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CONTENTS

	Page
Agenda item 99: Security of Missions accredited to the United Nations and safety of their personnel *(concluded)*	1
Agenda item 34: Implementation of the Declaration on the Strengthening of International Security: report of the Secretary-General Report of the First Committee Agenda item 35: 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 Report of the First Committee	1

President: Mr. Adam MALIK (Indonesia).

AGENDA ITEM 99

Security of Missions accredited to the United Nations and safety of their personnel *(concluded)**

1. The PRESIDENT: The General Assembly will recall that, by paragraph 5 of resolution 2819 (XXVI) of 15 December 1971, based on the report of the Sixth Committee *[A/8585]*, it decided to establish a Committee on Relations with the Host Country to be composed of the host country and 14 Member States to be chosen by me in consultation with regional groups and taking into consideration equitable geographic representation.

2. Having in mind that the Committee would be composed of 15 Member States and taking into consideration equitable geographic representation, I came to the conclusion that the distribution of seats on the Committee should follow that of the Security Council. Thus, in addition to the United States as the host country, it should have among its members the other four permanent members of the Security Council and in addition three African States, two Asian States, one Eastern European State, two Latin American States and two Western European and other States.

3. In accordance with the decision of the General Assembly, I have consulted with the regional groups and, on the basis of that consultation, I now wish to inform the Assembly that the members of the Committee on Relations with the Host Country will be as follows: China, France, Union of Soviet Socialist Republics, United Kingdom and the United States; Ivory Coast, Mali and the United Republic of Tanzania; Cyprus and Iraq; Bulgaria; Argentina and Guyana; and Canada and Spain.

AGENDA ITEM 34

Implementation of the Declaration on the Strengthening of International Security: report of the Secretary-General

REPORT OF THE FIRST COMMITTEE (A/8626)

AGENDA ITEM 35

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

REPORT OF THE FIRST COMMITTEE (A/8623)

4. Mr. MIGLIUOLO (Italy), Rapporteur of the First Committee: Last year during the jubilee session of the United Nations a document of historic significance was approved by the General Assembly: the Declaration on the Strengthening of International Security *[resolution 2734 (XXV)]*. That document was the result of two years of extensive debate and consultations and of patient and constructive efforts by a restricted drafting group which managed to strike a balance among the different views expressed by many Governments and delegations on this vital problem of international relations. Some delegations felt, therefore, that it might be wise this year not to adopt new substantive documents, in order not to risk altering such a delicate balance. Other delegations, however, considered that it would be expedient to draw attention to some parts of the Declaration whose implementation appeared in the present circumstances to be of particular importance and urgency. From these two basic positions stemmed the draft resolution that I have the honour to submit for the approval of the General Assembly, in my report *[A/8626]*.

5. The decision taken last year by the Assembly to convene a conference on the law of the sea has confronted the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction with an important and demanding task. Therefore the First Committee took note with satisfaction of the encouraging

* Resumed from the 2019th meeting.

progress achieved during the preparatory work done in the course of 1971, in particular with regard to the elaboration of an international régime and machinery. Delegations were, however, well aware of the fact that because of its complexity the matter required further consideration. Consequently the draft resolution submitted today for the approval of the General Assembly is of limited scope. On the one hand, it aims at completing the membership of the sea-bed Committee, in keeping with the decision taken by the General Assembly on 25 October to restore the lawful rights of the People's Republic of China in the General Assembly, in the Security Council and in all other United Nations organs. On the other hand, the draft resolution deals with the organizational problems related to the future activities of the Committee, and proposes therefore that the Committee hold two sessions: one in New York, during March and April of next year, and one in Geneva, during July and August. The text of the draft resolution is to be found in paragraph 22 of the report I have the honour to submit to the Assembly *[A/8623]*.

Pursuant to rule 68 of the rules of procedure, it was decided not to discuss the reports of the First Committee.

6. The PRESIDENT: The Assembly will take up first the draft resolution contained in paragraph 18 of the report of the First Committee *[A/8626]*, under agenda item 34.

7. I shall now call upon those representatives who wish to explain their votes before the voting.

8. Mr. LEGNANI (Uruguay) *(interpretation from Spanish):* I have come to the rostrum not exactly to explain the vote of my delegation or to substantiate it in advance, but rather to make a general clarification on the item relating to the strengthening of international security.

9. When this item was considered in 1969 my delegation attached the greatest importance to it, because we believed that it encompassed all the purposes assigned to this Organization, that strengthening of international security guaranteed the necessary conditions for the peaceful development of the lives of nations, of peoples and of all men, and that while the lofty principles and wise norms of the United Nations might not be the ultimate goals or the epitome of perfection, they none the less provided the steadfast and right course for us to follow in order to attain the worth-while benefits to be derived from or afforded by the strengthening of international security. We stated at the time that existing international law, the norms laid down in the Charter of the United Nations, the principles it enshrines, the bodies it provides for, and the jurisdiction and powers it grants constitute an international structure which, if used in full, will strengthen international security.[1]

10. Subsequently, at the last session of the General Assembly the Declaration on the Strengthening of International Security *[resolution 2734 (XXV)]* was adopted. This Declaration reaffirmed principles and norms for action which, because they are contained in the United Nations Charter, are purposes, principles and norms for action shared by all States Members. That Declaration, in the view of my delegation, is an act of faith in the Charter—or, better still, a reaffirmation of confidence in the principles of the Charter.

11. We must, however, recognize that the norms and principles in question—those in the Charter and those in the Declaration on the Strengthening of International Security —are of no value and serve no purpose unless they have full practical effectiveness. And in order for them to be effective, no Member State should fail to comply loyally and strictly with the purposes and principles of the Charter.

12. On 6 August this year my delegation denounced, before the Secretary-General, statements made on 26 July last by the Prime Minister of Cuba concerning internal affairs of Uruguay; those statements violated one of the basic principles of international security, inasmuch as they constituted interference in our national life and, consequently, an inadmissible act of foreign intervention in the domestic affairs of a State.

13. On that occasion, in the communiqué issued by the Uruguayan Foreign Ministry which transcribed the aforesaid note, it was stated with reference to the internal affairs of Uruguay that:

> "A decision on these matters is the exclusive responsibility of the Government of Uruguay and its people, who will have an opportunity freely to express their views—in accordance with their tradition and custom—in the democratic electoral process guaranteed by the Constitution and laws of the Republic, entirely free of any external pressure which is detrimental to the national feelings and civic spirit of the Uruguayan people."

14. Subsequently, on 13 October, the General Assembly, in my capacity as Permanent Representative of Uruguay to the United Nations, I replied to statements of the representative of Cuba of the same kind as those made by the Cuban Prime Minister. Among other things, I had to point out the following:

> "... the principle of non-intervention is very deeply rooted in the foreign policy of Uruguay. It is linked closely to our tradition, to our tenets and to the very life of Uruguay. But that is not only reflected in the full validity and purity of our own sovereignty, but also in the way we totally abstain from interfering in the lives of others, directly or indirectly. We keep out of the domestic affairs of other States." *[1965th meeting, para. 243.]*

15. Subsequent to the events that led to the denunciation and the replies to which I have referred, the Prime Minister of Cuba engaged in a new and even more serious interference in the internal affairs of Uruguay, which represents a further violation of the principle of non-intervention.

16. In fact, after the holding of national elections on 28 November last, as announced by the Uruguayan Foreign Ministry in the excerpt I quoted, which elections confirmed the full triumph of democratic civic forces, the Prime Minister of Cuba sought to advocate the use of violence by the voting minority in the Uruguayan elections in order to conquer political power.

[1] See *Official Records of the General Assembly, Twenty-fourth Session, First Committee*, 1667th meeting.

17. This instigation to violence might find an echo in those seeking to commit crimes, in those who have an innate vocation for homicide or murder or violence and its many manifestations, but is repudiated by the mass of the Uruguayan people and the Government of Uruguay, which regard such instigation as a gross violation of law, which they reject with due vehemence.

18. As can be seen at once, this is a serious offence against the Uruguayan civic spirit and national sentiments, and an impossible attempt to direct the Uruguayan people from abroad unleashing violence in their midst.

19. In his role of "exporter of revolution", as assigned to himself by the Prime Minister of Cuba in public pronouncements, he now specifically charges a particular country, Uruguay, with what, very clearly and fully in keeping with the role I mentioned he is playing, could be imputed to any other country, since because he is "revolutionary", he apparently does not abide by or submit to the legal norms that govern international co-existence; fundamentally, those which prescribe self-determination of each State and impose non-intervention in affairs that fall essentially within the internal jurisdiction of States.

20. Uruguay, on the other hand, is not a professionally revolutionary State, but a State where the law is upheld, a State in permanent evolution. It is a country endowed with institutions that are in keeping with logical development and not with mere criteria of opportunism or convenience, as usually happens in so-called revolutionary States. In Uruguay legal norms stand above all else and are valid. In keeping with such norms, the people elect their own Government and have been doing so ever since they became a free nation, without concentration camps, without depriving anyone of life, without despoiling or expropriating while refusing to pay the fair price, without exiling anyone. They are fulfilling an extensive and exemplary task of social justice; and without any of these ominous means, they decided that the State run all public services and companies which operate in conditions of monopolies.

21. At the same time, Uruguay has not curtailed the rights of individuals to develop their own activities freely, nor has it imposed any limitation on the freedom and rights in general of any individual except for the respect of the freedom and rights of others.

22. It can be readily understood that Uruguay, in keeping with the political philosophy underlying its domestic life, believes that it is essential, for the existence and functioning of the international community, that the principle of self-determination and non-intervention, which ensures the freedom of nations and prevents anyone from damaging or interfering with the development of others, should prevail.

23. It can also be easily understood that the Government of a State which lives under the law, like Uruguay, a genuine emanation and therefore a faithful interpreter of the wishes of the Uruguayan citizenship—a citizenship which practises the broadest multiple, free and authentic multi-party system—should repudiate the fraudulent and deceitful opportunism of presumed revolutionaries and preachers of human rights, who at the same time are practitioners, officiators or propagandists or serve absolutist dogmas which kill liberty of government.

24. On the other hand, the Government of Uruguay believes it to be its duty to point out that this conduct of the Prime Minister of Cuba is a flagrant and repeated violation of the Charter and in particular the declarations of the General Assembly on the inadmissibility of intervention in the internal affairs of States and protection of their independence *[resolution 2131 (XX)]* and on the strengthening of international security *[resolution 2734 (XXV)]*.

25. The first of these declarations sets out, among other things, the duty of States as follows:

> "... no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State ..."

The second declaration calls upon all States "to adhere strictly in their international relations to the purposes and principles of the Charter", and, among them, I would quote "the duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter".

26. In keeping with the purposes and principles of the Charter and the declarations of the General Assembly to which I referred earlier, my delegation vigorously rejects and denounces this new interference in the internal affairs of Uruguay.

27. The Government of Uruguay hopes to continue to develop, in keeping with the law and in a climate of peace, to seek greater benefits for its people, within the possibilities of the country and of the efforts of the recipients, without admitting any kind of extraneous or undue interference.

28. My delegation believes that the Governments of Member States should adjust their conduct strictly to all the principles of the Charter. There is nothing that authorizes States to comply with certain principles and not with others. This is an organic set of norms on whose existence and normal functioning depends orderly international co-existence, the strengthening of international security and safety in the domestic life of States.

29. Member States, as is laid down in Article 2 of the Charter, "shall fulfil in good faith the obligations assumed by them in accordance with the present Charter".

30. The subordination or subjection of the conduct of States to the norms of law and the good faith of States in their compliance with the obligations contracted will consolidate international security.

31. Mrs. NHOUNG PENG (Khmer Republic) *(interpretation from French):* Each of us is about to take an important decision. My delegation, for its part, will vote in favour of the draft resolution *[A/8626, para. 18]* on the implementation of the Declaration on the Strengthening of International Security *[resolution 2734 (XXV)]*. I should like to emphasize that we place all our faith and conviction in our act when we press the green button in this vote.

32. Indeed, we attach particular importance to this draft resolution because our country is in the process of facing,

with its rather limited resources, aggression and an attempt to annex its territory by our neighbours, the North Viet-Namese, and their valets, the Viet-Cong, who by skilful propaganda have camouflaged their ignoble act of aggression under the noble slogan of Liberation of the Indo-Chinese people.

33. In the case of my country, I repeat that this is a deliberate war of aggression imposed by the North Viet-Namese expansionists. It is not a war of liberation, unless you accept the idea of liberating Cambodia from the Cambodians themselves, to make them into a North Viet-Namese or Chinese colony.

34. Newspapers recently have clearly reported the attacks on cities and the destruction of the infrastructure of my country by the regular armed forces of North Viet-Nam–I stress, "the regular North Viet-Namese armed forces". There has never been any question of a civil war or war of liberation, but this is indeed a typical war of aggression and genocide.

35. We are already very weak and, what is more, we are the victims of aggression. It is the duty of others to help us, if only morally, to find the peace to which we aspire by condemning the true aggressors who have violated the 1954 Geneva Agreements on Indo-China.

36. My country is threatened in its very existence as a State; we do not want to suffer the same fate as the Moslem kingdom of Champa, which disappeared from the map of the world in the seventeenth century.

37. We have come here not to make beautiful statements, but to seek peace for our country and people. We dare to hope that the United Nations will be able to shoulder its responsibilities towards us and that when the draft resolution is adopted it will not remain a dead letter, because Members voting for this draft resolution should consider themselves bound by that commitment.

38. Mr. AKE (Ivory Coast) *(interpretation from French)*: The delegation of the Ivory Coast abstained during the vote at the 1857th meeting of the First Committee on this compromise draft resolution *[A/8626, para. 15]* which was submitted by the so-called non-aligned countries and the Latin American countries, and reserved its right to explain in plenary the reasons for our abstention. The reasons are simple. They are inspired by the great disappointments felt by my country at the outcome of the recent armed conflict on the Indian subcontinent, at the failure of the Security Council and at the at least curious attitude of certain great Powers which are permanent members of the Security Council.

39. My delegation had always thought that those who took the initiative to bring the question of strengthening international peace and security before the United Nations were animated by a true concern for peace, and not by a desire to become engaged in easy propaganda manoeuvres. We had thought that they wanted to contribute by their acts to prevent and put an end to the threat to peace, to put an end rapidly to armed conflict or to acts of aggression, and to strengthen the authority and effectiveness of the United Nations, intensifying their efforts to permit the Security Council to discharge its responsibilities under the Charter with regard to the maintenance of international peace and security. We had thought further that the principles of the Charter, of not resorting to force or the threat of force in international relations, regarding the peaceful settlement of disputes, non-interference in the internal affairs of States, the sovereign equality and respect for the territorial integrity of States and finally the right of peoples to self-determination–all these principles which had been reaffirmed in several solemn statements adopted over the past few years at the initiative of a great Power or of its allies–were principles valid for all States, large or small, which they were bound to respect and comply with in their international relations.

40. As though the reaffirmation of these principles was not enough in itself, last year, on the twenty-fifth anniversary of the United Nations, the General Assembly adopted the Declaration on the Strengthening of International Security *[resolution 2734 (XXV)]*, which incorporates all the principles I have just mentioned and which, in combination with other declarations, could constitute a true code of international behaviour. But it is useless, except to satisfy future propaganda preoccupations to reaffirm the principles, if they are not at the same time determined and motivated by the political will to act in conformity with those principles and to work effectively so as to realize the objectives which we have set for ourselves in order to create peace and justice in the world.

41. Many events which have occurred in Asia have shown the sad reality that we talk a great deal and act very little and that the principles which we invoke are valid only if they do not apply to ourselves or to our immediate selfish interests. These principles and declarations have no value for some, because they have the military or economic power and can trample these principles underfoot with impunity or they can simply ignore them because they are strong or have the support of one of the powerful ones. These events have shown that the small Powers, which make up the great majority of this Assembly, no longer enjoy any guarantee. Their independence can be threatened at any moment because some can decide their fate as it suits them. The unhappy spectacle which the Security Council has presented to the world during these last weeks is seriously prejudicial to the already wavering prestige of the United Nations.

42. The Security Council, because of the negative and obstructionist attitude of one of its permanent Members and the timidity of two others, has given proof of its impotence and its inability not only to avert war, but even to stop it in time and to limit its damage and disastrous consequences. Those great Powers, which bear particular responsibility for the maintenance of international peace and security, far from uniting their efforts to discharge their responsibilities, took sides between the parties in conflict and blocked United Nations intervention, thus permitting the war and violence to continue until their objectives had been achieved. It is this hypocrisy, this pettiness and these sordid machinations which we find repugnant and move us to not let ourselves be deceived, not to be deluded by declarations which no one believes and the principles of which no one wants to apply.

43. Our vote is a protest against this state of affairs and is not in opposition to the draft resolution itself, although the fact that this draft is a step back from the Declaration on the Strengthening of International Security could amply justify our abstention. It is because we do not want to be a party to this play of dupes or a pawn in this propaganda manoeuvre that we have decided to abstain on this draft resolution *[see A/8626]*. However, we want to express our gratitude to its authors for their efforts in attempting to reconcile, in a difficult compromise, the different points of view which were expressed in the First Committee.

44. The PRESIDENT: The Assembly will now vote on the draft resolution recommended by the First Committee in paragraph 18 of its report *[A/8626]*, on which a recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Austria, Bahrain, Bhutan, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chile, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, Gabon, Gambia, Ghana, Greece, Guatemala, Guinea, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, People's Democratic Republic of Yemen, Peru, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierre leone, Singapore, Somalia, Spain, Sudan, Sweden, Togo, Trinidad and Tobago, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

Against: South Africa.

Abstaining: Australia, Belgium, Canada, France, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Netherlands, New Zealand, Portugal, Swaziland, United Kingdom of Great Britain and Northern Ireland, United States of America.

The draft resolution was adopted by 96 votes to 1, with 16 abstentions (resolution 2880 (XXVI)).[2]

45. The PRESIDENT: I shall now call on those representatives who wish to explain their votes after the vote.

46. Mr. ISSRAELYAN (Union of Soviet Socialist Republics) *(translation from Russian)*: The Soviet delegation would like to explain the reasons by which it was guided in voting on the draft resolution contained in document A/8626. Consideration of the question of the implementation of the Declaration on the Strengthening of International Security has come to an end. As a result of the business-like and constructive debate in the First Committee and during productive consultations between delegations in which a draft resolution acceptable to all members of the Committee was worked out on this very important matter, a resolution was adopted which reflects the position of a great many delegations.

47. The Soviet delegation wishes above all to point out the important fact that the resolution we have just adopted reflects in essence all the basic provisions of the draft resolution submitted in the First Committee by eight socialist countries.

48. The resolution just adopted reaffirms the fundamental principles of the Charter of the United Nations and the Declaration on the Strengthening of International Security. It stresses the need to take effective measures to implement the Declaration in its entirety and calls upon all States to contribute towards resolving existing conflicts and situations likely to endanger international peace and security, in accordance with the purposes and principles of the Charter of the United Nations and in keeping with the Declaration. I refer here to paragraphs 1 and 2 of the resolution.

49. Of major significance are the resolution's provisions calling on all States to refrain from the threat or use of force and to observe fully the principle that the territory of a State shall not be the object of military occupation resulting from the use of force in violation of the Charter and the principle that the acquisition of territories by force is inadmissible.

50. The provision of the Declaration that mentions the need to end coercive acts which deprive peoples of their inalienable rights to self-determination, freedom and independence is of exceptional significance today. That is in paragraph 4 of the resolution.

51. Other provisions of the resolution adopted are also of very great significance.

52. As to the matter covered by paragraph 8 of the resolution, the Soviet delegation believes that the implementation of disarmement measures, especially general and complete disarmament including nuclear disarmament, would release funds which could be used to promote the economic and social development of all countries, and the developing countries in particular.

53. In the opinion of the Soviet delegation, the Assembly has adopted a useful resolution dealing with the substance of the matter. We should like to point out the positive role played in the drafting of this resolution by the delegations of Zambia, Yugoslavia, Brazil, Venezuela and a number of the other non-aligned States.

54. The resolution we have adopted is not the formal or procedural resolution stubbornly sought by some delegations of whose position we were reminded by the Committee's Rapporteur. In our opinion, however, his statement did not sufficiently reflect the fact that the overwhelming majority of the delegations of the Member States did not share the view that a procedural resolution should be adopted. That was also strikingly confirmed just now by the result of the voting, when 96 delegations voted

2 The delegations of Bolivia, Guyana, Haiti and Tunisia subsequently informed the Secretariat that they wished to have their votes recorded as having been in favour of the draft resolution.

in favour of the resolution. The whole course of this session's debate on the question of strengthening international security, during which the great majority of delegations spoke, demonstrated convincingly that States Members of the United Nations quite properly take a serious interest in this matter and attach the utmost importance to it.

55. The underlying theme of the statements made by the great majority of speakers on this matter was the recognition of the urgent need to concentrate the efforts of the United Nations and its individual Members on the practical implementation of the provisions of the Declaration. Cogent statements to this effect were made by many delegations which, like the Soviet delegation, emphasized that success in the implementation of the Declaration on the Strengthening of International Security would be beneficial to all countries, large and small, since ultimately it would benefit the cause of world peace.

56. The Soviet delegation is in sympathy with the observations made during the debate on the importance of the participation of all States, including small countries, in the resolution of major international questions which concern everyone.

57. The Soviet Union has always supported the mobilization of the efforts of all peace-loving States in the struggle to consolidate international peace and security. That is confirmed, among other actions, by the initiative of the Soviet Union and the other socialist countries in submitting their proposal to convene an all-European conference at which all of the European States without exception would be able to discuss and find a solution to problems of European security and co-operation among the countries of Europe. Further evidence is afforded by the Soviet initiative in the matter of calling a world disarmament conference *[A/L.631]* with the participation of all States, which would make it possible to involve large and small countries in the solution of a vitally important problem of our time. That Soviet initiative, as you are aware, was universally supported and was recently approved at a plenary meeting of the General Assembly.

58. In conclusion, the Soviet delegation wishes to express its confidence that the resolution we have adopted will make a useful contribution to the cause of strengthening international security and to the consistent implementation of the historic Declaration adopted unanimously at the twenty-fifth anniversary session of the General Assembly in 1970.

59. Mr. ALARCÓN (Cuba) *(interpretation from Spanish)*: My delegation voted in favour of the draft resolution recommended by the First Committee. At this time I shall not dwell on considerations regarding our position in respect of this item since they were stated in the discussions in the First Committee and also in past years when the General Assembly considered this item.

60. Like other representatives, I should like, with the consent of the President, to avail myself of this opportunity very briefly—indeed with the brevity required in statements of this kind—to refer to the statement made this morning by the representative of the present Government of Uruguay, when he allegedly explained his vote on this item.

61. It is not the whole of Uruguay that expresses itself or finds its symbol in the kind of terms the Assembly heard this morning. A great Uruguayan thinker, José Enrique Rodó, spoke of the phenomenon he called "nordomania", which is the psychological or mental attitude of the Latin American lackeys who live with their eyes focused on the North, who think with the ideas that come to them from the North, and who function like springs in accordance with the ideas and wishes of North American imperialism.

62. This morning the Assembly has had occasion to witness yet another exercise in that phenomenon of "nordomania," thus described by that distinguished Uruguayan thinker. At the same time as Mr. Nixon levels threats against Cuba, at the same time as he boasts of military mobilizations in the Caribbean, at the same time as he launches threats against our country, it is only logical that his delegation in the United Nations should press the button which moves the spring that prompts the representative of Uruguay to come to the rostrum.

63. It is a rare occasion to hear the representative of Uruguay speak on any of the items discussed by the Assembly. And whenever this happens, it is always in response to the instructions and wishes of the North American delegation. In this Assembly my delegation has already had sufficient occasion to refer to the policy of North American imperialism. Now that we are close to the end of this session, we really do not think it is worth while taking too much of the Assembly's time and attention in analysing the effects of a phenomenon that was very well described at the beginning of this century by Rodó.

64. The PRESIDENT: We shall now take up the draft resolution recommended by the First Committee on agenda item 35, which appears in paragraph 22 of the report *[A/8623]*. The administrative and financial implications of this draft resolution are given in the report of the Fifth Committee contained in document A/8627. An amendment has been submitted in document A/L.670 and I call on the representative of Norway to introduce the amendment.

65. Mr. HAMBRO (Norway): I want very briefly to introduce that amendment, which would change operative paragraph 3 to read as follows:

> "*Decides* to add to the membership of the Committee China and four other members to be appointed by the Chairman of the First Committee in consultation with regional groups with due regard to the interests of under-represented groups".

66. My delegation has submitted this amendment simply for the reason that those Member States which have expressed a strong desire to take an active part in the important work of the sea-bed Committee should be allowed to do so. The reason is that we know—as I think all of us know—that certain States have expressed this keen desire, and I think we ought to facilitate their participation in the work for the benefit of all of us. Since the preparatory work of the Committee is now well on its way, it is obvious, in our opinion, that a committee with the increased membership proposed in the two documents before us would have a composition which would not call for any further enlargement in the future.

67. Mr. ENGO (Cameroon): Our delegation has demonstrated its active interest in the work of the sea-bed Committee. My Government is deeply convinced that the area of the sea-bed and the ocean floor beyond the national jurisdiction of States may well provide our generation with a new source of revenue to meet the alarming problems of poverty, disease, economic inequalities, under-development and similar conditions which are highly provocative of breaches of international peace and security. It also presents a tremendous opportunity for productive international co-operation among States in accordance with the Charter of the United Nations.

68. It is against this background that we view the important work of the sea-bed Committee. We have made it clear that we do not think an indiscriminate enlargement of the Committee would enhance its efficiency at this crucial moment. The proposal in the First Committee to enlarge the sea-bed Committee barely succeeded. On the grounds of principle, we are unable to support the amendment just presented by the representative of Norway. No substantive reasons have been adduced to convince my delegation of the necessity of increasing the size of the Committee once again. We think that it is now virtually saturated with members. No one can doubt that all Member States–all Member States–are interested in the subjects that are being discussed in the sea-bed Committee. The idea of special interest does not appear to us to carry much weight. There was an opportunity when the Committee was first set up, that is, when the figure of 42 was arrived at, for all who had special interests to participate; another opportunity presented itself when the Committee was increased from 42 to 86; those with special interests could have found a place then. Last week the plea came that one or two delegations needed a place because, once again, they had special interests.

69. My delegation disagrees with the principle of enlarging so important a committee of the international community merely to meet the convenience of one or two Members. We proposed an enlargement by only one, because of the new and special situation posed by the timely arrival of the representatives of the Chinese people. Our proposal was rejected by a matter of only a few votes. Now, only a few days after their appetite has been satisfied in the First Committee, we are to be treated to a replay of Oliver Twist. My dear friends from Norway, with whom we have shared common aspirations for the success of the sea-bed Committee, are now asking for more. Where are we going to stop? If the desire is to have a committee of the whole, let that be made clear. There are many ways of destroying that Committee. The present trend is one of them. I am quite certain that that is not the intention of my dear friends from Norway. Their valuable contribution to the work of the sea-bed Committee leaves one in no doubt about that. Accordingly, my delegation wishes to appeal to our friends of the Norwegian delegation not to insist on their amendment. Anyone perusing the records of the First Committee and of this august Assembly will not take us very seriously when it is seen that we take such important decisions piecemeal.

70. As I have said, the necessity does not exist–at least, we know nothing of it. It cannot enhance the effectiveness and efficiency of the Committee. It will further complicate the difficulty of choice of candidates within the regional groups and more frightening is the thought of interregional clashes as to which of them would have the additional seat.

71. I realize, of course, that our friend from Norway may wish to promote equitable representation among groups but since the voices of the under-represented groups of Africa, Asia and Latin America have not expressed satisfaction with the compromise reached in the First Committee, when indeed they are the ones that are under-represented, I hope that our dear friends will not press their amendment. Norway is not personally interested in this matter, for indeed it is represented in the Committee. I believe that we can count on the spirit of co-operation and compromise of our friends to prevail on them not to insist. If, however, they cannot bring themselves to do this, my delegation will be forced to vote against the amendment. If the amendment does succeed–and we sincerely hope, in the interests of the sea-bed Committee, that it does not–then we wish to register now our interest in seeing that two of the new seats go to Africa, which is probably the most under-represented of the groups.

72. The PRESIDENT: In accordance with rule 92 of the rules of procedure, I shall first put to the vote the amendment contained in document A/L.670, on which a recorded vote has been requested.

A recorded vote was taken.

In favour: Australia, Austria, Belgium, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, China, Congo, Cyprus, Czechoslovakia, Dahomey, Denmark, Fiji, Finland, France, Greece, Guinea, Iceland, Iran, Iraq, Ireland, Italy, Japan, Jordan, Khmer Republic, Lebanon, Libyan Arab Republic, Luxembourg, Malawi, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, People's Democratic Republic of Yemen, Poland, Portugal, Romania, Singapore, South Africa, Spain, Sudan, Sweden, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Zambia.

Against: Algeria, Cameroon, Ecuador, Equatorial Guinea, Honduras, Peru, Trinidad and Tobago.

Abstaining: Afghanistan, Argentina, Bahrain, Barbados, Bhutan, Bolivia, Brazil, Central African Republic, Chad, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Egypt, El Salvador, Ethiopia, Gabon, Ghana, Guatemala, Guyana, Hungary, India, Indonesia, Israel, Ivory Coast, Jamaica, Kenya, Kuwait, Laos, Lesotho, Liberia, Madagascar, Malaysia, Mali, Malta, Mauritania, Mexico, Niger, Nigeria, Pakistan, Panama, Paraguay, Philippines, Qatar, Rwanda, Senegal, Sierra Leone, Somalia, Thailand, Togo, Uganda, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire.

The amendment was adopted by 55 votes to 7, with 58 abstentions.[3]

[3] The delegation of Haiti subsequently informed the Secretariat that it had intended to abstain in the vote on the amendment.

73. The PRESIDENT: I now put to the vote the draft resolution in paragraph 22 of document A/8623, as amended, on which a recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Argentina, Australia, Austria, Bahrain, Barbados, Belgium, Bhutan, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Central African Republic, Ceylon, Chad, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Khmer Republic, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, People's Democratic Republic of Yemen, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Somalia, South Africa, Spain, Sudan, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia.

Against: None.

The draft resolution, as amended, was adopted by 123 votes to none (resolution 2881 (XXVI)).

74. The PRESIDENT: I call on the representative of the Soviet Union in explanation of vote.

75. Mr. ISSRAELYAN (Union of Soviet Socialist Republics) *(translation from Russian):* The delegation of the Soviet Union wishes to explain its vote on paragraph 4 of the resolution just adopted. The paragraph calls for the holding of two sessions of the Committee on the sea-bed, of which one is to be held in Geneva.

76. It was pointed out in a statement made in the First Committee by the Soviet representative that to hold a session of the Committee on the sea-bed in Geneva would involve considerable additional expenditure under the United Nations budget. In view of this, the Soviet delegation proposed that both sessions of the Committee should this year be held here in New York, at the United Nations Headquarters, where the Secretariat can provide the necessary meetings services without any extra expenditure. The point of view taken by the Soviet delegation was reaffirmed in the Soviet representative's statement in the First Committee in explanation of vote on the amendment proposed by the delegation of Japan.

77. The Soviet delegation wishes to stress that its affirmative vote on the resolution recommended by the First Committee is not to be construed as a departure from or renunciation of its original position, which, and we wish to stress this point, was dictated by a desire for maximum economy of United Nations budget resources. The Soviet delegation is still thoroughly convinced that the proper course would be to hold both 1972 sessions of the Committee on the sea-bed in New York. That would make it possible to avoid additional expenses amounting to more than $200,000, as can be seen from the report of the Fifth Committee.

78. Mr. STRAVROPOULOS (Under-Secretary-General for General Assembly Affairs): For the information of delegations, the sea-bed Committee is expected to meet next year as follows: 28 February to 31 March in New York; 17 July to 18 August in Geneva.

79. The PRESIDENT: I call on the representative of Uruguay in exercise of his right of reply.

80. Mr. LEGNANI (Uruguay) *(interpretation from Spanish):* Very briefly, I should like to give some indispensable clarifications regarding my actions, on which the representative of Cuba saw fit to make some observations.

81. First of all, I did not speak this morning to explain or analyse our vote, as I said very clearly at the outset of my statement. I spoke, as I said, simply to supply clarification and an accurate account of the general item on the strengthening of international security because we feel that such strengthening depends on full compliance by all Governments of all States with the principles of the Charter and the principles of the strengthening of international security.

82. It is true that we are not prodigal in our statements, but we do not make some of them solely and exclusively on the question which we raise today. My colleagues are aware of our keen interest in the very important items debated in the different committees and, without going any further—I do not wish to dwell on this—I would point out that we spoke on all the First Committee items, except precisely the one we have just voted on, the sea-bed, because the Bureau of the First Committee thought it fitting to hear the delegations which were not members of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. As my delegation is a member of that Committee, we abided by the suggestion made by the Bureau of the First Committee.

83. As regards my statement, it was not prompted—and no one could conceivably accept this—by some action or other of the President of the United States. It was clearly prompted by the statements made by the Prime Minister of Cuba. It was not during the administration of President Nixon; it came following on the statements of the Prime Minister of Cuba when the delegation of Uruguay could not remain silent and had to react as was appropriate.

84. As regards the allegation that the countries of Latin America are lackeys, speaking for my own, Uruguay is not subordinate to the economic, financial or political imperialism of any other country or of any person. My country freely contracts the obligations it considers suitable or which it needs and discharges those obligations honourably. Precisely because that is the position of our people, I, as

another citizen of my own country, was not able to remain silent when confronted with someone who tries to dictate rules from abroad, because my country does not submit to such orders.

85. The PRESIDENT: I call on the representative of Zaire in exercise of his right of reply.

86. Mr. DEDE (Zaire) *(interpretation from French):* Taking advantage of the climate of the end of work at this session, the representative of the Republic of the Congo thought he would take us by surprise by a perfidiously thrown sort of wild ball at the back of the Republic of Zaire, a sort of poisoned arrow, on Saturday, 18 December 1971 *[2025th meeting]*. Let me assure him that he has not caught us unawares.

87. In substance the Congolese representative openly and publicly challenged the right of the Republic of Zaire to sovereignty over the river bearing the same name basing his claim on the most specious arguments. If I were to throw the ball back at him I would say in one sentence approximately the following. I would recall in passing that the speaker supports his demonstration on the following elements: culture, history, geography and law. The argument based on a common culture—on the assumption that such a common culture exists—in no way constitutes legal title; the historical information and geographic documentation used by the speaker to plead his cause are notoriously weak; his interpretation of legal texts is stained with impurity; and, finally, his definition of the international river lacks scientific relevance. However, since he has chosen to give us a lesson in political morality, philosophical culture, history, geography and law all at the same time, it will be a pleasure for us to restore the historical, not to say the scientific, truth.

88. Let us analyse the facts as they really are and try to place them in their right perspective. First of all let us look at some dates.

89. On 27 October 1971, my country decided in the exercise of its sovereignty to change its name to that of the "Republic of Zaire". I shall not dwell at this point on the old quarrel surrounding the name "Congo" which we have fought for 11 years. At the same time my country rebaptized the river which henceforth is to be called the Zaire.

90. On 2 November 1971, in my statement in the Sixth Committee at the 1273rd meeting on the concept of aggression, I felt duty bound following orders from my Government to inform that Committee of the main reasons underlying that change in name.

91. On 8 November, a Congolese representative spoke in the Sixth Committee at the 1276th meeting to raise a vehement protest. He qualified as "tendentious" the remarks I had made and wanted them to be held null and void. He hoped thus to bring to nought the decision taken by the competent authorities of my country, in order that the river under dispute might become "an international river that is part of the territory of each of the countries through which it flows".

92. Last Saturday, another representative of the Congo strove to develop the same theme with the obvious intent to sow confusion and thus lead all international public opinion into error. In that apparently scientific statement the speaker managed to extend the notion of riparian countries for the benefit of third parties who in no way fall within the sphere of application of his own definition.

93. Other than by some kind of optical illusion, one simply fails to see how a country like Cameroon, with which we have no common boundary and with which, incidentally, we maintain excellent relations, could be interested in the Zaire river basin.

94. Similarly, since it befits us to be careful not to confuse the Zaire with its affluents, it is only by acting in bad faith or being simply blind to reality that anyone could attribute to the Central African Republic the status of a riparian country. True, the Mbomu and Oubangui rivers to the north of the Zaire are natural boundaries with our Central African neighbour, but it still remains a fact that the latter has no point of contact with the Zaire river as such.

95. In short, we shall spare this audience, whose patience we regrettably tax, the tiresome description of the physical or geographical elements and shall confine ourselves to the essential, that is to say to objective historical data and the contents of the General Act of Berlin, which is the substance of colonial law and which the Congolese representative has discarded so lightly.

96. If we follow the course of the Zaire river from its source to its outlet, having eliminated fictitious partners, we see that the river crosses three countries which, by reason of this fact, have the status of riparian states: firstly, the Republic of Zaire, then the People's Republic of the Congo and accidentally the still dependent territory of Angola. Is this then an international river in the juridical meaning of the expression? Geographically speaking it is, because this is a physical fact. However, if we consult history, we soon see that the situation is much more complex.

97. Napoleon once said, "There are no bad soldiers, only bad generals". Leopold II, King of Belgians, transposing the maxim to the political plane, would have said, "There are no small countries, there are only small States". Starting from this axiom, convinced that a country abutting into the sea, with a window to the sea, is never too small and finally, encouraged by the Dutch colonial experience, the Belgian sovereign conceived the idea of endowing his country with a great colonial empire. To this end, he convened in the Belgian capital, in September 1876, an apparently scientific conference, the famous Brussels International Geographical Conference. Institutionally, a publicly useful body, international in character, was created under the name of International African Association, whose avowed purpose was above all philanthropic and humanitarian, namely, to promote the exploration of Africa and fight against slavery.

98. The decisive moment came with the return of Stanley to Europe in 1878 after an epic voyage which had taken him from Zanzibar to Lualaba and from there to the mouth of the river Congo. Leopold II immediately realized the importance of this river as a means to penetrate the

"mysterious continent", whose economic value he readily reckoned. What was missing was a political act. At this point it was necessary to outwit the calculations of the "big ones". To this end, he set up a political body cleverly labelled the "Committee for the Study of the Upper Congo", on behalf of which Stanley agreed to undertake a new expedition in the opposite direction. In 1879 the famous explorer reached the mouth of the Congo and founded Vivi Fort, the embryo of what was to be the capital of a future State. That was a concrete act of obvious political significance. While he worked to materialize his conquest by establishing the beginning of an administrative organization, a Frenchman, Savorgnan de Brazza, starting from Gabon, arrogated rights over the river Congo–and I emphasize the expression "arrogated rights"–and took possession of the dominion he claimed to have discovered. To arrogate rights means to engage in an act contrary to the law; it is a euphemism meaning quite simply an attack against territorial integrity.

99. In the inextricable mesh of diplomatic intrigues, only one man knew what he wanted: it was Leopold II. In the general confusion and without any of his partners guessing what it meant, he replaced the Committee by a new body to which he gave the name of "International Congo Association". The word "international" was reassuring, but eminently deceptive. To accomplish his designs, Leopold II took advantage of the quarrels, covetousness and mistakes of others. He was secretly encouraged by Victorian England, desirous of obtaining his support for the realization of a plan dear to Cecil Rhodes, a corridor stretching from the Cape to Cairo via Katanga, while Portugal claimed allegedly "historical rights" over one part of the river basin and Germany was worried about England's support of Portugal, since she was fearful of seeing France install herself one day on the left bank of the river.

100. Leopold II needed support, and the rift between the great Powers provided him the opportunity by bringing grist to the mill of his ambitions. At the Berlin Conference, taking advantage of the schism between the "big ones", he staged a veritable *coup de théâtre* by having the domain of his conquest recognized as a true State henceforth known under the name of the Independent State of the Congo, of which he became the personal sovereign. There was practically no difference between the International Congo Association and the Independent State of the Congo. *Fabula acta,* it was necessary for him to give satisfaction to all in order to retain his prey and consolidate his title.

101. Having been granted freedom of trade and navigation, the United States of America was the first to recognize the new State, soon to be followed by France which was promised preference rights in the event that conquest was consolidated. As for Germany, it had succeeded in driving out its competitors from that vast territory and hoped that more advantageous boundaries for its possessions in eastern Africa would be traced. This state of affairs was legalized by the General Act of Berlin of 1885. The river was declared an "international river" accompanied by an extremely liberal régime for all States: freedom of trade and navigation for all nations, equality of treatment, non-discrimination, exclusion of the most-favoured-nation clause.

102. With the Anglo-Belgian Agreement of 12 May 1894, Leopold II had even attempted to extend his domain, "his own work, the fruits of his labour" as he was to say later, to the banks of the Nile in Lado. That Agreement encountered German opposition and remained a dead letter.

103. But the spirit of Berlin did not live long. The Sovereign King, with the same skill, took back one by one the freedoms enshrined in the Berlin Act. Already in July 1885, he issued a decree proclaiming all unoccupied lands state property, a domain privy to the Crown. In 1891, he acquired the monopoly over rubber and ivory, and the freedom of trade proclaimed by the General Act of Berlin was plainly and simply suppressed. And finally, the Agreement itself lapsed on November 14, 1908, with the annexation of the Congo by Belgium. The whole river fell within the public domain of the colony. Its legal status remains unchanged to this day. And this is what I will attempt to demonstrate in the last part of my statement, which will define the régime or legal status of the river, from the Berlin Conference to the present day.

104. The system of positive law in effect at the time of colonial penetration, as applicable to the river, was nothing more or less than the set of relevant provisions of the General Act of Berlin. The governing rules established at Berlin were, by their nature and object, within the public international order. They constituted what the authors of the Convention on the Law of Treaties have called the *jus cogens* of the period. This is the principle of force or authority attached to the regulatory system of Berlin. But what was its content as regards the subject under discussion?

105. The Berlin system was based upon three kinds of considerations: first, on the distinction between civilized nations and savage peoples. This conferred on civilized nations the sacred mission of civilizing backward peoples; it was the justification of the duty to colonize; subsequently, for the needs of colonization, the lands occupied by these peoples were considered, being unknown lands, *terrae incognitae,* as goods without owners, unappropriated things, *res nullius.*

106. Briefly, the backward peoples were deprived of the status of moral, legal or civil persons, they did not have the status of subjects of international law, for which reason their institutions, considered as being barbarous, their political organizations, considered as being primitive, were held across the board to be null and void.

107. As compared with the previous system, the General Act of Berlin, however strange this may appear to men at the end of the 20th century who have been decolonized, marked an undeniable step forward, because it extended a beginning of civil personality to individuals as physical persons; no longer could they be sold or bought as pure objects of commerce; it was the definitive condemnation without appeal of the slave trade in blacks and the prelude to the anti-slavery struggle.

108. The *terrae incognitae* having been declared to be *terrae nullius,* in complete and absolute contempt of local customary law, the high contracting parties agreed on the

principle of appropriation or acquisition which Roman law characterized as primordial: occupation. Occupation was materialized by priority of discovery, consolidated by the principle of effectiveness, that is, entry into permanent possession, made manifest by embryonic administrative organizations such as the establishment of a commercial counting house, an administrative post, the tracing of a boundary. This basic rule was further expanded by the so-called principle of contiguity, which is still called right of vicinity or *hinterland* theory, and is comparable to the so-called sector theory, which is disputed today, as the principle for the establishment of territorial sovereignty in the Arctic. The theory of contiguity gave the "discoverer", as understood in Roman law, the right to the entire *hinterland* following theoretically traced natural or astronomical boundaries up to the point at which he encounters some other "discoverer".

109. These were the rules of the game. Their application on the spot encountered certain difficulties at various times and in various places. I might refresh our memories by recalling the famous Fachoda incident which set England and France against one another in the person of their respective agents, Kitchener and Marchand. France was the loser.

110. Having thus clearly explained the rules of the game, let us now examine the conflicting claims.

111. First of all, there is the obsolete title of "historic rights" of Portugal.

112. It will be remembered that the Portuguese explorer, Diogo Cao, or Diego Cam, in 1482, 10 years before the discovery of America by Christopher Columbus, reached the mouth of the river which he called *Rio Poderoso* because of the characteristic colour of its waters in the estuary. Later he would call it the Zaire, transposing the letters of the native word *Nzadi* (river). By the end of the fifteenth century, therefore, Portugal had established relations with the native State located on the left bank of the river, known as the Kingdom of the Congo. The relations between the two countries were so intense that they established diplomatic relations at the ambassadorial level, an unprecedented event in the history of black Africa, the respective headquarters being Lisbon and Ambassi, the capital of the Congolese Kingdom which, after the King's conversion to Christianity, was called Sao Salvador.

113. Thus, all went well until the Portuguese started their slavery policy. These inhuman practices, accompanied by tribute in *pomberos*, caused a native revolt which broke out in 1626 and drove the Portuguese down to Luanda which they have retained since then.

114. In Berlin the Portuguese claims clashed with the basic principle of the Act. It was recognized that priority of discovery only conferred an incomplete right, subject to effective and permanent occupation, that is, a simple *jus ad occupationem.* But the Portuguese had been driven out for more than two centuries. The region which was discovered by them being in a state of abandon, *res derelicta,* it was given the status of an object without an owner, *res nullius,* and consequently subject to appropriation by the first comer.

115. Then there was the theoretical French title of optional right of pre-emption.

116. We have shown above that in the labyrinth of diplomatic intrigues Leopold II, to satisfy France, had accorded the latter a right of pre-emption if it wanted to exercise it on behalf of its possessions. But we know that Leopold II was only playing tricks on his partners. He never alienated his domain. He ceded it to his own country in 1908. The *pendens conditio* not having been fulfilled, the French title was left without an object and hence lapsed. And it was not without gallically seasoned humour that, anachronistically, de Gaulle asserted his pre-emptive right on the very eve of the independence of our country, as though the latter were still for sale.

117. The French title rested upon an alleged treaty signed between Brazza and Chief Makoko. As the luck of the expedition would have it, we know that Savorgnan de Brazza, the French agent, began his exploration in the territory of present-day Gabon, which enabled him to discover the Ogooué. In the meantime, Stanley, emmisary of Leopold II, had just seized a beachhead on the coast, travelling up the river from its mouth and founding the post of Vivi.

118. When France had understood the real intentions of Leopold II, it hastened to send Brazza upriver to bar Stanley's route. Brazza, docile to the will of his master, seems to have signed a supposed treaty with a native chief named Makoko. Under the terms of this treaty, France took possession of territories which it claimed thus to have discovered, on the two banks of the river.

119. We know the scathing riposte inflicted upon France by Leopold II to dislodge her from the left bank of the river. The King dispatched an expedition to explore the Niari-Kwilu river around Pointe-Noire as a demonstration and in order to draw the conclusions which the provisions of the General Act of Berlin imposed. The lesson was immediately understood: France returned the left bank, and Leopold II recalled his emissaries from the Niari-Kwilu region.

120. France's act, without the shadow of a doubt, was a flagrant violation of the principles of the General Act of Berlin; it trampled underfoot the principle of discovery, consolidated by effective and permanent occupation, expanded by the theory of right to the *hinterland,* which Stanley had just realized for the benefit of his master sovereign. As to the validity of such a treaty, it is easy to prove that it was not only null and void but juridically and even materially non-existent.

121. If, under modern doctrine, a treaty is a bilateral or multilateral act in written form between two or several subjects of international law, the following objections can be made to this treaty.

122. First, its existence can be challenged: considering that Chief Makoko could neither read nor write, how could he have signed it? Even if he had signed with a thumb print, one may wonder where this document has been preserved or registered or simply published.

123. Secondly, its object can be challenged. Since its object, by definition, was the transfer of sovereignty *(imperium)* in the form of a conveyance of property *(dominium),* such a treaty had no object, under African customary law which on the whole accepts the principle of inalienability of land, something which is outside of commerce and the possession of ancestors, the living, and future generations.

124. Thirdly, the treaty, if it was in existence, disregarded the overriding rules of the General Act of Berlin. We know the sanction attaching to acts of this nature: absolute nullity.

125. Fourthly, furthermore, it was in contradiction with the very spirit of Berlin which denied native communities the attribute of subjects of international law. Their representatives, as organs, could therefore not act in the name of true juridical nullities.

126. Fifthly, Chief Makoko, in any case, was only one of the vassals of the Manicongo who, as souzerain, was not even vested with the *jus negotionis;* there was hence a radical nullity due to lack of competence both *ratione materiae* and *ratione personae.*

127. Sixthly outside all these considerations, one can guess the circumstances in which this treaty must have been concluded. Certainly in a state of error as to its purpose the Chief's ignorance of the nature of the purpose and of his commitment–of violence, of physical threat, of corruption, of injury, etc.... This whole constellation of facts or events totally vitiates any consent and radically nullifies any commitment undertaken.

128. Nevertheless, France had an indisputable title to the right bank. After the Niari-Kwilu incident which put an end to the French presence in the independent Congo State, order was restored. The French retained the right bank, and their title was valid. They had effectively occupied it, without dispute, and had developed it. This title was consolidated by *usucapion* or acquisitive prescription. Their title did not detract from the real, entire, authentic and indisputable title of the independent Congolese States to the whole river basin, which had been discovered, occupied and developed for its benefit, and there had never been any question of a boundary passing along the river.

129. The authentic title of the independent Congolese State was the result of the very provisions of the General Act of Berlin. Stanley, as emissary of the King of the Belgians, rediscovered the mouth of the river after Diogo Cao but, for the historical reasons set forth above, after Portugal's loss of its title to the river basin.

130. The discovery was accompanied by effective and permanent entry into possession, occupation, followed by development (exploitation) based upon a well ordered and graded political and administrative organization.

131. The principle of occupation associated with the theory of contiguity conferred upon the "discoverer" an exclusive right to the *hinterland,* on condition that discovery was made effective through permanent occupation....

132. The PRESIDENT: I would appeal to the representative of Zaire to conclude his statement, since there are two other representatives who have asked to be allowed to speak in exercise of the right of reply. I shall allow him three minutes more.

133. Mr. DEDE (Zaire) *(interpretation from French):* The problem before us and on which we have been attached by the representative of the Congo is one of knowing if the river in question is an internal river or an international one. In the light of the provisions of the General Act of Berlin, which I have just presented to the Assembly, it is clear that the title which Stanley acquired for the benefit of his master, the King of the Belgians, was an entire title that covered the whole river and involved no sharing of it with any neighbour. Up until the present day this status has never been modified, either by a general convention or by any particular convention among riparian States.

134. The representative of the Congo, in reproaching us for exercising our right to rebaptize unilaterally the river, which is within our exclusive sovereignty and therefore within our internal competence, has tried thereby not only to interfere in our internal affairs, but has committed an act which we condemn as being entirely contrary to the law.

135. The PRESIDENT: I call on the representative of Cuba in exercise of the right of reply, for a period of five minutes.

136. Mr. ALARCÓN (Cuba) *(interpretation from Spanish):* I do not think I need all that much time, Mr. President, because, actually, I have come to the rostrum to explain some question of semantics.

137. I have not said that countries are lackeys, nor that Uruguay is a lackey. I do not know whether the representative of Uruguay was thinking in terms of another foreign language in which such an appellation can be given to countries, but in Spanish it lacks all meaning.

138. Similarly, when I quoted the Uruguayan thinker, José Enrique Rodó, he spoke of individuals or groups of individuals, and not countries.

139. To dispel any doubts, I would say that in my statement I never said that Uruguay was a lackey of American imperialism. I referred specifically to the representative of Uruguay in this Assembly. If he prefers, we can use another expression, or, like José Enrique Rodó, call him a "nordomaniac".

140. The PRESIDENT: I call on the representative of the Congo in exercise of the right of reply, for a period of five minutes.

141. Mr. FOUNGUI (Congo) *(interpretation from French):* I have followed carefully the statement of the representative of the Republic of Zaire. I should like to say to all delegations here that it was not the delegation of the People's Republic of the Congo which introduced the problem of the River Congo in the different Committees or in the General Assembly of the United Nations; it was on the initiative of the delegation of Zaire, doubtless because of their zealousness to serve their masters, that we have had to discuss this problem.

142. At the 2025th meeting we merely explained our vote on the draft resolution on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. We explained our vote by taking as an example, among many others, the lack of knowledge or non-observance of international law, because it was inconceivable, for instance, that the authorities of a country which respects itself should unilaterally rename a river that crosses several sovereign countries.

143. The arguments adduced this morning by the representative of Zaire, who, it is said, is a jurist, are so weak, so fragile, that they do not even deserve to be singled out. His knowledge of history, which all our schoolchildren know, teaches us nothing. His arguments merely strengthen our conviction that there is a lack of knowledge of international law, or an erroneous interpretation of the latter.

144. Time is running out. Certain manoeuvres should not delay our work. On behalf of my delegation, I firmly maintain the statement I made at the 2025th meeting when I explained my affirmative vote on the resolution on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law.

145. My delegation believes that this is neither the time nor the place to discuss this matter at length.

The meeting rose at 12.55 p.m.

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