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CONTENTS

Chairman: Mr. Otto R. BORCH (Denmark).

AGENDA ITEM 40 *(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/9021, A/C.1/1035, A/C.1/L.646)

1. Mr. KOLESNIK (Union of Soviet Socialist Republics) *(interpretation from Russian)*: Mr. Chairman, since the Soviet delegation is taking the floor for the first time here in this Committee, I would venture to express my gratitude and my conviction that under your wise leadership the Committee will perform the important tasks which have been assigned to it this year. I should like to take this opportunity to express my satisfaction at your election and the election of the other officers of the Committee.

2. The Soviet delegation has followed the course of the discussion in the First Committee most attentively and would like now to express its view on certain matters which have already been touched upon in the course of this discussion. We should like to make known our views on the preliminary draft resolution on the convening of the Conference on the Law of the Sea, which was prepared and discussed in the contact group last Friday and which, of course, is very familiar to all representatives here. I would like to repeat what I said in the contact group, that we are grateful to Mr. Amerasinghe for his constant initiative in this matter in working on the problem of the law of the sea, and for his current initiative in assuming responsibility for preparing a draft resolution for the First Committee. But I shall have something to say about that draft somewhat later.

3. The Soviet delegation considers—and we hope that delegations of other countries share our view—that the success of the Conference on the Law of the Sea depends directly on the extent to which it is well prepared and on how successfully the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has coped with the tasks it has faced in compiling agreed draft articles and other documents for the Conference. A diplomatic plenipotentiary conference is not a debating society, but an extremely serious political undertaking, something which can be entered into when there is a well-founded assurance that it will be successful. Now, can we say at the present time that the Conference is sufficiently well prepared and that the Committee I mentioned, which in the years 1971 to 1973 held six sessions, has already performed those tasks entrusted to it by the General Assembly under resolution 2750 (XXV)? I doubt if there is a single representative here who would assert that we are satisfied by the Committee's work and that it has done its job, though of course I in no way intend to belittle the efforts which have been undertaken in that Committee. Nevertheless, it suffices to say that so far there have been no decisions on such cardinal issues as the question of the breadth of the territorial sea, of passage of vessels through straits used for international navigation, fisheries, the outer limits of the continental shelf, and so on.

4. In the course of the Committee's work so far, all we have had is the setting forth of the positions of States and proposals which have been presented. But no serious steps have been taken to achieve compromise. Therefore, the Soviet delegation shares the misgivings which have been expressed by a number of delegations to the effect that in these circumstances the success of this Conference has given rise to serious doubts. After all, our purpose, as I have said, is not simply to convene a conference for its own sake, but to convene a conference which will produce such rules of international law as are operative and vital and likely to be observed by everyone. For this they need to have the support of all countries. And in order to get such support, they have to take into account their interests. I believe that in this regard it will be appropriate to point out that the new rules have to meet the interests of more than 200 million people who inhabit the African continent, as well as taking into account the interests of 250 million people who live in the Soviet Union, and taking into account the interests of 300 million people living in Europe, as well as the interests of 280 million people who live in Latin America, and so on. In other words, the rules produced by this Conference must be universal in character and be based on the principle of equality. Otherwise these will be regional rules which would not be binding on States from other regions, and would not be able to replace the existing rules of international law. And therefore the only correct and just approach would be one based on a search for mutually acceptable decisions, and the time for holding the

conference would be something to be decided in the light of the degree of preparedness achieved.

5. Experience has shown us that only those international agreements and norms of international law are viable that are in keeping with the objective processes that are going on in the world and in accordance with the legitimate interests of all States. We know very well also that the normal process of preparing international documents excludes the possibility of imposition by any group of States of its views on other countries and presupposes a request for agreed decisions. There is no doubt that this experience is directly related to the preparation of international rules affecting the world ocean, the exploitation of the resources and wealth of which is of interest to all countries of the world, since it is becoming for them an ever more important source of food and primary commodities and one of the most important media of communication.

6. The Soviet Union, as a great and peace-loving maritime Power, has vital interests in the matter of the rational exploitation of the resources of the world ocean. At the same time we are sympathetic to the legitimate interests of other States and we are taking into account the particular concern and interests in the exploitation of the resources of the seas and oceans of the developing countries which have been prejudiced as a result of colonial domination. We favour the idea of the interests of the new sovereign States, which have thrown off the chains of colonialism and which are now treading the path of independent development, being duly taken into account in the preparation of new rules for an international law of the sea.

7. The Soviet delegation believes that in circumstances where the United Nations committee concerned with the preparation for the international Conference on the Law of the Sea has not complied with the mandate conferred upon it by the decisions of the General Assembly, the convening of the Conference, at a time which is mentioned in preliminary fashion in resolution 3029 (XXVII) of the General Assembly, is premature. We believe that preparations for the Conference have not reached the stage where it would be advisable to convene it, nor a time when it would be possible to count on its success.

8. In the United Nations we have had experience in the holding of conferences or in the preparation of international conventions. I might refer as an example to the experience of the convening of previous conferences on the law of the sea, and we are very well aware how carefully and thoroughly the United Nations Conference of 1958 was prepared. For about 10 years the International Law Commission, which consists of the most distinguished jurists in the world, prepared drafts of the documents concerned for the Conference. Even given the scrupulously, thoroughly prepared drafts, the Conference was unable to resolve a number of important questions. We had the experience also of holding the United Nations conferences on the law of treaties and diplomatic law. Equipped with prepared drafts, those Conferences encountered major difficulties and it required a considerable period of time to hold them.

9. What do we expect now, when for such an important conference as the Conference on the Law of the Sea—where, unlike previous conferences, new rules for sea law are to be formulated and questions are to be considered which are of vital importance for every State—practically speaking we do not have a single agreed text prepared? Can the Conference, which is so unprepared, be successful? For us the answer to this is clear. It is hardly possible to count on success. For three years in the Committee, as emerges clearly from the report prepared for the consideration of the First Committee—and we do not yet have the full report, merely the first volume of it—all that have been held are just general discussions and all kinds of other discussions. Of course, it would be wrong not to point to the progress that has been made in preparing for the legal régime for the sea-bed as the common heritage of mankind; but in so far as concerns what was prepared in Sub-Committee II, the so-called consolidated text and the alternative versions, which certain delegations are inclined to represent as a major success, I think I am not mistaken if I say that they represent official proposals of delegations transcribed from one piece of paper to another and that is all. No talks of a political nature on those alternative versions have yet been held.

10. That is why the Soviet delegation is convinced that work on the preparation for the Conference should be continued. This preparatory work should be effective. It should be a matter of genuine talks. We think that preparing for the Conference is something that can be continued either within the framework of the existing sea-bed Committee or another organ that might be set up for the purpose. Nor do we exclude the possibility of continuing talks on the preparatory work by means of convening what is known as a "pre-conference", with the participation of all interested States, which would create the conditions for broad consultations aimed at achieving mutually acceptable decisions. Finally, we do not exclude the convening of a preparatory session of a plenipotentiary conference, if this is the inclination of the majority, only on the understanding, however, that the 1974 session of the Conference would actually be named a "preparatory session". I should like to stress this word "preparatory". Accordingly, I should like to stress that the approach of the Soviet delegation to this matter is to some extent flexible.

11. A proposal of this kind, as we know, has been put forward by a number of delegations. It was put forward at the sixth session of the Committee on the sea-bed in Geneva. In this regard I should like to say that we share the view of the Mexican delegation who spoke in the general discussion at the 2139th plenary meeting of the General Assembly on 3 October 1973, and spoke in favour of continuing preparatory work.

12. With regard to the results of the work of the sea-bed Committee, Mr. Rabasa said the following:

> "Doubtless that situation arose owing to the fact that all the efforts made were not sufficient to achieve agreements that are indispensable. We wonder, in these circumstances, whether we are in a position to start a conference on the date set by the General Assembly, or whether we might not be better advised to make a last effort that would allow us to go to that meeting with an adequate basis to work on." *[2139th plenary meeting, para. 15.]*

13. Yesterday, Mr. Castañeda, as I understand it, in a creative effort, put forth the idea of holding an additional spring session. But it seems to me that amounts to the same thing and the proposal might create certain difficulties, particularly for smaller countries.

14. The continuation of preparatory work in our Committee was also favoured by the delegations of Brazil and Peru. A strong argument in favour of convening a preliminary conference is the fact that we cannot deprive more than 50 States which are not members of the sea-bed Committee of the right to participate in the preparatory work for it. We cannot stop the preparatory work at this stage.

15. We should also like to remind the Committee of General Assembly resolution 3029 (XXVII), paragraph 5 of which requests the twenty-eighth session of the General Assembly to undertake a review of the progress of the preparation for the Conference by the sea-bed Committee and to take measures to facilitate completion of the substantive work for the Conference and any other action it may deem appropriate. Hence, contrary to the assertions of those who would like to create the impression that the twenty-seventh session of the General Assembly adopted a rigid plan for this Conference, resolution 3029 (XXVII) is based on the necessity for the most careful preparation of the Conference, and provides for the taking of appropriate steps should that preparatory work not be completed. That is the purport of that paragraph of the resolution.

16. I should like now to turn to the draft resolution concerning the convening of the Conference, which I mentioned initially and with which I believe everyone here has had an opportunity to acquaint himself. I have not been able to look at the text that has just been circulated unofficially. I shall therefore base myself on the text that we discussed on Friday, the only draft resolution that appeared before this morning.

17. The Soviet delegation cannot support operative paragraphs 2, 3, 4 and 13, concerning the time for convening the Conference and the dissolution of the preparatory committee, for reasons which I have mentioned earlier, if there is no qualification with regard to the preparatory nature of the work to be done in 1974. We repeat that to dissolve the existing Committee and to go to the Conference is the easiest course; however, it is hardly likely to lead to the emergence of universal and long-lasting international rules in the field of the law of the sea. Now, in circumstances where the Committee has not yet performed the tasks that faced it, the Soviet delegation considers it premature to convene a conference on the tentative dates mentioned. Also, serious doubts arise in connexion with the advisability of convening an organizational session. It would appear at least illogical to resolve organizational problems at a time where there is no agreement on questions of substance. It is only after agreeing on draft articles, or at the very least after attaining agreement in principle on fundamental issues, that there can be any question of holding a conference. Clearly, the achievement of agreement on fundamental issues would make it 90 per cent easier to resolve organizational problems.

18. Operative paragraphs 7 and 8 of the draft deal with a controversial political issue, and our views on this matter are very well known. We are in favour of universal participation of States in international conferences and conventions, and we consider it entirely unjustified to include in the draft the discriminatory so-called Vienna formula. In this regard, we should like to recall the provision of General Assembly resolution 2750 C (XXV) which states that in the documents to be prepared mutual account should be taken of "the interests and needs of all States". We might also refer to the Declaration of Principles Governing the Activities of States in the use of the Sea-Bed and the Ocean Floor and the Subsoil Thereof, beyond the Limits of National Jurisdiction *[resolution 2749 (XXV)]*, which provides that an international régime should be established "by an international treaty of a universal character, generally agreed upon". Accordingly, the principle of universality has already been reflected in a number of documents relating to the forthcoming Conference on the Law of the Sea and, in our view, it cannot now be rejected when we are considering the question of the possibility of convening the Conference.

19. We know that the problem of the universal participation of States in the forthcoming Conference is a matter of concern not only to the socialist States; it is a matter which strongly affects the countries of the African continent and, in substance, one which concerns all developing countries. To adopt the present formulation would be to permit an injustice to be done to those countries kept outside the Conference on the basis of the notorious Vienna formula.

20. In connexion with paragraph 11, we fully share the view expressed by the representative of France in the course of the work of the consultative group. It would be no exaggeration to state that the Conference on the Law of the Sea is not just an ordinary codification conference. At the Conference a new legal régime will be prepared for the seas and oceans, a régime which has hitherto existed only as a kind of legal doctrine reflected in a number of regional resolutions.

21. Recently the Chairman of the sea-bed Committee, Mr. Amerasinghe, said that the task is to revise the existing law of the sea which diverges from the morality of our times. Therefore, we cannot apply those methods of work which were used at previous codification conferences and which are normally used in the General Assembly. Attempts at the Conference to adopt decisions by the use of an arithmetical majority would not be a method likely to solve questions relating to new rules of the law of the sea. The only acceptable way of solving such questions, as was so rightly pointed out by a number of delegations, is the method of consensus. We are firmly convinced that it is only on the basis of this principle—on the basis of a sensible harmonization of the principles of justice and taking into account the interests of all States—that we can create norms of international law which will be observed and can ensure that the conventions which finally emerge will be ratified by a sufficiently large number of States. In this regard we should like to point out that the sea-bed Committee worked on the basis of precisely this principle. The principle of consensus of course involves lengthy negotiations and demands a spirit of co-operation; but, on the other hand, it is something which can genuinely lay the bases and foundations for a new legal régime for the seas and oceans. When the principle of consensus is rejected,

then by that very token, in substance, doubt is cast upon the very need for the co-operation of States and, unwittingly, the thought is entertained that really there is no obligation whatsoever to reckon with the legitimate interests of any given State or groups of States.

22. Therefore, the position of the Soviet delegation is this: decisions of the Conference on questions of substance should as a rule be adopted by consensus. I do not intend any qualification by my use of the phrase "as a rule", since we believe that in exceptional circumstances, in order to avoid abuses of the method of consensus, it might be possible to employ the method of adopting decisions by voting. Representatives who have spoken here have said a great deal about the necessity of doing everything possible to see to it that the Conference's decisions are taken on the basis of consensus and that voting will not take place until all the possibilities of reaching agreed decisions have been exhausted. We share this view and support proposals of this type. However, we cannot agree that the draft resolution should remain silent about this matter. I would say that the draft resolution is very diplomatic in talking about the preparation of the draft rules of procedure taking into account the views expressed in the Committee. But one can only guess about what concrete views are meant by this. The Soviet delegation does not find to its liking such a way of resolving the question and we cannot agree that the understanding on the desirability of the use of consensus, about which so much has been said, should not be set down in the documents in question. Otherwise the situation would be that the rules of procedure, based on those of previous conferences—at least that is how it looks in the draft which I had up to this morning—will be put down on paper but the need not to have recourse to voting until the possibilities of achieving consensus had been exhausted would be left as a vague understanding.

23. We consider it necessary to set down in concrete terms the understanding in question in the rules of procedure themselves. We do not find convincing the argument that the concept of consensus does not lend itself to precise definition. That is a conclusion which can be reached only when there is no better conclusion around. At the same time, we are convinced that voting in the major committees of the Conference can take place only upon the deliberate decision of its parent body, for example, the general committee—and this is something which should also be reflected in the rules of procedure and not be viewed as an abstract understanding. We should particularly like to draw attention to the fact that in those cases where voting does take place the majority required for the adoption of decisions should be considerably greater than two-thirds—in other words, quite close to consensus.

24. Of course, what I have said about the procedure of voting relates to the work of the plenipotentiary Conference itself and certainly not to the preparatory stage of work, which has not yet been completed.

25. From those who agree that the sea-bed Committee has not yet fulfilled its mandate we still hear appeals for arranging a kind of decent burial for the Committee and there are indications of the need for responsible, serious political negotiations. It is precisely those serious political talks and negotiations that the Soviet delegation is appealing for, but it is difficult to understand why the preparatory negotiations should necessarily take place within the framework of the Conference. If what is meant here is talks which would lead to one-sided decisions, that departs entirely from the task of preparing universally accepted rules of the law of the sea.

26. The preparatory work, at least with regard to those problems dealt with by Sub-Committee II of the sea-bed Committee, should be continued outside the framework of the Conference, on the basis of the procedure which has been used here for many years in all the special committees of the United Nations that have dealt with new and important problems, whether it be in outer space, in the sea or in any other area where man has penetrated.

27. Those were some of the views of the Soviet delegation on the question of the convening of the Third United Nations Conference on the Law of the Sea and on the unofficial draft resolution prepared by Mr. Amerasinghe on the convening of such a conference. On the basis of those views, the Soviet delegation is unable to support the draft resolution in its present form.

28. The CHAIRMAN: I thank the representative of the Soviet Union for his kind remarks about the officers of the Committee.

29. May I draw the attention of the Committee to the new informal draft resolution that has been circulated this morning at the request of the Chairman of the sea-bed Committee.

30. Before calling on the next speaker, I would ask the Chairman of the sea-bed Committee whether he would like at this stage to comment on the informal draft resolution or whether he would prefer to wait?

31. Mr. AMERASINGHE (Sri Lanka): I would prefer to wait, Mr. Chairman, in the hope that I shall receive further enlightenment.

32. Mr. ZULETA (Colombia) *(interpretation from Spanish)*: Before I begin my statement I should like to say that my delegation is profoundly sorry that the first session of the forthcoming Conference on the Law of the Sea cannot be held in Chile. We fully respect the reasons adduced by the Government of that sister Republic when announcing the impossibility, for the moment, of its acting as host to the Conference. We had always understood that the choice of Chile was a tribute to the co-operation which that great country has for many years given to the cause of the United Nations and the development of international law.

33. The Colombian delegation is fully aware of the responsibility incumbent upon us when we take a decision on the convening of the third United Nations Conference on the Law of the Sea, as well as of the work of negotiation that still faces us if we wish to arrive at a substantive political agreement that will allow the new convention to be elaborated.

34. From the time when the subject was first discussed at the United Nations, during the twenty-second session of the

General Assembly in 1967, up to the present, I think it can be said that positive progress has been made which we cannot underestimate. We do possess a declaration of principles which points out the path of equity. We also have a list of subjects and questions[1] that will allow us to draw up a balanced agenda.

35. However, as the representative of Mexico has pointed out, during this time negotiations of a regional nature have taken place which have led to concrete proposals that have warranted careful consideration by all delegations.

36. Without going into the substantive questions, I think it would be appropriate to refer to two examples that allow us to assess how great has been the progress in the preparation for a future conference.

37. First of all, among the items submitted to Sub-Committee II the specific case of the economic zone or the patrimonial sea is, I think, a very valid example. As a result of regional agreements arrived at by developing countries, the States of the Organization of African Unity and the signatories of the Declaration of Santo Domingo,[2] a new concept of international law has been submitted to the Committee. That concept reflected the trend of those countries that wanted to ensure their own access to the resources of the sea. With the passage of time, that initiative gained ground and finally earned the support of more developed countries located in regions far distant from the original nations and with very different geographical characteristics.

38. Another example of the items submitted to Sub-Committee I that can be cited is the idea of creating an enterprise for the exploration and exploitation of the sea-bed. At the end of the last session in Geneva it seemed to be generally accepted that that initiative could be termed one of the crucial points of the future Conference.

39. If my delegation has ventured to cite those two examples, it was not because we wanted, at this stage, to go into a discussion of the substance of the matter but rather because we wanted to express the view, which we have already heard from other delegations, that the preparatory work done by the sea-bed Committee went as far as it was possible for a body of that nature—a body composed of representatives of sovereign States who had to reflect the political positions of their Governments.

40. It has been amply stated that we cannot compare the results of that Committee with the work done by the International Law Commission in the preparation of the Geneva Conference of 1958, but I believe it would be appropriate to add that no delegation seems ready to go to the very heart of political negotiations while the work is still in the preparatory stages.

41. If the sea-bed Committee had been able to prepare a single, uniform and standard text on the international régime, the question of the limits of national jurisdiction and other interrelated questions included in the list of items and questions, then the substantive Conference might have been convened solely as a formality, so that the plenipotentiaries could give their seal of approval to the agreements arrived at by the delegations. But my delegation, which has taken an active part in the work of the Committee, does not believe that the lack of such agreements necessarily spells failure or creates an obstacle for the future.

42. The truth of the matter is that the objectives set in the resolutions of 1968 and those that followed have been achieved as far as was possible within the present structure of the Committee.

43. The work of negotiation calls for a different type of effort, and it does not appear probable or possible to reach this stage with a preparatory mentality. The same thing is happening here as happens very often in many of our countries among the popular or folkloric musicians: at some time they have to finish tuning their instruments and devote themselves to harmonizing the entire group.

44. As far as my delegation is concerned, the decision that the General Assembly should adopt is not a very difficult one to make if we sincerely wish to negotiate. We agree that there should be a two-week session before the end of the present year so that the Conference may be able to organize its guiding machinery and carry out a preliminary consideration of the rules of procedure. We also support the proposal that there be a session of at least 10 weeks in 1974, at whatever place and time the majority of delegations deem most convenient, but preferably at a time that will not interfere with the sessions of the General Assembly and at a place where all the facilities necessary for effective work are present.

45. With regard to the countries to be invited, we have already stated that we favour a formula that will not close the door to those countries that may yet acquire their political independence, because our country entered into its juridical life through the process of becoming independent.

46. With regard to systems for the adoption of decisions, my delegation will welcome whatever agreements may be reached within the Group of Latin American States and, subsequently, whatever consensus may be arrived at within the Group of 77.

47. We consider, moreover, that the Conference itself should be given a broad and flexible mandate that will allow it to complete its work without being subject to rigid rules of time or space. It is an open secret that, along with the Conference on the Law of the Sea, or before it is held, there will be negotiations, meetings of homogeneous groups, and mutual concessions, and that within that process it will become more obvious day by day that relations among States will have to be governed by some solid and stable instrument.

48. But why should we postpone this task until 1976 or 1980, when we can begin it right now? We believe that it is better to leave to future generations as a heritage a legal régime that is recognized, serious and equitable, rather than bequeath to them an open battle so that the biggest fish can gobble up the little fish and take full possession of the sea.

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1 See *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21*, para. 23.

2 *Ibid.*, annex I, sect. 2.

49. The most fervent desire of our delegation is that the régime for the sea-bed be embodied in the form of a freely negotiated convention. If we fail to achieve that result, we will have to resign ourselves to leaving as the common heritage of mankind the seeds of discord sown in the sea-bed.

50. Mr. AKHUND (Pakistan): Mr. Chairman, in speaking for the first time in this important Committee, may I say how much pleasure it gives me to see the Chair occupied by a colleague of your experience, ability and distinction. I associate the Pakistan delegation most wholeheartedly with the many expressions of congratulation and good wishes already extended to you, to your two Vice-Chairmen and to the Rapporteur. I assure you and your colleagues on the Bureau of the full co-operation of my delegation in the successful accomplishment of your task.

51. The Assembly has been considering the item relating to the sea and use of its resources since its twenty-second session. The historical background given in the first volume of the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *[A/9021]* shows how the idea of the peaceful uses of the sea has taken root and multiplied. For the present, it is not my intention to go into this fascinating subject. Instead, heeding the appeal made here by the Chairman of the sea-bed Committee, I shall confine my brief remarks to the procedural questions which are immediately at issue. But first allow me to give expression to the high esteem and admiration in which my delegation holds the Chairman of the Committee, Mr. Amerasinghe. Those who have worked with him in the sea-bed Committee know how much the success achieved so far by the Committee is due to his wise stewardship, immense energy and equally great patience. May I take this opportunity to pay him the tribute which is his due and promise our co-operation for the difficult tasks that still lie ahead.

52. As we can see from the sea-bed Committee's report, the laborious and intensive preparatory work done by the Committee over the last six years has covered a wide spectrum of subjects and issues. Last year the Assembly approved, in principle, a schedule for the proposed United Nations Conference on the Law of the Sea *[resolution 3029 A (XXVII)]*. The question which arises now is whether the ground has been sufficiently prepared by the sea-bed Committee to permit the holding of the Conference with a reasonable prospect of success We are aware of the view that further preparatory work needs to be done in order to narrow the important differences which remain as well as to translate agreed decisions into proper form. It has been suggested that the sea-bed Committee should be given further time to complete this task.

53. It is my delegation's view that the sea-bed Committee *has indeed* done most useful work in defining the extent and scope of the subject, in clarifying issues and in setting out the areas of agreement and disagreement. It has been successful in transforming into concrete proposals and into specific draft treaty articles many of the broad ideas that were put forward beginning from the earliest debates on this question. The last two sessions of the sea-bed Committee were devoted largely to the task of evolving agreed texts of draft treaty articles or, where this was not possible, to setting out alternative texts. It will be conceded that the Committee has attained a good deal of success in respect of the subjects and issues allocated to Sub-Committees I and III, and these deserve our thanks and congratulations. It must be admitted, on the other hand, that a number of important issues–some naturally being the most controversial–remain to be resolved. This is particularly so in the case of matters allocated to Sub-Committee II. These are issues which affect the vital interests of States or groups of States. We do not underestimate the difficulties which must be overcome in reaching agreement on some of these matters. Goodwill, far-sightedness and a spirit of compromise–in short, statemanship of a high order–will be needed on all sides in order to ensure success. The progress made so far in the sea-bed Committee has been slow, but it has shown that the essential will to reach agreement does exist.

54. My delegation is doubtful, however, that further deliberations on the disputed questions within the framework of the sea-bed Committee can serve to resolve the differences in a reasonable period of time. We believe that the stage has been reached when those differences should be transferred to the forum of a world-wide conference where there will be greater impetus to negotiate, to settle and to decide matters on which the sea-bed Committee has become stalled.

55. In this matter, the world is moving towards a point of no return. Technological advance is inexorable and will not wait for the tardy processes of political consensus. There is no guarantee in the present situation that, in the absence of a clearly laid down and generally accepted law, a free-for-all scramble will not develop for marine resources. Differences over the use and abuse of the sea have already begun to simmer. We must stop these differences from turning into major international confrontations. The only way to do so is to agree on the rules of international law to govern vast areas of the globe which hitherto have lain beyond man's acquisitive reach. No less urgent is the need to harness the resources of the sea to meet the pressing needs of the two-thirds of the world that has had so poor a share of the riches of the land.

56. Keeping in mind these considerations and with due respect for the view that further preparatory work remains to be done, it is nevertheless my delegation's considered view that the time has come to convene the Third United Nations Conference on the Law of the Sea without further delay. The informal working draft prepared by the Chairman of the sea-bed Committee has only just come to the attention of my delegation. We are not at this point in a position to comment on it in detail. I should like, however, to give my general observations on the subjects covered therein. We consider that the organizational session envisaged in resolution 3029 A (XXVII) of the last session of the General Assembly may be held, as proposed, in November-December this year. We suggest that a period of three weeks or so might be provided from the time the Assembly takes a decision on this matter, so that invitations can be issued and Governments can select delegations and make other necessary arrangements.

57. My delegation has given careful consideration to proposals concerning the substantive sessions of the Confer-

ence next year. We found merit in the idea, put forward earlier this year by the Chairman of the sea-bed Committee, that there should be two such sessions, one in spring and another after an interval of some months. The advantage of holding a second session would, of course, lie in the fact that it would permit Governments time for reflection on remaining differences and unresolved issues. However, if the general feeling is in favour of holding only one substantive session next year, the Pakistan delegation will go along with it. In that case, we would suggest a session of about 10 weeks' duration beginning some time in June 1974 at a convenient and generally acceptable place.

58. The session can perhaps be divided into two parts, the first of three weeks or so which would be devoted to general statements, especially by those participants who are not members of the sea-bed Committee. This period can also be used for general consultations with a view to broadening areas of agreement and reducing the number of alternative texts. At this stage of the Conference, decisions on matters of substance, which are in dispute, need not be taken. Thereafter, however, the Conference should proceed to take decisions. We are in favour of doing so by agreement and consensus.

59. Consensus is based on the idea of reconciliation of opposing views with the objective of producing an outcome that has the general support of all. However, this method can have the opposite effect, especially when the thin line between consensus and unanimity starts to blur. The knowledge that one or several delegations can block the outcome of a consensus can sometimes lead to rigidity and erode the will to compromise. In our view, therefore, the Conference procedures must not rule out the well-established and long accepted method of decision by vote. Of course, any matters which might have to be left pending or undecided, because of lack of time or for any other reason, may be taken up at a subsequent session or sessions in 1975.

60. The Conference on the Law of the Sea will be one of the most momentous and important international conferences for the evolving of a world order. The issues before it are numerous and complex and have the widest implications. It will require great flexibility, understanding and statesmanship on the part of every participating State for the Conference to succeed. We are hopeful that these ingredients, so essential for the success of any international negotiation, will be forthcoming at the Conference.

61. The CHAIRMAN: I thank the representative of Pakistan for his kind remarks to the officers of the Committee and myself.

62. Mr. STEVENSON (United States of America): Mr. Chairman, since this is the first time the United States delegation has spoken in this Committee, let me say how privileged we are to serve under your chairmanship.

63. When we consider a draft resolution calling for the Third United Nations Conference on the Law of the Sea, our principal task must be to create the conditions for the timely conclusion of a law of the sea treaty, a treaty which can be widely supported by nations in all geographical and other groupings and which will truly establish a universally respected legal régime for the oceans.

64. The considerations which led the twenty-fifth session of the General Assembly in 1970 to call for a conference on the law of the sea *[resolution 2750 C (XXV)]* have, with the passage of time, the progress of technology and the almost daily increase in conflicting uses of the oceans, become even more compelling. Thus it has become ever more important to conclude these negotiations in a timely fashion and to establish a stable and equitable régime for the oceans which will benefit all nations.

65. It is essential that this Committee and the organizational session of the Conference on the Law of the Sea take the necessary steps so that the Conference can be promptly initiated and complete its work. My delegation is convinced that, with good will and hard work, a successful treaty can and must be achieved within the time specified by the General Assembly last year *[resolution 3029 A (XXVII)]*.

66. In commenting on the specifics of the most constructive informal draft resolution proposed by the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Mr. Amerasinghe, I should like to emphasize that there is no one way to establish conditions for an efficient and meaningful conference. The important thing is that we not lose sight of that goal. Delay, inefficient procedures, procedures which favour any one group or country at the expense of others or procedures which fail to emphasize the need for a widely acceptable treaty, ultimately work against us all.

67. We believe that the draft resolution which proposes two substantive sessions in 1974 is useful in emphasizing the need for meaningful opportunities for negotiations if we are to conclude our work in a timely fashion. Two sessions would be the most effective means to continue the pace of negotiations, and we would favour that schedule. However, if this Committee prefers a single session, we believe that it is important as a minimum that the single substantive session be of sufficient length to permit meaningful negotiations. In our view, that would require at least 10 weeks of substantive work. Further, we think it particularly important that if there is to be only a single session, the General Assembly should agree on an effective inter-sessional programme of work and that the resolution should reflect that agreement. Provision should be made for the completion of consolidated or alternative draft texts of articles by any suitable means. The representative of Mexico at the 1927th meeting suggested one constructive proposal for achieving these goals through holding a meeting of a main committee of the conference. There may well be other approaches. Perhaps the Committee Chairman could be empowered to work with individual delegations in seeking to consolidate proposals. What is important is that we now leave the preparatory phase and establish the mechanisms for real negotiations.

68. On the question of procedure, my delegation would like to stress one concern which we believe is of the greatest importance, namely, that the conference procedure should be such as to ensure that we can achieve an over-all package settlement with the widest possible support. If the new law of the sea treaty has the support of only certain groups of countries or of only certain regions, then we shall have

failed in our efforts. We are satisfied that common ground does exist and that a convention of generally broad acceptability can be achieved. In order to obtain broad support, we should have not only efficient procedures but procedures which will allow meaningful negotiations to be carried out. We believe that a key to this is a mechanism which will ensure an orderly and timely shift from consensus procedures, which, of course, do not require unanimity, to conference voting only when the basis has been laid for a comprehensive general settlement.

69. Again, my delegation attaches great importance to a satisfactory arrangement of this voting question. A method must be found which will ensure that voting at the Conference occurs only when there is broad general agreement among delegations that the time is ripe.

70. In conclusion, let me reiterate the conviction of my delegation that we not only can, but must, move forward rapidly into a genuine negotiating phase. A timely and equitable law of the sea treaty is in the interests of all nations. We must not lose sight of the importance of this objective as we focus on the specifics of a draft resolution calling for the Third United Nations Conference on the Law of the Sea.

71. The CHAIRMAN: I thank the representative of the United States for the friendly remarks he addressed to me.

72. Mr. RYDBECK (Sweden): Mr. Chairman, at the Committee's first meeting this year, you appealed to members to restrict their congratulatory statements. If I refrain from giving full expression to my warm feelings and those of my delegation towards you and the other officers of the Committee it is only because of that appeal.

73. In accordance with your wish, Mr. Chairman, I shall limit this statement of the Swedish delegation to some of the most important and urgent matters before us. In our view, the thrust of the resolution which should be adopted by this session of the General Assembly must be to settle various matters related to the convening of the forthcoming Third United Nations Conference on the Law of the Sea.

74. In defining its position with respect to these points, the Swedish delegation has been guided by one basic consideration, namely, our strongly felt wish soon to have a new, viable and realistic law of the sea. It has indeed been encouraging to note the widespread recognition of the necessity of losing no time in arriving at generally acceptable and comprehensive rules of international law relating to the sea.

75. It was against that background that Sweden became a sponsor of General Assembly resolution 3029 (XXVII) adopted on 18 December last year. We see that resolution as a firm commitment. The consensus reached provides that a first and second session of the Conference should be convened late this year and in the spring of next year respectively. It is true that there was also consensus to review at this session the progress of the preparatory work which has continued this year with 13 weeks of concerted effort in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, under the very able chairmanship of my colleague from Sri Lanka, Mr. Amerasinghe. The disappointment which has been voiced as to the results of this summer's work, as reflected in the final report of the Committee has only increased the conviction of my delegation that new impetus is necessary for our efforts in this field. We draw the conclusion from past experience that the only appropriate thing to do is to enter now into the conference stage.

76. One factor that would increase the prospect of real progress is the fact that by doing so the work would be continued in a body comprising a much wider and representative membership than is the case now in the preparatory committee. Another advantage would be to have the work continued in a forum which offered a prospect of avoiding the mere stating of views and the rendering of initial positions of States. With a clear new element of negotiation which must prevail in a conference, the degree of progress would almost certainly increase also. The negotiating work should begin in the Conference next year.

77. As to the question of participation in the Conference, Sweden favours the well-known formula signifying that States Members of the United Nations, the specialized agencies and the International Atomic Energy Agency and parties to the Statute of the International Court of Justice and any other State that the General Assembly decides especially to invite shall participate in the Conference. Where number and length of sessions, dates and venue for the Conference during 1974 are concerned, we can support any position adopted by a broad majority of this Committee, so long as it unequivocally signifies the beginning of substantive work in the Conference next year. To achieve that without undue delay, the organizational session anticipated in General Assembly resolution 3029 (XXVII) of last year should be held along the lines of that consensus decision by the General Assembly.

78. To sum up, the Swedish delegation is of the view that the time has come to launch energetic substantive work in the direction of new and comprehensive rules of international law concerning the vast field of interrelated problems of ocean space. The forum should be the Third United Nations Conference on the Law of the Sea which next year should go into the entire scope of its mandate. That would, of course, include political negotiations on points where no common views have been reached.

79. Mr. AMERASINGHE (Sri Lanka): Before commenting on the revised, provisional and unofficial draft that has been circulated today to the members of this Committee, I should like to refer to some of the observations that have been made in the course of the debate today. I must also repair an omission, but it was a deliberate omission in deference to your own request, Mr. Chairman. As you will have noted I did not extend any congratulatory statements to you and to the members of your Bureau because I firmly believe that they are perfectly unnecessary and that "good wine needs no bush."

80. May I also thank all those representatives, very close friends and associates, colleagues of mine, for the extremely kind sentiments which they have expressed regarding the work that I have done. I can assure them that what I have

achieved is only the result of the co-operation they extended to me unfailingly.

81. I trust that the representative of the Soviet Union, my good friend and colleague, Mr. Kolesnik, will excuse me if I concentrate my attention on his remarks. The representative of the Soviet Union drew a distinction between further preparatory work and the work that would fall appropriately within the role and competence of the Conference. It is difficult to understand why this further preparatory work should or could be undertaken only outside the Conference. He said that it was difficult to understand why this further preparatory work should not be undertaken outside the Conference. I would say that it is difficult to understand why the further preparatory work should not take place within the framework of the Conference and the structural organization that it would establish. I hope that the reasons I will adduce now will convince those who have any doubts on the subject that the stage has been reached to proceed to the Conference and to conduct any further work—whether you like to call it "preparatory work" or "negotiating work"—within the framework of the Conference. It seems to me that this is purely a question of semantics. The work of the Conference is to negotiate on the basis of all views expressed and draft texts already submitted, as well as further views which will be expressed and additional draft texts that will be submitted. It is quite clear to us all that there is a multitude of texts. That does not mean that the work of preparation has been inadequate. On the contrary, it shows that exceptional zeal and industry have been displayed by the members of the sub-committee and the groundwork for negotiation has been firmly laid. Preparatory work does not mean that only one single text should be available to the Conference. If that were so, the Conference would have very little to do We can never have that type of preparatory work emerging from a body like the sea-bed Committee, as distinct from a group of professional jurists, representative of the best available talent, and not of States, such as the International Law Commission. In a body like the sea-bed Committee we could have reached such a result only if there was unconditional surrender on the part of members to those who tenaciously clung to certain views, positions and demands. It is because those views were tenaciously held that the sea-bed Committee could not progress beyond the point that was reached, and it is in order to resolve that deadlock that we have to adopt a different method of work, namely, the Conference and the Conference structure.

82. I agree with those who stated that new mechanisms should be adopted. We know that certain working methods and procedures that we adhered to or maintained in the sea-bed Committee did not lend themselves to a resolution of differences. We must, therefore, now adopt a different system, and that is, the system of negotiation. That, as I said, could take place now with results only within the framework of the Conference. That does not rule out informal consultations within and between groups and interested parties, especially the type of consultation that could take place within something like a consultative group representative of contact groups of the various groups.

83. May I now proceed to comment on some of the most important elements in the informal draft resolution which has been circulated today and bears the date 17 October.

84. It will be observed that a note at the end of the text is an attempt to accommodate the suggestion, which now seems to be gaining increasingly wider acceptance, that there should be only one substantive session. If there is to be one substantive session, then I agree with those who suggest that it should last 10 weeks. There have been doubts expressed on whether delegations could stand up to the strain of a 10-week session. We could easily avoid imposing that strain on them by giving them a short recess after, say, about two or three weeks, as we did in Geneva during the summer. It would seem to me, therefore, that operative paragraphs 4 and 5 of the draft would have to be replaced by the alternative operative paragraph which appears in the note at the end of the document that has been distributed today.

85. With regard to the question of participation, I am quite certain, especially having regard to the importance of the subject and the need for universality, that all States should participate. But we cannot put something to that effect in a resolution because we are shifting the responsibility—passing the buck, so to speak—to the Secretary-General. Is it fair to ask him to decide what entity constitutes a State? It is for that reason that in this informal draft resolution we have placed the responsibility on the General Assembly. It is for the General Assembly to specify what those States falling outside the Vienna formula should be. As an alternative to operative paragraph 7 as it now appears, we could have a separate resolution in which the General Assembly would specify those States, and alter the present text by replacing the words "as well as the following States" by the words "as well as any States that the General Assembly shall decide to invite to participate in the Conference". That would mean a separate draft resolution.

86. Now I should like to come to perhaps the most contentious question of all, the decision-making procedure. I appreciate the position of those delegations that would like to know beforehand—that is, before they commit themselves to the holding of the Conference and agree to any rules of procedure—what the understanding is going to be. As I have always stated, there has to be a gentleman's agreement in regard to the manner in which the rules of procedure relating to decision-making will be applied. In my view, a gentleman's agreement is much more binding than rules or laws, because rules or laws are not always gentlemanly.

87. It is bearing that in mind that in operative paragraph 10 it is suggested that the Secretary-General prepare "appropriate draft rules of procedure for the Conference, taking into account views expressed in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and in the General Assembly . . .". Now, those draft rules of procedure will take into account the views in regard to the manner in which the decision-making rules themselves should be applied. But it is impossible to include in any rules of procedure anything so vague and nebulous as a reference to a consensus, unless you define a consensus—and I challenge anybody here to define a consensus except in terms of a concealed veto.

88. I stated earlier, at the very start of this session, in a note I circulated to the members of the Committee for the

purpose of informal discussions, what I considered this understanding, or this gentlemen's agreement, should be. I would go further and say that a formal statement to that effect should be made here and should go into the record and that any draft rules of procedure that are adopted should be read in conjunction with that formal statement, which would constitute the understanding, or the gentlemen's agreement. I said on that occasion that it is suggested that the rules of procedure should contain rules on decision-making such as were adopted at previous codification conferences–that is, a simple majority in committee and a two-thirds majority in plenary. But I do not repeat that here. That was only for the purpose of discussion. It is left for the General Assembly or the Conference to decide whether it is going to accept those majorities. But the important thing is, as I said, that, in connexion with the draft rules of procedure, there should be a gentlemen's agreement–perhaps to be expressed by the President of the Conference, or it could even be expressed here and go into the records of the First Committee and the General Assembly when the First Committee's report is taken up–to the effect that there should be no voting on procedural matters unless it is unavoidable, and that there should be no voting on substantive texts until the Conference decides that the development of its work makes it appropriate. I am prepared to put this in more specific terms and describe this informal understanding as follows: "It is understood by the First Committee in recommending this draft resolution to the General Assembly that there should be no voting on procedural matters at the Conference unless it is unavoidable, and that there should be no voting on substantive texts until the Conference decides that the development of its work makes it appropriate. It is further understood in this connexion that the Conference will take such decisions only on the basis of a favourable recommendation by the General Committee".

89. I did refer in the course of my consultations to the fact that the General Committee will be responsible for advising the Conference on the conduct of its work, on the co-ordination of the various matters presented to it for decision. Any recommendation by the General Committee would itself be subject to approval by the plenary, that is, the Conference itself. So that it is the Conference that will decide when a particular committee should take a vote and abandon efforts at reaching a consensus. All that remains to be decided is what sort of majority in the General Committee will be necessary to convey that general agreement among the members of the Committee. It is only by this means and, more important than that, by a readiness on the part of everyone to co-operate and show a spirit of compromise that we can achieve any results in this Conference. But to try to introduce into resolutions nebulous concepts on the basis of unacceptable and inappropriate precedents–such as those established in, I say with great respect, the Committee on the Peaceful Uses of Outer Space–will be to render our task impossible. We will never then be able to create the conditions that are necessary for proceeding with our work.

90. Mr. KOLESNIK (Union of Soviet Socialist Republics) *(interpretation from Russian)*: Very briefly, I should like to reply to Mr. Amerasinghe. I respect him very deeply, and I want to stress once again that he has made an invaluable contribution to the very complex and important task before us. Mr. Amerasinghe has just said that the representative of the Soviet Union in his statement this morning made a distinction between preparatory work and the work to be done within the framework of the Conference itself. I am afraid that he may not have understood me clearly. I did in fact distinguish between the preparatory work and the substantive work. My delegation feels that it would be premature, for all the reasons that I gave in detail in my statement, to undertake the latter. I voiced certain doubts regarding the timeliness of creating now a new body to continue the consultations–but I do regard such consultations as indispensable.

91. I believe that I gave good reasons for my doubts about whether we should proceed immediately to the Conference, but I do not think anyone could have understood me as implying that I was against continuing the consultations. I stressed that the attitude of the Soviet delegation on this matter was flexible. We agree that consultations should continue both within the existing sea-bed Committee and in other bodies, particularly within the framework of the Conference itself. What is basic is that the preparatory work should continue. Unfortunately, the draft resolution circulated by Mr. Amerasinghe does not speak of this matter. However, I heard his statement just now with great satisfaction, since I concluded from it that he does agree with me that the preparatory work should continue. I believe that we shall have to take up the ideas that he has just voiced and draft them in the proper terms for inclusion in the draft resolution.

92. Mr. AMERASINGHE (Sri Lanka): I must apologize to my friend the representative of the Soviet Union if I misinterpreted his statement. It is my belief that everything is preparatory until we reach the end.

The meeting rose at 12.25 p.m.