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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 First Committee

Rapporteur: Mr. Alvaro de SOTO (Peru)

1. The item entitled "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" was included in the provisional agenda of the twenty-eighth session on the basis of General Assembly resolution 3029 A (XXVII) of 18 December 1972.
2. At its 2123rd plenary meeting, on 21 September 1973, the General Assembly, on the recommendation of the General Committee, decided to include the item in the agenda and to allocate it to the First Committee for consideration and report.
3. The First Committee considered the item at its 1924th to 1933rd meetings, from 15 to 22 October, at its 1936th and 1937th meetings, on 25 October, at its 1939th meeting, on 26 October, at its 1946th meeting, on 5 November and at its 1948th meeting, on 6 November.
4. At the 1924th meeting, the Rapporteur of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction introduced that Committee's report. ^{1/} At the same meeting, the Chairman of that Committee made an introductory statement.

^{1/} Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021 and Corr.1) E/F/R/S.

5. The Committee also had before it a letter dated 15 October 1973 (A/C.1/1035) from the Deputy Minister for Foreign Affairs of Poland to the Chairman of the Committee, transmitting the text of the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, done at Gdansk on 13 September 1973.

6. Pursuant to the request made at the 1927th meeting, on 17 October, the Secretary-General communicated to the members of the First Committee the resolution concerning the law of the sea adopted at the Fourth Summit Conference of the Non-Aligned Countries, as well as section V of the Political Declaration relating to the question of the sea-bed (A/C.1/L.646).

7. On 22 October, a draft resolution (A/C.1/L.647) was submitted by Australia, Canada, Chile, Colombia, Iceland, Iran, Kenya, Malta, Mauritius, Mexico, New Zealand, Norway, Sweden, Uganda and the United Republic of Tanzania. A revised text (A/C.1/L.647/Rev.1) was submitted on 23 October by the original sponsors with the addition of Austria, the Netherlands, Trinidad and Tobago, the United Arab Emirates and Venezuela and was subsequently sponsored also by Guinea, Ireland, Jamaica and Pakistan. The revised text was introduced by the representative of Canada, on behalf of the sponsors, at the 1936th meeting, on 25 October. The text read as follows:

"The General Assembly,

"Recalling its resolutions 2467 (XXIII) of 21 December 1968, 2750 (XXV) of 17 December 1970, 2881 (XXVI) of 21 December 1971 and 3029 (XXVII) of 18 December 1972,

"Having considered the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on the work of its session in 1973, 2/

"Recalling in particular paragraph 2 of General Assembly resolution 2750 C (XXV),

"Considering that the Committee has accomplished, within the limits of its mandate, the work which the General Assembly entrusted to it for the preparation of the Third United Nations Conference on the Law of the Sea, and that it is necessary to proceed to the immediate inauguration of the Conference in 1973 and the convening of a substantive session in 1974, in order to carry out the negotiations and other work required to complete the drafting of articles for a comprehensive convention on the Law of the Sea with the participation of those States which were not members of the Committee,

"1. Expresses its appreciation to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on the work it has done in preparing for the Third United Nations Conference on the Law of the Sea;

2/ Ibid.

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"2. Confirms its decision in paragraph 3 of resolution 3029 A (XXVII) of 18 December 1972 and decides to convene the first session of the Third United Nations Conference on the Law of the Sea in New York from 26 November to 7 December 1973 inclusive for the purpose of dealing with organizational matters relating to the Conference, including the election of officers, the adoption of the agenda and the rules of procedure of the Conference, the establishment of subsidiary organs and the allocation of work to these organs and any other purpose within the scope of paragraph 3 below;

"3. Decides that the mandate of the Conference shall be to adopt a convention dealing with all matters relating to the law of the sea, taking into account the subject matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea formally approved on 18 August 1972 3/ by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole;

"4. Decides to convene the second session of the Conference, for the purpose of dealing with the substantive work of the Conference for a period of 10 weeks from 13 May to 19 July 1974 at Caracas and, if necessary, to convene not later than 1975 any subsequent session or sessions as may be decided by the Conference and approved by the General Assembly, bearing in mind that the Government of Austria has offered Vienna as the site for the Conference in 1975;

"5. Invites the Conference to make such arrangements as it may deem necessary to facilitate its work;

"6. Refers to the Conference the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and all other relevant documentation of the General Assembly and the Committee;

"7. Decides, having regard to the desirability of achieving universality of participation in the Conference, to request the Secretary-General of the United Nations to invite States Members of the United Nations, States members of the specialized agencies and of the International Atomic Energy Agency and States parties to the Statute of the International Court of Justice as well as the following States to participate in the Conference: _____;

"8. Requests the Secretary-General:

(a) To invite intergovernmental and non-governmental organizations in accordance with paragraphs 8 and 9 of resolution 3029 A (XXVII);

(b) To provide summary records in accordance with paragraph 10 of resolution 3029 A (XXVII);

3/ Ibid., Twenty-seventh Session, Supplement No. 21 (A/8721), para.23.

"9. Decides that the Secretary-General of the United Nations shall be the Secretary-General of the Conference and authorizes him to appoint a special representative to act on his behalf and to make such arrangements, including recruitment of necessary staff, taking into account the principle of equitable geographical representation and to provide such facilities as may be necessary for the efficient and continuous servicing of the Conference, utilizing to the fullest extent possible the resources at his disposal;

"10. Requests the Secretary-General to 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, and to circulate the draft rules of procedure in time for consideration and approval at the organizational session of the Conference;

"11. Invites States participating in the Conference to submit their proposals, including draft articles, on the substantive subject-matter of the Conference to the Secretary-General by 1 February 1974 and requests the Secretary-General to circulate the replies received by him before the second session with a view to expediting the work of the Conference;

"12. Decides that the provisions of the preceding paragraph shall not preclude any State participating in the Conference from submitting proposals, including draft articles at any stage of the Conference in accordance with the procedure adopted by the Conference, provided that States that have already submitted any proposals and draft articles need not resubmit them;

"13. Dissolves the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction as from the inauguration of the Conference."

8. At the 1937th meeting, on 25 October, the representative of China proposed the following oral amendment to operative paragraph 7 of the revised draft by which after the words "to invite", the words "in full compliance with General Assembly resolution 2758 (XXVI) of 25 October 1971" would be inserted.

9. On 25 October, an amendment (A/C.1/L.648) to the revised draft resolution was submitted by Algeria, Ghana, Morocco, Nigeria, Tunisia and Zaire, and was introduced by Nigeria, on behalf of the sponsors, at the 1937th meeting. The amendment would add the following fifth paragraph to the preamble:

"Recalling further its resolutions 2480 (XXIII), 2539 (XXIV), 2736 (XXV) and 3009 (XXVII) concerning the composition of the Secretariat, as well as the general dispositions on the same matter recommended by the Fifth Committee and adopted by the General Assembly at its twenty-sixth and twenty-seventh sessions,".

10. At the 1937th meeting, the representative of Zambia, on behalf of the African Group, proposed the following oral amendment to operative paragraph 8 of the revised

draft resolution, by which a new subparagraph (b) would be inserted to read as follows:

"To invite the United Nations Council for Namibia to participate in the Conference;"

The present subparagraph (b) would be renumbered (c).

11. At the same meeting, the representative of Nigeria, on behalf of the African Group, proposed an oral amendment to operative paragraph 7 by which "the Republic of Guinea-Bissau" would be inserted in the blank space at the end of the paragraph.

12. Also at the same meeting, the representative of Algeria proposed a further oral amendment to operative paragraph 7 of the revised text, by which "the Democratic Republic of Viet-Nam" would be inserted in the blank space at the end of the paragraph.

13. At the same meeting, reference was also made to including the Republic of Viet-Nam in the list in operative paragraph 7 of the revised text. However, this issue was not pressed to a vote in the Committee.

14. On 25 October, a further revised text of the draft resolution (A/C.1/L.647/Rev.2) was submitted by the sponsors of the first revised text and was subsequently sponsored by the Ivory Coast and Liberia. The text incorporated the following changes:

(1) In the fourth preambular paragraph:

(a) after the words "has accomplished," the words "as far as possible" were inserted;

(b) after the words "the drafting", the words "and adoption" were inserted;

(c) after the words "law of the sea", the remaining words were deleted.

(2) In operative paragraph 4, the date "13 May" was changed to read "14 May".

15. On 26 October, the Secretary-General submitted a statement (A/C.1/L.649 and Corr.1) on the administrative and financial implications of the revised draft resolution (A/C.1/L.647/Rev.2).

16. At the 1939th meeting, on 26 October, the Chairman read out the following gentleman's agreement:

"Recognizing that the Conference at its inaugural session will adopt its procedures, including its rules regarding methods of voting and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole and the desirability of adopting a Convention on the Law of the Sea which will secure the widest possible acceptance, the General

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Assembly expresses the view that the Conference should make every effort to reach agreement on substantive matters by way of consensus; that there should be no voting on such matters until all efforts at consensus have been exhausted; and further expresses the view that the Conference at its inaugural session will consider devising appropriate means to that end."

The Chairman stated that it was his understanding that it was on the basis of that agreement that the Committee would later take action on the revised draft resolution contained in document A/C.1/L.647/Rev.2.

17. At the same meeting, the Committee agreed to include the amendment in document A/C.1/L.648 (see paragraph 9 above) as the fifth preambular paragraph of the revised draft resolution.

18. At the same meeting, the Committee proceeded to vote on the revised draft resolution (A/C.1/L.647/Rev.2) and the amendments thereto as follows:

(1) The amendment to include "the Republic of Guinea-Bissau" at the end of operative paragraph 7 was adopted by a roll-call vote of 79 to 7, with 30 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Bahrain, Barbados, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Chad, China, Congo, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Guinea, Guyana, Hungary, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Niger, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Romania, Rwanda, Senegal, Sierra Leone, Singapore, Sri Lanka, Sudan, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Upper Volta, Yemen, Yugoslavia, Zaire, Zambia.

Against: Brazil, Greece, Portugal, South Africa, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Australia, Austria, Belgium, Bolivia, Canada, Chile, Colombia, Costa Rica, Denmark, Dominican Republic, Finland, France, Germany (Federal Republic of), Guatemala, Honduras, Iceland, Ireland, Italy, Japan, Khmer Republic, Laos, Netherlands, New Zealand, Norway, Paraguay, Sweden, Turkey, Uruguay, Venezuela.

(2) The amendment to include "the Democratic Republic of Viet-Nam" at the end of operative paragraph 7 was adopted by acclamation.

(3) The amendment to add a new subparagraph (b) to operative paragraph 8, and renumber the present 8 (b) as 8 (c) was adopted by 106 votes to 2, with 5 abstentions.

(4) The revised draft resolution as a whole, as amended, was adopted by 106 votes to none, with 9 abstentions (see paragraph 20 below).

19. At the 1948th meeting, on 6 November, the Committee decided without objection to consider further proposals regarding the provisions of the draft resolution on the subject of the dates of the sessions of the Conference. These proposals had been arrived at through unofficial consultations. The dates were as follows:

(a) In operative paragraph 2: 3 to 14 December;

(b) In operative paragraph 4: 20 June to 29 August.

The Committee agreed to substitute these dates for those previously given in the draft resolution and decided to reaffirm the vote which it had taken on the text.

RECOMMENDATION OF THE FIRST COMMITTEE

20. The First Committee recommends to the General Assembly the adoption of the following draft resolution:

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 the Third United Nations Conference on the Law of the Sea

The General Assembly,

Recalling its resolutions 2467 (XXIII) of 21 December 1968, 2750 (XXV) of 17 December 1970, 2881 (XXVI) of 21 December 1971 and 3029 (XXVII) of 18 December 1972,

Having considered the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on the work of its session in 1973, ^{4/}

Recalling in particular paragraph 2 of resolution 2750 C (XXV),

^{4/} Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021 and Corr.1).

Considering that the Committee has accomplished, as far as possible, within the limits of its mandate, the work which the General Assembly entrusted to it for the preparation of the Third United Nations Conference on the Law of the Sea, and that it is necessary to proceed to the immediate inauguration of the Conference in 1973 and the convening of a substantive session in 1974, in order to carry out the negotiations and other work required to complete the drafting and adoption of articles for a comprehensive convention on the law of the sea,

Recalling further its resolutions 2480 (XXIII) of 21 December 1968, 2539 (XXIV) of 11 December 1969, 2736 (XXV) of 17 December 1970 and 3009 (XXVII) of 18 December 1972 concerning the composition of the Secretariat, as well as the general dispositions on the same matter recommended by the Fifth Committee and adopted by the General Assembly at its twenty-sixth and twenty-seventh sessions,

1. Expresses its appreciation to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on the work it has done in preparing for the Third United Nations Conference on the Law of the Sea;

2. Confirms its decision in paragraph 3 of resolution 3029 A (XXVII) of 18 December 1972 and decides to convene the first session of the Third United Nations Conference on the Law of the Sea in New York from 3 to 14 December 1973 inclusive for the purpose of dealing with matters relating to the organization of the Conference, including the election of officers, the adoption of the agenda and the rules of procedure of the Conference, the establishment of subsidiary organs and the allocation of work to these organs and any other purpose within the scope of paragraph 3 below;

3. Decides that the mandate of the Conference shall be to adopt a convention dealing with all matters relating to the law of the sea, taking into account the subject-matter listed in paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea formally approved on 18 August 1972 by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction ^{5/} and bearing in mind that the problems of ocean space are closely interrelated and need to be considered as a whole;

4. Decides to convene the second session of the Conference, for the purpose of dealing with the substantive work of the Conference, for a period of 10 weeks from 20 June to 29 August 1974 at Caracas and, if necessary, to convene not later than 1975 any subsequent session or sessions as may be decided upon by the Conference and approved by the General Assembly, bearing in mind that the Government of Austria has offered Vienna as the site for the Conference in 1975;

5. Invites the Conference to make such arrangements as it may deem necessary to facilitate its work;

^{5/} Ibid., Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23.

6. Refers to the Conference the reports of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction on its work and all other relevant documentation of the General Assembly and the Committee;

7. Decides, having regard to the desirability of achieving universality of participation in the Conference, to request the Secretary-General to invite, in full compliance with General Assembly resolution 2758 (XXVI) of 25 October 1971, States Members of the United Nations or members of the specialized agencies or the International Atomic Energy Agency and States parties to the Statute of the International Court of Justice, as well as the following States to participate in the Conference: the Republic of Guinea-Bissau and the Democratic Republic of Viet-Nam;

8. Requests the Secretary-General:

(a) To invite intergovernmental and non-governmental organizations in accordance with paragraphs 8 and 9 of resolution 3029 A (XXVII);

(b) To invite the United Nations Council for Namibia to participate in the Conference;

(c) To provide summary records in accordance with paragraph 10 of resolution 3029 A (XXVII);

9. Decides that the Secretary-General of the United Nations shall be the Secretary-General of the Conference and authorizes him to appoint a special representative to act on his behalf and to make such arrangements, including recruitment of necessary staff, taking into account the principle of equitable geographical representation, and to provide such facilities as may be necessary for the efficient and continuous servicing of the Conference, utilizing to the fullest extent possible the resources at his disposal;

10. Requests the Secretary-General to prepare appropriate draft rules of procedure for the Conference, taking into account the 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, and to circulate the draft rules of procedure in time for consideration and approval at the organizational session of the Conference;

11. Invites States participating in the Conference to submit their proposals, including draft articles, on the substantive subject-matter of the Conference to the Secretary-General by 1 February 1974 and requests the Secretary-General to circulate the replies received by him before the second session with a view to expediting the work of the Conference;

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12. Decides that the provisions of paragraph 11 above shall not preclude any State participating in the Conference from submitting proposals, including draft articles, at any stage of the Conference in accordance with the procedure adopted by the Conference, provided that States that have already submitted any proposals and draft articles need not resubmit them;

13. Dissolves the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction as from the inauguration of the Conference.
