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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 (A/8421, A/C.1/L.586/Rev.1 and L.598)

GENERAL DEBATE *(continued)*

1. Mr. PARDO (Malta): Mr. Chairman, my delegation was saddened to learn yesterday of the tragic death of the Minister for Foreign Affairs of Bulgaria, who, in his long and distinguished career, was prominently associated with the United Nations, with the cause of peace and with service to humanity. I would wish to convey through you the deep sympathy of the Government of Malta and of my delegation to the authorities of your country and to the bereaved family.

2. The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has completed its first year under its expanded mandate and its enlarged membership, and it may be useful to attempt briefly to evaluate its work over the past year in the wider, global forum of the General Assembly.

3. It will be recalled that at its twenty-fifth session the General Assembly took two actions with potentially far-reaching implications with regard to ocean space. On the one hand, the General Assembly adopted virtually unanimously resolution 2749 (XXV), a Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction; on the other hand, the General Assembly, noting that the problems of ocean space were closely interrelated and that political and economic realities, scientific development and rapid technological advance had accentuated the need for early and progressive development of the law of the sea in a framework of close international co-operation, decided in its resolution 2750 (XXV) both to enlarge the Committee on the Peaceful Uses of the Sea-bed and to convene if possible in 1973 a conference on the law of the sea which, in addition to matters relating to the sea-bed beyond national jurisdiction, would deal with

> "a broad range of related issues including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas ... the preservation of the marine environment ... and scientific research".

4. The sea-bed Committee is thus no longer expected to deal exclusively with the establishment of an equitable international régime for the sea-bed beyond national jurisdiction, but must also seek a solution to a wide spectrum of problems that now exist in ocean space. It is in this wider context that the work of the sea-bed Committee must be evaluated.

5. There can be little doubt that the report submitted by the sea-bed Committee *[A/8421]* reflects some progress over the past year. Thus for the first time, as the Chairman of the sea-bed Committee, Ambassador Amerasinghe, observed at the 1843rd meeting, it was generally recognized that the problems of ocean space were closely interrelated and that solutions could be found only if they were considered as a whole. A further positive development was the frankness with which a number of coastal States defined and defended their national interests in ocean space, a frankness which is indispensable if realistic and equitable solutions are to be found to existing problems. Finally, my delegation has found some encouragement in the fact that virtually all States represented on the sea-bed Committee have now accepted the need to create an international régime including some sort of international machinery with regard to the sea-bed beyond national jurisdiction, a state of affairs which appeared almost a utopian aspiration four years ago.

6. While, as stated in the draft resolution contained in document A/C.1/L.586/Rev.1, progress over the past year has been somewhat encouraging, the question arises whether it is commensurate with the rapid change in the nature of our use of ocean space, or with the rapidly increasing and potentially explosive pressures that impel States to assert exclusive jurisdiction over ever-wider areas of ocean space. Taking as a measure not what may be encouraging in the United Nations context but develop-

ments in the world outside this hall, it must be recognized that progress in the sea-bed Committee, far from being encouraging, is deeply discouraging. A sense of urgency has not yet been found; much time has been wasted on peripheral issues. Of even greater concern is the fact that the sea-bed Committee has not yet meaningfully considered, far less decided, its basic approach to the expanded mandate conferred upon it by the General Assembly.

7. While virtually all delegations represented on the Committee are agreed that its mandate includes the establishment of an international régime, including some kind of international machinery, for the sea-bed beyond national jurisdiction, the debate up to now has centred between those who would wish the Committee also to prepare the determination of some of those questions which were not decided at the Second United Nations Conference on the Law of the Sea, held at Geneva in 1960, and those who would wish the Committee to consider changes in the law of the sea in all the broad areas indicated in operative paragraph 2 of General Assembly resolution 2750 C (XXV). Both groups have assumed that it is possible to establish international machinery only for the sea-bed beyond national jurisdiction. Both groups have assumed that, apart from greater or lesser cosmetic changes, the fundamental concepts of the present law of the sea, as enshrined in the Conventions adopted at the First United Nations Conference on the Law of the Sea, held at Geneva in 1958, can be maintained more or less unaltered, assuming a greater or lesser agreed extension of exclusive national jurisdiction in ocean space.

8. With great respect, we must observe that the context in which the debate in the sea-bed Committee has taken place has led to massive, avoidable loss of time and we must, with regret, place on record our firm conviction that, until and unless the frame of reference and focus of the debates in the Committee is changed, avoidable loss of time will continue and Committee discussions will lead to a dead end. Prolonged debates in the context of the assumptions that have prevailed in the Committee so far can only result in the collapse of what remains of the existing substantive law of the sea without leading to the establishment of any new legal framework. Thus it is high time to recognize the futility of attempting to reach agreement on the wide and complex spectrum of questions with which the sea-bed Committee must deal within the framework of the fundamental concepts of the present law of the sea. The so-called freedom of the high seas, the *jus utendi et abutendi* of the high seas at the discretion of the user, is obsolescent and must be replaced by regulated freedom and management of resources. Also obsolescent are the claims of unfettered sovereignty of the coastal State within its jurisdiction, since these are not in accord with the growing interdependence forced upon a reluctant world by economic and technological advance. The multiple distinctions in present law between territorial sea, contiguous zones, fishery zones, continental shelf and so on represent useless complications in the present circumstances and are equally obsolescent, since present reality and present and developing uses of the seas cannot easily be made to fit these legal distinctions. Finally, the present law of the sea is totally silent on a range of new uses of ocean space and deals in a totally unrealistic manner both with the limits of national jurisdiction that can be claimed through possession or control of certain categories of islands–and I would add in this connexion that recent events in the Arabian Gulf have shown that the forebodings my delegation expressed in March last year at the 56th meeting of the sea-bed Committee were not entirely unfounded–and with developing global threats to the marine environment, such as pollution. In addition, the situation created with regard to fisheries by increasing ocean pollution in certain areas and by intensified, ruthless exploitation of living marine resources is nothing less than intolerable. We can no longer be content with the pious resolutions of regional fishery commissions, since these lack credibility and their implementation is far from certain. It is not merely whales but also the Atlantic salmon and a score of other species which are in danger of extinction. These very serious questions cannot be meaningfully discussed in the context of the multiple lists of subjects and issues so far submitted to the sea-bed Committee by a number of delegations. It is not a question, at least at this stage, of bargaining an agreed extension of national jurisdiction against concessions on certain matters such as fisheries or straits but rather, in our view, that the sea-bed Committee cannot hope to achieve much, beyond of course the abundant production of rhetoric and the application of another leaky patch to the foundering ship of the law of the sea, until it adopts a total, comprehensive approach to the problems of ocean space based on contemporary reality and until it recognizes that fundamental changes are required in the basic assumptions and concepts underlying the present law of the sea. This does not mean that all articles in the 1958 Geneva Conventions should be changed or discarded but that the continued validity of the provisions of those Conventions should be tested against new, realistic assumptions and basic concepts.

9. Thus, in our view, the function of the sea-bed Committee under its new mandate is in substance, if not formally, the creation of a new, viable and equitable international order of an institutional character, based on the concept of a common heritage of mankind, not merely for the sea-bed but for ocean space beyond the limits of national jurisdiction. We believe that my delegation's interpretation of the Committee's mandate not only is historically and objectively incontrovertible but is the only path by which meaningful negotiations can be set in motion and chaos in ocean space avoided.

10. We note with great regret, however, that the sea-bed Committee as a whole, as distinguished from some individual members, has demonstrated no awareness whatsoever of the vital need to resolve the question of the basic approach to its work, that is, the question of its objectives. Until this matter is dealt with, we feel, the Committee will be working in a vacuum. An element of hope in this connexion is the working paper submitted to the sea-bed Committee by Turkey, which is contained in annex I to the Committee's report. This working paper raises the question of the relationship between the work done in implementation of resolution 2750 C (XXV) and its effects on the 1958 Geneva Conventions on the law of the sea. If this working paper could receive priority consideration by the sea-bed Committee, the question of the basic approach to its work could finally be clearly debated and resolved and thus the way would be cleared for real and perhaps quite rapid progress. My delegation too, despite its very limited

capabilities, has attempted constructively to contribute to a rethinking of the task of the sea-bed Committee by submitting a draft ocean space treaty, contained in the same annex, which attempts equitably to reconcile conflicting national and extranational interests and contemporary revolutionary changes in our use of ocean space within a legal and institutional framework.

11. We are deeply conscious of the deficiencies in our draft treaty; we have in fact already noted that some changes in detail are probably necessary, but we remain convinced that the comprehensive, total, essentially international and genuinely revolutionary approach adopted by my country is correct, since our relatively limited national interests in ocean space have enabled us to take a more objective view of contemporary trends and needs than is perhaps possible for some others. We hope that others, particularly land-locked States and developing countries with somewhat limited interests in ocean space, will next year submit further draft conventions dealing with ocean space as a whole and not merely with the sea-bed or with single issues such as straits, fisheries, some aspects of ocean pollution or others.

12. The immediate prospects are, however, rather bleak. Not only has the sea-bed Committee overlooked the vital point that it must decide on the basic approach to its mandate before it can hope to deal successfully and meaningfully with single issues, however important, but it has also established a sub-committee structure that makes meaningful discussion of the question of the basic approach difficult; indeed the sub-committee structure is such that it complicates immensely even constructive discussion of any single issue of any importance. It is perfectly illusory for instance to give to Sub-Committee I of the sea-bed Committee priority in the preparation of

> "draft treaty articles embodying the international régime –including an international machinery–for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction" *[see resolution 2750 (XXV)]*,

when, first, we have not yet decided whether there should be an international machinery for ocean space beyond national jurisdiction instead of for the sea-bed; secondly, the issues connected with sea-bed exploitation relating to superjacent waters are to be discussed, if at all, in another sub-committee and with reference to no agreed conceptual framework whatsoever; and thirdly, the sub-committee to which the question of drafting treaty articles is assigned must labour under a General Assembly-imposed handicap to the effect that nothing it does shall affect "the legal status of the waters superjacent to the area" *[see resolution 2749 (XXV)]*. Under such conditions priority consideration resolves itself into priority use of limited time for haphazard bargaining and theoretical debate to little useful purpose.

13. Were it not for the informal agreement between certain delegations, to which you, Sir, referred a few days ago but to which my delegation is not a party, to discuss only procedural matters relating to the marine environment at this session of the General Assembly, we would have been inclined to seek to move the General Assembly to change the title of, and give more precise instructions to, the sea-bed Committee. We would also have been inclined to request the Secretary-General to restructure the secretariat of the sea-bed Committee in a manner that would have enabled the secretariat more positively to contribute to the Committee's work.

14. In present circumstances and in view also of the fact that this Committee must complete its work within a very short period of time and that very few delegations are inclined at the present time to engage in any substantive debate, we have resigned ourselves to what in all probability will be another year of limited progress and massive, avoidable waste of time. We hope that we are mistaken; indeed we shall do our best to prove that we are mistaken by pledging to contribute as constructively as we can to the work of the sea-bed Committee. We do not, however, subscribe to the views of those who believe that it is always better to keep talking even if no useful results can be expected in the foreseeable future. If the sea-bed Committee does not get down to serious business very soon, events over which no individual State has any control will force a highly undesirable and dangerous direction to legal, political and military developments in ocean space, which the combined efforts of all persons of goodwill will be unable to arrest. Faced with such a situation, both honesty and national interest may suggest that the best available course for some States may be to seek fundamental clarifications, even if such clarifications should reveal an unpleasant reality. This may become necessary since, on the one hand, States not members of the sea-bed Committee have a right to be made aware more precisely than is the case at the present time of what in fact takes place within the sea-bed Committee and, on the other hand, the time is fast approaching when all States will require to know what real expectations they can entertain for international action. For some at least it is becoming urgent to make such practical provisions for their ocean space interests as may appear desirable in the light of exclusively national considerations.

15. Our comments on procedural matters will be very brief with regard to the draft resolution contained in document A/C.1/L.586/Rev.1. We would only express the view that the deletion of the words "with satisfaction" and "encouraging" in operative paragraph 1 would improve the draft resolution. Indeed the inclusion of these words makes it difficult for my delegation to vote in favour of this draft resolution. We would also express the hope that no attempt will be made next year to restrict United Nations General Assembly deliberations in the field of ocean space to essentially procedural matters.

16. Before concluding I should like briefly to refer to a matter discussed in the Second Committee of the General Assembly at its 1444th meeting, when, members are aware, the Second Committee, at the suggestion of the representative of Norway, decided to remit to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction for consideration at the latter's July/August session the question of the creation of an intergovernmental sea service within the United Nations system. Consideration of this question cannot easily be avoided by the sea-bed Committee in view of the precise instructions contained in the decision just adopted. On the

other hand the question of an intergovernmental sea service does not easily fit in with the present terms of reference of the sea-bed Committee as contained in resolution 2750 C (XXV), since it concerns exclusively co-ordination within the United Nations system and the initiation and establishment of a rational system of expanded and practical programmes of training of nationals from developing countries in maritime skills.

17. We can therefore anticipate an interesting procedural debate in the sea-bed Committee as to the proper allocation of this new item between the main Committee and one of the three Sub-Committees.

18. Such a procedural debate, followed by consideration in substance of the question of the creation of an intergovernmental sea service, is likely, if the past is any guide to the future, significantly to delay consideration by the sea-bed Committee, at its July/August session, of the subjects and issues with which it must deal in implementation of resolution 2750 C (XXV). The situation thus created could perhaps be remedied by amending operative paragraph 2 of the draft resolution contained in document A/C.1/L.586/Rev.1 to provide explicitly for a five-week or six-week summer session of the sea-bed Committee. This, of course, is likely to entail substantial additional expenditure.

19. My delegation, while agreeable to the tentative suggestion we have just made, does not feel very strongly on the matter and is willing to accommodate itself to the wishes of the majority of representatives on this Committee. However, whatever the decision taken by us is, I did feel that it was my duty to point out that the sea-bed Committee is unlikely to be able to devote its full attention, at its forthcoming summer session, to the preparation of the 1973 conference on the law of the sea.

20. Mr. KRISHNADASAN (Zambia): I should like at the outset to express our sincere condolences on the recent bereavement of the Government and people of Bulgaria in the tragic loss of their Minister for Foreign Affairs.

21. In compliance with your request for brevity, Mr. Chairman, our statement merely seeks to place on record a few thoughts on some aspects of agenda item 35 from the viewpoint of a land-locked and developing country which is not as yet a member of the sea-bed Committee. Quite candidly, we have every reason to fear the current rapid progress in marine technology by the technologically developed countries, which could sooner, rather than later, lead to national appropriation and use of the sea-bed and ocean floor. Contemporary technology is in a position to exploit the sea-bed and ocean floor, and the subsoil thereof, with regard to its economic and military potential, in addition to the danger of radioactive pollution resulting from such exploitation.

22. To prevent such exploitation and to ensure exploitation for the benefit of mankind as a whole, it is vitally necessary, as envisaged in resolutions 2749 (XXV) and 2750 (XXV), that international machinery to give effect to the provisions of an international régime be established by an international treaty of a universal character, to determine the limits of national jurisdiction and to ensure an equitable distribution of the profits of the sea-bed and ocean floor amongst all States.

23. As matters stand, technologically advanced countries are making dangerous incursions into the régime of the sea-bed and ocean floor on account of the fact that current international law does not provide adequate safeguards. As the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the area, have now been declared the common heritage of mankind, incapable of appropriation by any means by States or persons, natural or juridical, it is our intention to advert more specifically to a few aspects of this problem as it affects a land-locked and developing country in the wider context of the law of the sea.

24. On the question of transit and free access to the sea, it is not our intention to hark back to the many theories advanced by various jurists, those based on natural law, on the principle of the freedom of the sea, or on the existence of a public law servitude, to justify the right of free access to the sea by a land-locked country. We believe that it is by international agreement, multilateral, regional and bilateral, that the right of transit and free access to the sea can be best realized as a practical reality. Existing examples of multilateral action can be seen in the Convention on the High Seas, and the Convention on the Territorial Sea and the Contiguous Zone, adopted at Geneva in 1958,[1] and the 1965 Convention on Transit Trade of Land-locked States.[2] While agreeing that articles 2, 3 and 4 of the Convention on the High Seas, and articles 14 and 15 of the Convention on the Territorial Sea and Contiguous Zone gave specific form to the few existing rules which dealt with the enjoyment by all States of the freedom of the high seas, the question of free access to the sea of land-locked States, the right of every State to sail ships under its flag, and the right of ships of all States to enjoy innocent passage through the territorial sea, it is to be noted that a land-locked State's access to the sea is dependent on the coastal State's willingness to enter into a common or mutual agreement.

25. A significant step forward was taken, however, by the entry into force, in June 1967, of the Convention on Transit Trade of Land-locked States. The Convention safeguards the rights of land-locked States and facilitates the conclusion of bilateral agreements specifying the terms of transit for land-locked States. We note with regret, however, that as of June 1971 only 24 States were parties to that Convention. Considering that of this number 14 are land-locked States and that some of the coastal States parties to this Convention do not have land-locked neighbours, one wonders what value the Convention has at the present moment. It would also appear that the request made in resolution 2626 (XXV) of the twenty-fifth session for all States invited to become parties to the Convention which have not already done so to investigate the possibility of ratifying or acceding to it at the earliest possible date seems to have gone virtually unheeded.

26. While a number of bilateral treaties and arrangements exist to regulate in specific terms the conditions of transit through neighbouring States, it must be recalled that a land-locked country's problems may sometimes be aggravated by the presence of hostile neighbours pursuing

1 United Nations, *Treaty Series*, vol. 450 (1963), No. 6465; and *ibid.*, vol. 516 (1964), No. 7477.

2 *Ibid.*, vol. 597 (1967), No. 8641.

philosophies so abhorrent to civilized man that it is impractical and well nigh impossible for it to enter into bilateral or regional agreements or arrangements with such neighbours. If land-locked States are to enjoy equal access and equal use of the high seas and the sea-bed with coastal States, existing treaties, multilateral and bilateral, may solve most of the problems of actual transit through the banned territory and internal waters and territorial sea of the neighbouring coastal States.

27. But while this aspect of the matter may or may not be provided for in the future international treaty to be concluded at the forthcoming conference on the law of the sea, it may well become necessary for provisions ensuring shore-based facilities for storage or processing purposes, or for marketing, in the territory of such neighbouring States to be included in the future treaty, so that access to the sea becomes a reality. It may well be that such matters are resolved on a regional or bilateral level, although it is our predilection that all matters relating to the question of transit and free access to the sea by land-locked countries should be embodied in an international treaty *de novo*. In this manner, equality of access, not merely to the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jursidiction, but also to the high seas itself, will be permanently assured.

28. I turn now to the limits of national jurisdiction. Land-locked countries have a particular and very special interest in exploiting the riches of the sea-bed and ocean floor beyond the limits of national jurisdiction, considering that they are excluded from participation in the exploitation of the living resources of the sea, not only in territorial waters, but also in adjacent waters and fishing zones, and have no access to the wealth of the continental shelf. Moreover, in the delimitation of the area beyond national jurisdiction, it must be remembered that the larger the area under the jurisdiction of the coastal State, the smaller the area where land-locked States might expect to share equitably the common heritage of mankind.

29. If justice is to be seen to be done, it may well be necessary for land-locked developing States to be given special treatment. Of course, due regard must be paid to the very legitimate aspirations of developing coastal States to exercise their right 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. It is our belief that it would be an over-simpilification to consider the problem in terms of a 12-mile or 200-mile territorial sea. In defining the limits of national jurisdiction, one is aware that a meaningful definition must take into account, *inter alia*, not merely the criterion of distance of the territorial sea but also the concept of depth in regard to the continental shelf.

30. The present definition of the term, as contained in article 1 of the Convention on the Continental Shelf,[3] is unsatisfactory in more than one respect and militates against land-locked and developing countries. Firstly, it means that coastal States are totally dependent on geophysical considerations, which determine whether, for instance, they enjoy a four-mile or a 250-mile continental shelf. Secondly, a technologically advanced coastal State could exploit the sea-bed and subsoil beyond a depth of 200 metres *ad infinitum*, provided it was commercially feasible, subject only to the limitation of its technological capability. Thus the outer limit of a particular coastal State's continental shelf under this definition may vary in accordance with its geophysical characteristics and technological capability. It would therefore be advisable if, in a future international treaty, the criteria of distance and depth were both taken into account together with the special position of land-locked States, if a truly equitable solution is to be found.

31. I do not wish to comment at length on the extent of participation of land-locked States in the machinery envisaged, or on the fact that the proposals so far submitted contemplate one plenary body in which all contracting parties, including land-locked States, would be equally represented and that two proposals–those of the United States[4] and the United Republic of Tanzania *[A/8421, annex I, sect. 1]*–refer specifically to representation of land-locked States in the council or executive body to be established. Suffice it to say that if, as stated in resolution 2750 B (XXV),

> "the exploration of the area and the exploitation of its resources must be carried out for the benefit of all mankind, taking into account the special interests and needs of the developing countries, including the particular needs and problems of those which are land-locked",

this factor will have to be reflected in the composition of the executive body.

32. Participation in exploration and exploitation by a land-locked developing country or other countries presupposes a system of allocation which may be adopted with respect to the areas of the international sea-bed zone. Such an allocation could most appropriately be made if areas were allocated in such a way that all States might have an equal opportunity from the outset to be engaged in the exploration and exploitation of different areas. Land-locked and developing States should not be prevented from enjoying their equitable share solely because of the lack of skilled manpower, of capital resources and of the necessary transport and infrastructure to undertake such ventures. As these States might have difficulty in exploring and exploiting even with regional or subregional co-operation, it would be preferable if the international machinery itself had sufficient financial power and administrative authority to conduct operations or arrange for them to be carried out on its behalf by contractors rather than on the basis of initiatives by individual States.

33. With regard to the possible detrimental effects on the economies of developing countries of the production of certain minerals, according to the report of the Secretary-General on the subject *[A/AC.138/36]*, it seems that the impact of sea-bed production is likely to be of minor consequence for the two most important commodities under study, i.e., hydrocarbon and copper, although the markets for manganese, cobalt and nickel are likely to be affected. In keeping with the rational management of the

3 *Ibid.*, vol. 499 (1964), No. 7302.

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

area and its resources, as stipulated in resolution 2750 (XXV), it is hoped and expected that some form of international regulation will be established by the proposed international machinery to neutralize any adverse economic effects that such activities might have on developing countries, in particular on prices of mineral exports on the world market.

34. With those few thoughts, I thank the Committee for its forbearance.

35. Mr. GUERREIRO (Brazil): May I express to you, Mr. Chairman, and to the delegation of Bulgaria the heartfelt condolences of the Brazilian delegation on the death of the Minister for Foreign Affairs of the People's Republic of Bulgaria.

36. I shall try to follow the suggestion made here by the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and confine my remarks to questions of method and procedure.

37. The progress of the work of the sea-bed Committee during the year 1971 is quite significant, if we assess what has been done in the light of the historical perspective of its previous achievements and take into account the complex nature and political difficulties of the new tasks entrusted to the Committee at the last session of the General Assembly.

38. Three years of arduous discussions and negotiations were necessary to arrive at a definition of the concept of the common heritage of mankind and to obtain universal recognition of its application to the area situated beyond the limits of national jurisdiction, as well as recognition of the principle that in the exploitation of this area special consideration should be given to the particular interests and needs of developing countries, whether coastal or land-locked.

39. Three years of this preliminary work were needed for the General Assembly, at its twenty-fifth session, to adopt without opposition a Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction *[resolution 2749 (XXV)]*. The importance of such a step can be clearly understood once it is acknowledged that this Declaration will be the legal basis upon which the whole structure of the international régime and machinery for the area will be built.

40. Starting from that basis, the Committee has in 1971 undertaken a general discussion in which a wide variety of imaginative ideas and sensible points of view have been expressed and several concrete proposals have been put forward embodying the different approaches favoured by their respective sponsors on the type of régime and machinery that should be established.

41. Such ideas and proposals will enable delegations at coming sessions to discuss specific issues, such as, for instance, the scope of the régime and the powers and functions of the machinery, and to make specific recommendations thereon, including the drafting of treaty articles.

42. Seen in the perspective of its previous work, therefore, we may well conclude that the Committee in 1971 faced in a constructive manner its continuing and priority responsibility for devising a régime for the sea-bed and ocean floor beyond the limits of national jurisdiction responsive to the principles and objectives of the Declaration adopted last year by the General Assembly.

43. The same degree of concreteness, however, could not be expected in the discharge of the new and ample mandate that was entrusted to the Committee in General Assembly resolution 2750 C (XXV) to prepare a conference dealing not only with the régime and machinery of the sea-bed but also with a "broad range of related issues" concerning the law of the sea and further "to prepare . . . a comprehensive list of subjects and issues relating to the law of the sea".

44. The wording I have just quoted reflects the preference expressed by the vast majority of Member States for a conference at which participants would be able to present all questions of special concern. The extreme complexity of the broad range of issues related to the law of the sea obviously counselled prudence. It would be unwarranted in this instance to measure progress at the end of the two initial sessions of the expanded Committee in terms of agreements or concrete and finalized proposals.

45. Member States have in this short time had to re-examine the whole field of law dealing with these matters in order to be able to identify with greater precision the specific points which it is in their interest to have examined and settled in a future international conference. In this respect one should not forget that most States now Members of the United Nations attained their independence since the First United Nations Conference on the Law of the Sea, held at Geneva in 1958. It would be unfair to press them to take definitive positions on matters that evolved over the centuries without their participation and with little if any regard for their particular circumstances.

46. General Assembly resolution 2750 C (XXV) clearly sets forth, and logic requires, that the first task of the Committee in so far as the law of the sea is concerned is the preparation of a comprehensive list of subjects and issues. Although such a list has not yet been agreed upon, some proposals have been advanced by many delegations, and I am fairly certain that the Committee will be able expeditiously to approve a common list. A thorough debate will then become possible on the various subjects and issues, and the drafting of treaty articles on those found to deserve formulation or development will be undertaken.

47. There has clearly been an awakening of Governments to their concrete aspirations on these matters, and an understanding even appears to be developing in some major industrial Powers that a settlement will be reached only if due account is taken of the interests and needs of all peoples, and particularly of those engaged in the fierce struggle to achieve the minimum degree of economic and social progress compatible with a life of comfort and dignity.

48. The task before us will be much more arduous than that which has been undertaken to date, but we must show the same patience and determination that led to results last

year. It is essential that the principle of the common heritage of mankind now officially recognized by the international community be translated into its practical application. The régime and machinery for the sea-bed and ocean floor beyond national jurisdiction have to be conceived in such a way as to ensure that mankind as a whole will through the machinery to be established have a preponderant say in all activities undertaken in the area, particularly its exploration and the exploitation of its resources.

49. At the same time, through the preparation of a comprehensive list of items on the law of the sea followed by negotiations on specific questions, the Committee will be laying down the essential basis for avoiding the shortcomings which brought about the failure of the 1958 Conference and of the second one, held in 1960, and hopefully for drafting equitable principles and norms that may command universal acceptance.

50. We must not shrink from using our imagination and courage to revise or to innovate in this field of maritime law, always bearing in mind that existing rules often reflect the interests of large maritime Powers.

51. A new order must be established, taking into consideration, no doubt, what already exists, but, far beyond that, meeting the interests and needs of all peoples. It must be a body of international law which reflects the realities of a new world.

52. Having finished my statement on behalf of the Brazilian delegation, I should now like to say a few more words at the request of the sponsors of the draft resolution contained in document A/C.1/L.586/Rev.1.

53. The delegations of Algeria, Argentina, Australia, Brazil, Canada, Chile, Colombia, Ecuador, Greece, Iceland, Indonesia, Iran, Kenya, Malaysia, Mauritius, Morocco, Peru, the Philippines, Spain, Thailand, Trinidad and Tobago, Tunisia, the United Republic of Tanzania, Uruguay, Venezuela and Yugoslavia propose that the General Assembly adopt a simple procedural resolution that takes note of the work done by the enlarged Committee this year, which we consider satisfactory under the circumstances, and that requests the Committee to hold two sessions at Geneva during March and August 1972. The text of the draft resolution is self-explanatory and I believe requires no further elaboration except as to the question of the dates and duration of the sessions of the Committee. The text now before the First Committee mentions March and August. These are approximate indications. Of course, the exact dates for the beginning and end of the sessions will depend on the facilities available. I must add that this mention of March and August should not be construed as indicating a preference for two four-week sessions. On the contrary, bearing in mind the task entrusted to the Committee, two sessions of five weeks' duration each should probably be envisaged.

54. Mr. ORTIZ DE ROZAS (Argentina) *(interpretation from Spanish):* Mr. Chairman, I must start my statement by joining other representatives in expressing to you and the Bulgarian delegation my personal feelings of sorrow and the condolences of the Argentine delegation on the tragic death of the Foreign Minister of the People's Republic of Bulgaria.

55. The Argentine delegation fully shares your view, Mr. Chairman, and that of Ambassador Amerasinghe regarding the contents and scope of the present debate on agenda item 35. It was on that understanding that my delegation was one of the sponsors of draft resolution A/C.1/L.586/Rev.1, the contents of which clearly show that we interpret our present responsibility as being that of facilitating progress in the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

56. There is an additional and procedural question, which however is also of capital importance and that will have to be solved at the present stage: that is, the inclusion of the People's Republic of China in the membership of that Committee. The Argentine delegation has already expressed its hope that that country will be represented in other United Nations bodies. Therefore, consistent with that, we wish now to state that the participation of the People's Republic of China in the sea-bed Committee should be made a fact and a reality. We trust that the interest already shown by the Chinese delegation in the subjects considered by that body will be naturally channelled into its assisting in preparatory work on the future conference on the law of the sea.

57. In no way prejudicing the views that I expressed earlier regarding the nature of the present debate, I should like to make a few comments on certain aspects that warranted special mention by other speakers. My delegation shares a feeling of concern over the same matters, and that is why we consider that it might be helpful if we made some comments intended for those who are not members of the sea-bed Committee.

58. It is a known fact that in December of 1966 the Argentine Republic extended its jurisdiction over the sea adjacent to our coast to a distance of 200 marine miles from the low-tide mark.

59. That position, which is shared by other States, has been discussed and challenged with arguments which actually only defend self-interests and are far from being as objective as some contend.

60. In fact, Argentina is among those countries that have had to assume the responsibility of protecting the resources adjacent to their coast by the only means offered at present by international law—that is to say, by a unilateral declaration. May I indicate, furthermore, that this is a recourse that almost all countries have adopted, but with a marked lack of uniformity in the breadth of the area claimed.

61. That basically economic reason not only is found in the Declarations of Montevideo and Lima signed by the Latin-American States, but was pinpointed and reaffirmed very clearly in the resolution on the resources of the sea recently adopted at the ministerial meeting of the Group of 77 held at Lima from 25 October to 7 November 1971.[5]

5 See *Proceedings of the United Nations Conference on Trade and Development, Third Session, vol. I, Report and Annexes,* (United Nations publication, Sales No. E.73.II.D.4), Annex VIII F.

62. It is obvious that geographic and economic differences among States stand in the way of the 200-mile limit having universal application. It is precisely for that reason that this rule is invoked, in order to compensate for other criteria, and its adaptation to, and harmonization with, them will create the new regulation of the law of the sea which, besides being just, will also possess the virtue of ensuring legal security.

63. This economic argument leads us to state that the 200-mile limit must not be interpreted as in any way jeopardizing freedom of navigation. It would go counter to our purposes were such freedom to be in any way curtailed. As the representative of Peru pointed out *[1844th meeting]*, the limits proposed meet basically economic motivations, and therefore do not ignore the freedoms of communication and exchange, which are of equal interest to all States. My country wanted that condition to be clearly understood. It is, in fact, expressed in the Argentine law which at the end of 1966 extended national sovereignty to the 200-mile limit, expressly stating in one of its provisions that the freedoms of navigation and overflight were in no way affected by the provisions of that law. This has been confirmed in a number of declarations interpreting the Final Acts of the meetings on the law of the sea held in Montevideo and Lima in 1970, subscribed to by my country. It has also been expressed in joint declarations following successive meetings held in the course of the present year by the Argentine President with the President of the Republic of Uruguay, and later with the President of the Republic of Chile.

64. The economic and geographic reasons which I have mentioned as factors that condition the 200-mile limit of jurisdiction over the adjacent sea are equally applicable to the problem of the delimitation of the continental shelf. Geographical diversity and the socio-economic arguments adduced by the representative of Peru when explaining the reasons which led his country to adopt the 200-mile limit, with the classification that those circumstances show that there cannot be a single limit all over the world, are also applicable to the problem of the continental shelf.

65. The law that will regulate this matter will necessarily have to be diverse, as nature itself is diverse. Accordingly, as in the previous case, it is impossible to speak of a single limit, since that would be *contra natura* and because in endeavouring to give equal treatment to what is unequal, we would be flouting all the laws of logic and justice. We know that the absence of these laws from current jurisprudence would inevitably lead us to failure.

66. In accordance with existing international law, the Argentine Republic, in its law governing maritime sovereignty, established the criterion of exploitability in the delimitation of the underwater zone under its jurisdiction and sovereignty. Another principle recognized by my country is that there is an international area of the sea-bed which is the common heritage of mankind.

67. We share the interpretation of existing international law which recognizes to the riparian States rights to sovereignty over the totality of the submerged continental territory—that is to say, to the lower and outer border of the continental sea. As is well known, this principle, which is adduced by many States and obeyed in their international dealings, is further added to by some of the findings of international jurisprudence, the most outstanding of which are those of the International Court of Justice on the question of the delimitation of the continental shelf in the North Sea,[6] which clearly supported the geomorphological concept of the continental shelf.

68. But, as I said before, we are aware that the criteria defined and supported by my country would not be enough to govern and regulate as complex a subject as this. We therefore believe that the combination of these facts with others, such as that of distance, might harmonize these rules, accommodate interests and achieve a levelling of the juridical security which we all desire.

69. Otherwise, we would be adopting the simplistic attitude of believing that by applying a single formula we would be in possession of a valid and acceptable rule applicable to all cases. This would be tantamount to renouncing our own capacity of noting the differences in the natural and economic environment in which States develop and, therefore, would be an abdication of our search for appropriate solutions to the problems confronting us.

70. The question of straits has also been mentioned in these debates and I shall refer to it very briefly, stressing that this is a typical case where the interests of the State or the States whose territories border the straits combine with those of the international community in general, and in some cases also with the interests of certain States which because of their geographical situation need to preserve their freedom of communication through such waterways.

71. We believe that here again a thorough study is called for. It should begin with defining straits and classifying them, bearing in mind the different characteristics that they possess, and end with a clear definition of the legal régimes to be applied to the navigation and overflights of these straits.

72. As the representative of El Salvador, Ambassador Galindo Pohl, very clearly pointed out at the 1844th meeting, for those countries that equate the concept of the territorial sea with that of the freedom of navigation and overflight there can be no difficulties. Rather, from that criterion we can deduce a guarantee of the utilization of the straits for those purposes by all nations. But we understand full well that a suitable solution can flow only from reconciling a liberal régime of communications through those waterways with the justifiable interests of coastal States so as not to jeopardize the security and the ecological balance of the waters adjacent to their coasts.

73. I trust that my comments, primarily addressed to the delegations not members of the sea-bed Committee, will be useful in proving the need for an effort of understanding in the search for the solution to the problem. We also trust that that undertaking will be successful and may I repeat that with that trust and with the sincerest spirit of co-operation the Argentine delegation will continue to fulfil its responsibilities in these matters.

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6 *North Sea Continental Shelf. Judgment, I.C.J. Reports 1969*, p. 3.

74. Mr. BELYAEV (Byelorussian Soviet Socialist Republic) *(translation from Russian)*: Mr. Chairman, permit me to add to the words of grief expressed on behalf of our group of countries by the distinguished representative of Hungary on the occasion of the tragic death of the Minister for Foreign Affairs of the People's Republic of Bulgaria, Comrade Ivan Bachev, our sincere and profound sympathy to the delegation of Bulgaria and to the Chairman of this Committee personally. We would ask the members of the Bulgarian delegation to transmit our condolences to the fraternal people and the Government of Bulgaria, and to the family of the deceased.

75. This year the Byelorussian SSR participated for the first time in the work of both sessions of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and, of course, we had the opportunity to set out on that occasion our position on the problems and documents under consideration. Now, following the appeal made by the Chairman of the sea-bed Committee, I should like briefly to set out our views on the report before the Committee *[A/8421]* and the draft resolution on the question *[A/C.1/L.586/Rev.1]*, as well as on the procedural decisions which the Committee is to take.

76. First of all, with regard to the work that has been done, as can be seen from the report, the Committee in general and its subsidiary bodies in particular have achieved some success this year in overcoming the difficulties standing in the way of reaching the finishing post and convening a conference on the law of the sea.

77. We, like many other delegations, consider as one of the basic achievements of that Committee the fact that it succeeded in organizing itself and defining its area of competence, and that the discussions over its two last sessions have enabled representatives of countries from various regions once again to compare their positions on existing problems relating to the international law of the sea. As a result the Committee has, at present, a number of interesting draft treaties and agreements on the régime for the sea-bed and the ocean floor and the subsoil thereof. In our opinion, that is a good basis for the elaboration of a document on the use of the sea-bed for peaceful purposes which would be acceptable to all States.

78. From among the draft treaties and agreements submitted, we should like to single out the Soviet draft articles of a treaty on the use of the sea-bed for peaceful purposes, which is contained in the Committee's report. The merit of that draft, as has already been pointed out several times, is that it takes as its basis generally accepted principles of modern international law, as embodied in the Charter of the United Nations, the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof *[resolution 2660 (XXV), annex]*, and in other documents of international law, especially the Conventions adopted at Geneva in 1958 at the Conference on the Law of the Sea.

79. The draft treaty contains a number of very important provisions concerning States' activities in the industrial exploration of the sea-bed and the exploitation of its resources, the protection of freedom of navigation, fishing, research and other activities on the high seas, the prevention of pollution and contamination of the marine environment and also the prevention of interference with its ecological balance as a result of activities on the sea-bed. It sets out the principles governing the establishment of a future international organ. The articles of the draft provide that the sea-bed and the subsoil thereof shall be open to use by all States, whether coastal or land-locked, without any discrimination whatsoever; at the same time, particular attention is paid to the interests and needs of developing countries.

80. The Byelorussian delegation considers that the Soviet draft treaty, taken together with the constructive proposals by other countries, could be a useful basis for the elaboration of a treaty on the use of the sea-bed for peaceful purposes which would ensure the most favourable and just conditions for the effective exploitation of the resources of the sea-bed and the subsoil thereof in the interests of mankind as a whole. I should like to say a few words about another working paper, in the preparation of which the Byelorussian SSR took part. This paper, which appeared in the sea-bed Committee's report, was formally submitted by a group of countries comprising Afghanistan, Austria, Belgium, Hungary, Nepal, the Netherlands and Singapore and contains a number of concrete proposals on matters to be regulated in a convention on the sea-bed.

81. I shall remind the Committee of the essence of these proposals and of their purpose. The land-locked States oppose a 200-mile zone of national jurisdiction, which would seriously limit their rights; they are in favour of restrictive delimitation of the continental shelf, of proportional representation in the executive board of any future international machinery, and of ensuring that the rights of land-locked countries are not only enumerated but also guaranteed in any convention on the sea-bed. The paper particularly stresses that the future international organization, in the exercise of its powers, should always duly promote the development of developing countries.

82. Our delegation supports these provisions in principle, and hopes that they will be taken into account when the corresponding sections of a future convention are being prepared.

83. One important task which the Committee was not able to perform this year was the preparation of a list of questions and problems to be considered at the conference on the law of the sea. Such a list is important at the moment because, as has already been pointed out here, it should be the basis for the conference's agenda. In our view, the main difficulty confronting the Committee in this matter is the profusion of drafts and, above all, the fact that the matters raised in them and the goals sought are so different. In this connexion, the delegation of the Byelorussian SSR supports the proposal made by the Chairman of the sea-bed Committee *[1843rd meeting]* and appeals to all sponsors of proposals on this matter, to members of the working group established by Sub-Committee II and also to all interested countries to conduct the necessary consultations before the next session of the Committee in order to make the best possible use of time in solving other and more complex problems which are before the Committee.

84. Those who have spoken during the present discussion have repeatedly asked what, after all, the Committee has achieved and we have heard various answers to that question. Our delegation tends to agree with those who have evaluated the work of the Committee in 1971 on the whole favourably. Its principal achievement is that it has now acquired sufficient experience to carry out in the time remaining the tasks which have been allotted to it by the General Assembly of the United Nations. The First Committee now has to take decisions on only a few procedural questions and decide on the number, length, time and place of the sea-bed Committee's meetings next year. The position of the delegation of the Byelorussian SSR on these matters is that two sessions, of up to five weeks each, should be held in order for the Committee to work effectively. The most suitable periods would be the months of March and August. We are deeply convinced that that time could best be used here, in New York. That choice of location is directed by such factors as the problem of servicing such a large group in Geneva and the considerable financial expenditure which would be involved for the United Nations, a matter of great importance at the moment for the Organization.

85. Mr. KIKIĆ (Yugoslavia): I should like first to associate my delegation with the condolences and sympathy expressed concerning the untimely death of the Minister for Foreign Affairs of the People's Republic of Bulgaria.

86. This year we are examining the item dealing with 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 interest of mankind in a context substantially different from that of previous years.

87. In saying this, I am primarily thinking of the outstanding success of the twenty-fifth anniversary session of the General Assembly, that is, the adoption of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction *[resolution 2749 (XXV)]*, whose most important element is the principle of the common heritage of mankind, and the extension of the mandate of the sea-bed Committee, which has been entrusted with the over-all and comprehensive question of the sea. In the circumstances of the enlarged mandate and the increased number of members, the Committee found itself faced with a responsible and complex task. In view of the foregoing facts we are of the opinion that the sea-bed Committee has made relatively good progress during its last two sessions, although it has not advanced very far in reaching substantive results in terms of joint proposals or joint draft documents.

88. I should now like to present briefly some of the views of my delegation concerning the main issues at present being considered by the Committee. As is well known, we attach special importance to the question of the régime and machinery for the peaceful exploitation of the sea-bed. We hold the view that all the elements contained in the Declaration of principles regarding the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor should be incorporated in the future treaty on the international régime and machinery, and also that the treaty should elaborate other aspects and elements of problems related to this question. The international régime and machinery should cover a wide range of activities concerning the regulation, control, exploitation and use of the sea-bed, including all other problems associated with the management of the sea. Another important aspect closely related to the concept of the international régime is the degree of control which the international régime and machinery should be empowered to exercise in terms of research, exploitation and the uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction. My delegation believes that a high level of control is essential. In addition, the international treaty on the régime should be of a universal character and generally accessible. As for the organs of the future international machinery, in principle we look positively upon the idea of a general assembly, an executive political body and a secretariat. We also firmly believe that the future international machinery should comprise a part of the system of the United Nations and that it should be linked to it in an appropriate manner.

89. The question of sharing the benefits of research and exploitation of the sea-bed was considered by the sea-bed Committee on the basis of a report prepared by the Secretary-General *[A/AC.138/38 and Corr.1]*. In our opinion the report, however, was rather limited in its range, since it attempted to deal mainly with the financial benefits derived from taxes and fees. It proceeded from the presumption that the system of licensing for research and exploitation of the sea-bed should serve as the basis of the international régime and that it should be the content of the work of the international machinery. This report did not include all other sources of possible benefits and advantages, including the training of persons from the developing countries, joint ventures and the sharing of knowledge about the sea-bed and application of technology needed for exploitation and use.

90. With reference to the study of the problem of the international régime and machinery, I should like to say that we are happy to see before the sea-bed Committee, among the draft documents and working papers of many countries contained in the Committee's report *[A/8421]*, papers submitted by Tanzania and the group of Latin American countries since they, in our opinion, represent the points of view of the developing countries, which are vitally interested in this area. We have noted with special interest the idea advanced by the Latin American countries regarding the possibility of having an international organization engaged in research and exploitation of the sea-bed, including the proposal that an international enterprise be set up as the organ of an international organization, which would conduct business on behalf of and in the interests of the international organization. In contrast to this, we look upon the idea of so-called licensing with reservations, since it is inconsistent with the principle of a common heritage. Furthermore, in connexion with this problem we strongly believe that priority should be given to the establishment of the system of the international régime and the international machinery over other problems. There is no doubt that the successful treatment of all other important items on the agenda of the 1973 conference will depend upon a successful solution to this question.

91. The establishment of the list of items for the 1973 conference also represents a highly important task. As is

well known, a group of Afro-Asian countries and Yugoslavia—32 sponsors—in addition to some other States, have also formulated their proposal regarding the list of items and issues to be examined by the forthcoming conference *[ibid., annex I, sect. 16]*. The first problem on this list is the international régime and the international machinery for the sea-bed and the ocean floor beyond the limits of national jurisdiction, because we are firmly convinced that the problem should be given a certain priority in treatment. Next in order would be questions of the territorial seas and the contiguous zones, straits, the continental shelf and so forth. We hope that favourable conditions will evolve for presenting a joint list by all the developing countries, which could later serve as a basis for the formulation of the final document on this question.

92. We also consider the examination of the problem of pollution and scientific research of the sea-bed and the ocean floor to be of importance. Special attention should be paid to the right of the coastal States to take protective measures against pollution which could cause damage to their vital interests. Coastal States are entitled to international legal protection from pollution and to compensation from damage caused by research and exploitation of the sea-bed and the ocean floor beyond or within the limits of their present national jurisdiction. In this connexion it is important to point out that the source of pollution is most often linked to the activities carried on by the most industrialized States; hence they bear a greater responsibility for preventing pollution and eliminating its consequences. We are also very much interested in the international legal regulation of the question of scientific research and promotion of co-operation in this area with all States.

93. In conclusion, we wish to point out that next year, in our opinion, we shall enter an important phase in the examination of the questions on the agenda of the sea-bed Committee. We believe that conditions have matured for continued and substantive progress in the conclusive solution of a number of issues and we hope that the Committee will come before the twenty-seventh session of the General Assembly with concrete proposals.

94. With respect to the organization of work, my delegation feels that next year we should hold two meetings of the sea-bed Committee and that it would be useful to have the representatives of the People's Republic of China participate in this work as members of that Committee.

95. The Yugoslav delegation is willing, as in the past, to exert its utmost efforts and to contribute to a more successful solution of all problems relating to the sea-bed and the ocean floor, issues that are of vital interest to all, and in particular to the developing countries.

The meeting rose at 12.30 p.m.

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