamaica made reference to two deletions. The first was the deletion of the words "Examination of the", and the second, the deletion of the words "question of the". I believe that these were, as he correctly pointed out, editorial changes–the first occurring in the agenda as adopted at the twenty-fourth session, and the second in the report of the Rapporteur when presented to the last session of the General Assembly. Since then it has continued to be copied in the subsequent documents concerning this item.

100. I should like to point out that if the First Committee feels that the title of the item should be restored to what it was before, that is, by the addition of "Question of the", it would be possible for the Committee to make an appropriate recommendation through the Rapporteur's report to the current session of the General Assembly.

101. The CHAIRMAN *(interpretation from French):* I believe that the representative of Jamaica has made his point clear. His statement will appear in the verbatim record and I am sure that all delegations will take note of his views. His views may have some repercussions at the end of our discussion. I doubt that delegations would want to become involved in a discussion of this matter now which might lead us somewhat far afield.

102. I should like to inform members of the Committee that Chile, Morocco and Uruguay have become sponsors of draft resolution A/C.1/L.586.

103. I should like to make some comments on the organization of the discussion. We have noted from the statements that have been made so far–and some have been rather long–that the aim of the discussion we are now holding seems to be the adoption of a procedural resolution. The representative of Ceylon indicated at the conclusion of his statement at the last meeting, that the whole question was to agree on a complete list of subjects and problems that should be submitted for decision to the conference on the law of the sea, since all the substantive questions will have been discussed in the sea-bed Committee. Members of the First Committee have had an opportunity to express their views in the sea-bed Committee. Of course, those who are not members of that Committee could set forth their positions here if they wished, but we should not force them to speak if they prefer not to do so. However, I also would not wish to prevent members of the sea-bed Committee from speaking if they deem that necessary. But let us be clear on this point. We have no intention of limiting anyone's right to speak unless there are exceptional circumstances, in which case the Committee must take the necessary steps.

104. Perhaps we should limit our discussion to deciding on the number, duration, timing and site of the 1972 sessions of the sea-bed Committee; Ambassador Amerasinghe, the Chairman of that Committee, has said that if the First Committee does not take a decision soon on those questions, we may be overtaken by events. Hence, we must take that into consideration.

105. I would therefore ask delegations not to forget that we do not have too much time available. I should be grateful to them if they would facilitate our discussion as much as they can so that we may be able to finish this part of our work in accordance with our time-table. I would repeat once again that all representatives may speak whenever they wish, in order to set forth their views or their objections to the views of others. But they should also keep in mind the position in which the Committee finds itself at this time.

106. Since there is only one name on the list of speakers for tomorrow's meeting, it would be preferable to devote that meeting to considering and voting on the draft resolutions on disarmament, if there are no objections to that.

It was so decided.

The meeting rose at 5.10 p.m.

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