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179th Plenary meeting

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tiously, because those positive factors could also affect its autonomy.

70. Lastly, in view of the depressed short-term and long-term market for minerals, one might wonder whether the Enterprise, which lacked the relevant experience and background, would be able to find outlets for its production, in view of the surplus predicted in document A/CONF.62/L.84, concerning the production ceilings established in article 151.

71. The allocation of too large an area might render ineffective any planning of the kind provided for in article 150, subparagraphs (*a*), (*d*), (*e*) and (*g*), and by implication in article 151, paragraph 2 (*f*). The principle of planning derived from the need to develop the Area's resources systematically while preventing waste and to supplement the supply of minerals from the sea-bed with minerals mined on land, as well as the need to protect the developing States against the harm which exploitation of the mineral resources of the sea-bed would do to their economies.

72. The provisions of paragraph 5 (*i*) of the draft resolution concerning the Preparatory Commission (A/CONF.62/L.94), to the effect that studies should be undertaken on the problems which would be encountered by developing land-based producers of the same minerals that would be extracted from the Area and on the establishment of a compensation fund and a special sub-commission for those purposes, might come to nought if everything was assigned from the outset to preparatory activities. The cobalt and manganese industries would have to close their plants, for it had been determined that those industries would suffer from over-production once the mining of cobalt and manganese from the sea-bed started. The protection of preparatory investment, although legitimate in itself, should not be at the expense of the more substantial and essential investments which land-based producers or potential producers in developing countries had been making for a long time.

73. With regard to annex V, his delegation did not agree with the proposed modifications to Part XI, and in particular to article 150, since they threatened to aggravate the imbalance between the arguments in favour of production advanced by the industrialized countries and legitimate concerns for the protection and regulation of the common heritage of mankind. While his delegation would not oppose the amendment to article 161, it considered it unnecessary. On the other hand, it was opposed to the idea of granting a permanent seat to the State which was the largest land-based producer of minerals.

74. Mr. ABDUL RAHMAN (Observer, Palestine Liberation Organization), speaking under rule 63 of the rules of procedure of the Conference, said that the arrogant manner in which the representative of the Zionist entity had acted at the preceding meeting of the Conference obliged him to reply and to inform the world that the so-called State of Israel was nothing more than a collection of settlers of various nationalities, 65 per cent of whom had not even been born on Palestinian soil. In view of the desire of the Palestinian people for a compromise solution which would permit the adoption of the convention on the law of the sea by consensus, the Palestine Liberation Organization accepted the proposals of the President of the Conference in document A/CONF.62/L.132.

75. Mr. AL-HAMADI (United Arab Emirates), speaking in exercise of the right of reply on behalf of the group of Arab States, said that the group had shown great flexibility on some questions for which it would have liked more equitable and just solutions to be found. It accordingly accepted the formula proposed by the President for the participation of national liberation movements, as conforming at least minimally to its wishes. It thus associated itself with the position of the Group of 77 by joining in the comprehensive agreement.

The meeting rose at 6.05 p.m.

179th meeting

Thursday, 29 April 1982, at 10.50 a.m.

President: Mr. KALONJI TSHIKALA (Zaire)

Consideration of the subject-matter referred to in paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973 (*concluded*):

STATEMENTS ON THE REPORT OF THE PRESIDENT IN ACCORDANCE WITH RULE 37 OF THE RULES OF PROCEDURE (*concluded*)

1. Mr. AL BAHARNA (Bahrain) expressed appreciation to the President and the members of the Collegium for their efforts to achieve compromises and thus facilitate the adoption of the convention by consensus. The President's report (A/CONF.62/L.132) contained a number of compromise solutions and he hoped the amendments proposed in it would be incorporated in the draft convention.

2. He accepted draft resolution IV (A/CONF.62/L.132, annex I), which proposed that representatives of national liberation movements should sign the final act as observers. The proposal did not go as far as he would have wished, but it was an acceptable compromise.

3. The amendments to article 21 mentioned in paragraph 28 of the President's report had been withdrawn by the sponsors in a spirit of compromise; but he was satisfied that articles 19 and 25 of the convention gave adequate protection for coastal States as regards navigation in the territorial sea.

4. Mr. NANDAN (Fiji) associated his delegation with the general statement made by the representative of Peru on behalf of the Group of 77 (177th meeting).

5. In general, the President's report met the minimum needs of those delegations which had sought changes in Part XI and the preparatory investment protection provisions, bearing in mind that during the long negotiations no delegation had got all it wanted, and that there must be give and take in reconciling the interests of the developing States and the industrialized countries. He hoped that during the short time remaining the President could propose further improvements to the text, so that it would have every chance of adoption without a vote.

6. Mr. FRANCIS (New Zealand) said that the proposals in the President's report were a substantial step towards general agreement. There was still no consensus regarding the texts which would govern deep sea-bed mining, but he nevertheless believed that annex IV to the report was a remarkable achievement. The industrialized countries had sought a régime that would enable pioneer investors to proceed with exploration on a sound financial basis in the interim period

before the convention entered into force and with security for investments made during that period, and he thought that that objective had been met in a fair and reasonable way, and that the President's proposal was a balanced one. Only a small number of pioneer entities were contemplated, while the Enterprise was given a valuable head start and the fundamentals of the parallel system were well represented. Moreover, the proposal offered good prospects for consensus on arrangements for the protection of preparatory investments.

7. With regard to annex V of the report, he was aware that consultations on possible improvements to Part XI of the convention had been continuing. The proposed amendments to articles 150, 155 and 161 were a major step towards the achievement of general agreement. However, although he could support the draft convention and the associated resolutions proposed by the President, some further adjustments might be necessary if the convention was to be adopted without objection, and he would therefore support any further proposals which, in the President's view, might improve prospects for a consensus.

8. Mr. RANJEVA (Madagascar) said that the proposals in the President's report were sound and were calculated to advance the efforts to achieve consensus.

9. He could accept the proposals in annexes I, II and III as they stood, but annex IV was not satisfactory, particularly when it was remembered that in accepting the paragraphs on preparatory investment protection the States in the Group of 77 had made a great concession and were entitled to expect others to assent to similar compromises. The emphasis in the negotiations which were still proceeding was on dispelling the misgivings and objections of some States, so as to achieve a universal convention which could be adopted, signed and ratified by all States.

10. The general tenor of the draft resolution in annex IV seemed to emphasize the legal status of pioneer investors but there was an imbalance in the proposed legal machinery, so that the importance of States, even those States to which investors belonged, would be reduced. It was likewise not clear who would sponsor investors within the international community. Paragraph 8 (*b*) of the draft resolution gave entities the right to submit applications direct, the state sponsorship being merely presumed and paragraph 2 provided that any State signatory of the convention could apply for registration as a pioneer investor. However, when read in the light of the information provided in document ST/ESA/107/Add.1,[1] on sea-bed mineral resource development, paragraph 2 as it stood posed a practical problem of what would happen if States adopted different attitudes to the convention, since the credibility and effectiveness of the convention must be based on the prohibition of devices of convenience in the matter of registry, and the prohibition from the outset of malversation of profits. He suggested that the intellectual efforts made and the solutions adopted in the matter of participation by international organizations might be of use in that connection, rather than trying merely to apply the rules already adopted. The rules governing investments called in question the effectiveness of the parallel system, and represented another major concession wrung from the Group of 77.

11. If the Enterprise was to be treated as a poor relation, as the machinery provided for in the draft resolution seemed to imply, the rules in the convention governing the status and operation of the Enterprise, particularly as regards the absolute priority which the Enterprise should have in obtaining a second site, would be vitiated. He saw no reason why rules applying to pioneer investors should be contained in a document which was merely an addendum to the constitutional provisions of the law of the sea.

12. With regard to annex V of document A/CONF.62/L.132, he said that the consensus procedure which had been followed in the negotiations on the convention itself and which was proposed in the amendment to article 155, on the Review Conference, guaranteed good faith in negotiations.

13. In conclusion, he said that despite the objections which he had raised, he regarded the proposals in document A/CONF.62/132 as a solid foundation for negotiations.

14. Mr. CHARRY SAMPER (Columbia) said that he had complete faith in the representatives of the Group of 77 who were engaged in the negotiations regarding the final test of the convention; he supported their efforts to make progress on the transfer of technology and the treatment of applications, on the understanding that there must be no more unilateral concessions. One of Colombia's main aims was to maintain the force of article 151 regarding the control of production, and since that article had been preserved intact it was much easier for him to compromise.

15. Colombia was a land-based producer and potential producer, but, in common with most developing countries, lacked the resources to be a pioneer. Therefore, although the provisions regarding matters such as the size of areas and the modalities governing bids and contracts were difficult to accept, they nevertheless had their value as parts of a production control system designed to protect land-based producers.

16. The participation of the industrialized States in the convention was essential if the régime was to be viable, since the developing countries had neither the finance nor the technology to make it work, and the convention must therefore be so designed as to facilitate the exploration and exploitation of the resources of the sea-bed for the benefit of all, especially developing countries.

17. A great deal of effort had gone into devising the preparatory investment protection system to facilitate access to sea-bed resources by the industrialized countries without jeopardizing the common heritage of mankind. He had doubts regarding what might be seen as a private club for pioneer investors, but took comfort from the fact that the machinery provided by article 151 would make it possible to find working procedures which would serve the interests of all. He could also accept the concessions regarding the apportionment of production without the participation of the Authority, and the treatment of pioneers and the Enterprise, which should get a mine site in the initial stages.

18. The incentive offered to industrialized countries to sign and ratify the convention was provided by the system of protection of preparatory investments; however, he would have found it very difficult to accept the large mining areas envisaged if there had been no system for the control of production or compensation provisions to protect developing land-based producers.

19. With regard to annex V to the President's report (A/CONF.62/L.132), he accepted the proposed amendment to article 150 since it did not affect the interests of land-based producers. The amendment to article 155 was acceptable in a spirit of compromise, although he would have preferred something different. He foresaw problems with the Colombian Congress regarding the approval of amendments or decisions of the Review Conference. He also accepted the proposed amendment to article 161, while regretting that it had not been possible to accommodate the less industrialized countries, particularly some which had shown great understanding of the problems of the developing countries.

20. Mr. LI GYE RYONG (Democratic People's Republic of Korea) said that the new provisions in annex III of document A/CONF.62/L.132 reflected the interests of developing countries which were land-based producers, and he therefore accepted the provisions concerning the compensation fund and the special commission of the Preparatory Commission.

[1] *Sea-Bed Mineral Resource Development: Recent Activities of the International Consortia* (United Nations publication, Sales No. E.80.II.A.9/Add.1).

The amended provisions of annex III should also be applied in the interests of developing countries which were likely to become land-based producers in future.

21. With regard to annex I, he thought that national liberation movements recognized by the United Nations and regional international organizations should have a legitimate right to participate in the convention, so that they were not deprived of the benefits of the common heritage of mankind. If therefore those movements accepted the provisions of annex I, his delegation would certainly not oppose it.

22. With regard to annex IV, he thought that the figure of 150,000 km^2 for a pioneer area was far too big. The figure was obviously based on the position of industrialized countries and particularly the Western Powers. The Group of 77 had proposed 60,000 km^2 but the Western Powers had continued to insist on their figure, presumably in an attempt to monopolize the pioneer areas where nodules were concentrated. In his view, pioneer areas must be defined taking account of the interests both of the developing and of the developed countries. Finally, he thought that paragraph 1 (*a*) (i) and (ii) and paragraph 9 of the draft resolution in annex IV were incompatible with Part XI of the convention and the related annexes and he would therefore wish to see improvements in those paragraphs.

23. The proposed amendment in annex V to articles 150, 155 and 161 of the draft convention were in fact substantive amendments of Part XI of the convention and were therefore unacceptable.

24. Mr. ZHELIAZKOV (Bulgaria) said that his delegation agreed with the views expressed on the previous day by the representative of the German Democratic Republic, speaking as Chairman of the group of Eastern European (socialist) States, and had only a few comments to make on its own behalf. It thought that at least some of the modified amendments in document A/CONF.62/L.132, prepared as they had been in haste and in difficult conditions, might be open to further improvement.

25. The proposal in annex I concerning the participation of national liberation movements did not correspond to Bulgaria's traditional position, but his delegation was prepared to accept it because it might improve the chances of achieving consensus. It also accepted the proposals in annex III, which would help to protect the legitimate interests of developing land-based producers.

26. His delegation had always opposed any change to Part XI, and did not think that the amendments proposed in annex V were more conducive to consensus than the original texts. With regard to draft resolution II in annex IV, it agreed with the views of the socialist countries as expressed in the letter from the Chairman of the Soviet delegation to the President (A/CONF.62/L.133). The problem was not only that paragraph 1 (*a*) contained an element of discrimination against one group of countries, but also that it could give rise to practical difficulties. Under the terms of paragraphs 8 and 10, entities which were pioneer investors could change their nationality if one or more of the States sponsoring them failed to ratify the convention and thus lost its status as a certifying State. States which failed to ratify, which might well be potential major contributors, would thus avoid helping to fund the Authority while still deriving benefits from the convention and continuing their activities in the Area free of any effective control. The problem was urgent and should be attended to without delay. The inequalities in paragraph 1 and the loopholes in paragraphs 8 and 10 must be removed if the convention was to be adopted by consensus.

27. Mr. MUNTASSER (Libyan Arab Jamahiriya) said, with reference to annex IV of the President's report (A/CONF.62/L.132), that when the Conference had decided at the 174th meeting on 23 April, that all efforts at reaching general agreement had been exhausted, neither the Group of 77 nor the group of African States had in fact had time to study the proposal properly and express their views. It was therefore possible that even if the proposals in that annex were formally adopted, sufficient objections to them might be raised to prevent the Conference from reaching consensus on the convention. It appeared from paragraph 1 of draft resolution II contained in annex IV that the major part of the Area was to be divided among a handful of countries, which would then have it virtually to themselves for 30 or 40 years. That provision seriously jeopardized the parallel system and put the Enterprise in a very disadvantageous position.

28. His delegation's views on the preparatory investment régime and its opposition to any substantive amendments to the existing provisions of Part XI had been set forth in its letter of 22 April to the President (A/CONF.62/L.131) and were supported by the members of the Group of 77 and the group of African States. His delegation also thought that too great a proportion of the Area was being allocated to pioneer investors, and that the provisions of draft resolution II went far beyond the mere protection of preparatory investments.

29. His delegation opposed the amendment to article 161 in annex V, but supported the draft resolution in annex I, even though it was not altogether in accordance with Libya's views. It was desirable that national liberation movements should sign the final act of the Conference, even if only as observers, with the hope that one day they would be able to sign the convention itself as member States.

30. Mr. SENE (Senegal) said that his delegation supported the views expressed by the delegation of Peru (177th meeting) on behalf of the Group of 77 on the President's report (A/CONF.62/L.132). It approved the draft resolution in annex I of that document, which, although not altogether satisfactory, was a considerable improvement on the earlier version. It was appropriate that entities which aspired to full participation in the convention at a later date should be allowed to sign the final act. His delegation would accept the proposal in annex II in a spirit of compromise, although it still felt that failure to require every member of an international organization to be a State party to the convention before the organization itself was allowed to become a Party could cause difficulties in the application of the convention. It also approved the proposal in annex III; Senegal had always defended the interests of the developing land-based producers.

31. With regard to annex IV, his delegation welcomed the provision allowing developing countries to become pioneer investors, but thought that it should be implemented with great care. The protection of the preparatory investments could jeopardize the parallel system and widen the gap between developing and developed countries. A pioneer Area should not be as large as 150,000 km^2, and the Preparatory Commission would have to ensure that the portions to be relinquished in accordance with paragraph 1 (*e*) were not the least productive parts. The protection of preparatory investments must not take precedence over the viability of the Enterprise, the implementation of the parallel system and, above all, the key idea that the sea-bed was the common heritage of mankind, which was one of the most innovative concepts in modern international law. His delegation was prepared to accept the proposals in annex V.

32. He hoped that the informal negotiations which were still in progress would lead to further improvements in the convention, without affecting the provisions of Part XI. If the convention could be adopted by consensus—and he was fairly confident of that—it would be a major achievement and a victory for human intelligence and the political will of nations.

33. Mr. BEESLEY (Canada) said that his delegation could in general accept the proposals in document A/CONF.62/L.132, and wished only to offer a few suggestions which might further improve the prospects for consensus.

34. No more significant and far-reaching concept had emerged from the Conference than that reflected in draft resolution II (A/CONF.62/L.132, annex IV). The original idea of protection of investments had developed into an agreement to allocate actual mine sites with defined limits. It had further been provided that the States and private entities qualifying as pioneer investors would be assured of approval of their plans of work, and even of priority in applications for production authorization, if they complied with the terms of the resolution and the convention. The concerns of the major industrialized States, both Western and socialist, concerning the first generation of mine sites had thus been met, and he urged them to reconsider their former reservations about Part XI of the convention in the light of the resolution.

35. All the changes in the draft convention which were being demanded involved unilateral concessions from the Group of 77, and nowhere were the concessions greater than in the case of the preparatory investment protection proposal. Canada was itself a beneficiary of that proposal, since two Canadian companies were participating in consortia conducting exploration and developing technology in the Area. Canada did not, however, demand the protection accorded by the proposal, and had not passed unilateral legislation to protect its interests as a sea-bed miner. Consequently, Canada had not participated in the negotiations for a mini-treaty conducted by those States which had passed unilateral legislation. It had nevertheless agreed to preparatory investment protection as part of the high price that had to be paid for a universally acceptable convention.

36. On the other side of the coin, he drew the attention of the land-based producers and the Group of 77 to the fact that demands to eliminate the nickel production formula, which they considered to be fundamental and which his delegation saw as a safeguard for the Enterprise and for the common heritage as a whole, had been dropped. For many years his delegation had pointed out that the major consumers of the minerals contained in manganese nodules were bound to become the major sea-bed miners of those same minerals, with a view to becoming self-sufficient. That would clearly have implications for the markets available to the Enterprise and to land-based producers. No further justification was needed for the retention of the nickel production formula, particularly in view of the fact that both State and private entities might well be subsidizing deep sea-bed mining.

37. His delegation strongly supported the proposal in annex III to the President's report, to add a new paragraph 8 *bis* to draft resolution I contained in document A/CONF.62/L.94. Altogether it thought that the convention and the resolutions, particularly draft resolution II, viewed as a whole, constituted a fair deal.

38. The representative of the Soviet Union had alleged that the preparatory investment protection envisaged in draft resolution II was discriminatory because his country would be obliged to sign the convention in order to be certified as a pioneer State, whereas some Western States would not need to do so provided that one State actively controlling a natural or juridical person involved in a sea-bed mining consortium qualified as a certifying State. His delegation flatly rejected such a claim. In paragraph 1 (*a*) (i) of the draft resolution, France, Japan, India and the Soviet Union were all treated in identical fashion. He could not therefore see where the discrimination lay: Western, capitalist and socialist States were treated alike.

39. If there was an element of discrimination, it arose out of a compromise proposal put forward by the Canadian delegation and accepted as a counter-proposal to that of the Soviet Union, namely, the requirement that no pioneer investor could obtain approval of a plan of work as a pre-condition to production authorization until all of the States controlling all of the entities involved in a consortium had ratified the convention. Indeed, such discrimination as there was arose out of the danger that the State controlling any entity involved in such a consortium could prevent the authorization of a plan of work and the authorization of production through refusing or delaying ratification.

40. In the convention and its annexes there were many provisions which had not been reopened by any delegation, which gave explicit recognition to private or juridical persons as objects of the conventional rules of law which were being created. Academic criticisms suggesting that the resolution made private companies the subject of international law were unfounded. If they should be held to have any basis, then many provisions of the draft convention and its annexes would have to be renegotiated. He hoped that that was not what the Soviet Union was proposing.

41. Serious issues remained unresolved. He therefore appealed to all participants in the Conference to recognize the achievements already made and to participate in current negotiations with a view to producing a universal convention.

42. Mr. AISSI (Benin) said that, as a member of the Group of 77, he could not subscribe to all the proposals made in the President's report (A/CONF.62/L.132). The Group of 77 had made concessions in order to take account of the concerns expressed by those countries which had made investments; the desire of the Group of 77 to look after the interests of all was therefore clear.

43. The points made by the Chairman of the Group of 77 in his statement were legitimate and were intended to safeguard the concept of the common heritage of mankind. His delegation had been a sponsor of document A/CONF.62/L.117 but had agreed not to press it to the vote although the issue was of major interest to his country. The draft convention did not provide sufficient security for the developing countries. For example, the facilities provided for warships hardly served the cause of peace; there was no such thing as innocent passage of warships.

44. Finally, it was inequitable that some States should enjoy the rights conferred under draft resolution II without being bound to all the obligations flowing therefrom.

45. He hoped that participants would accept the suggestions made by the Group of 77.

46. Mr. AL JUFAIRI (Qatar) said that the progress which had been made so far would have been impossible without concessions by the Group of 77, which had relinquished proposals in order to serve the principle of the common heritage of mankind and to ensure that the convention could be adopted by consensus.

47. The proposal contained in annex I (A/CONF.62/L.132) represented a concession by the Group of 77, but his delegation was prepared to support it. National liberation movements were assured of full participation in the convention but only as observers.

48. His delegation also supported annexes II, III and V. Its only objection to the draft resolution in annex IV related to paragraph 1 (*e*) concerning pioneer areas. The size of the area which it was proposed to grant to pioneer investors was excessive and would reduce the common heritage of mankind. His delegation considered that the area should be limited to 100,000 km^2; a larger area might well lead to monopolies by a small number of countries. There should also be equality of treatment as between the Enterprise and the entities referred to in paragraph 1 (*a*). If those two requirements were taken into account, his delegation could accept draft resolution II.

49. Mr. WOLF (Austria) said that the report submitted by the President in accordance with rule 37 of the rules of procedure (A/CONF.62/L.132) was a sobering document. The choice was not between the draft convention and another convention but between the draft convention and nothing at all.

50. The draft resolution in annex IV of document A/CONF.62/L.132 represented a new development which responded to historical reality, with all the ambiguities which that implied. It was his hope that the Preparatory Commission would take care of such ambiguities. The size of mine sites allocated to pioneer investors required further clarification as also did the question of what would revert to the Authority in general and what was specifically reserved to the Enterprise. The obligations of pioneer investors under paragraph 7 (*c*) were expressed in vague terms as were the relationships between pioneer investors and the Enterprise with regard to production authorizations. Paragraph 9 (*a*) required further elucidation on the latter point. The issue of exploitation before the convention came into force was also left vague. No consideration had been given to the possibility that the convention might not enter into force as a consequence, for example, of non-ratification. In such a case it would seem that the Preparatory Commission would become the Commission and the resolution would replace Part XI of the draft convention; the result would be a mini-convention with many issues unresolved and with the Preparatory Commission called upon to exercise a range of responsibilities and discretionary powers that the Conference had not wanted to grant to the carefully balanced Council of the Authority.

51. Draft resolution II did, however, provide a forum and a time-frame in which the Preparatory Commission could adjust the theoretical concepts of the 1970s to the economic realities of the 1980s and 1990s.

52. Mr. BRENNAN (Australia) said that, at the beginning of the current session, the Conference had been facing three major issues, namely, preparatory investment protection, the question of participation in the convention and the terms of reference of the Preparatory Commission. A further problem had arisen in connection with the desire of the delegation of the United States to reopen parts of Part XI which had already been negotiated and had been the subject of consensus in August 1980.

53. The proposals made by the President in his report (A/CONF.62/L.132) had brought consensus closer and his delegation supported them fully. The report contained constructive proposals with regard to preparatory investment protection; those were very important to the developed countries and to the Eastern European countries in so far as they would encourage exploration and the development of new technology and would bring closer the time when the common heritage of mankind would begin to provide benefits for all. Draft resolution II in annex IV of the President's report provided assurances of approval for plans of work and production authorizations. His delegation welcomed the proposed modifications to articles 150, 155 and 161, which would bring consensus closer.

54. Gaps still existed between the positions of delegations and there was as yet no certainty that the convention would be adopted by consensus. He appealed to all to make every possible effort to overcome the remaining differences. He hoped that the convention would be adopted by consensus and would thus enjoy universal support.

The meeting rose at 12.45 p.m.

180th meeting

Thursday, 29 April 1982, at 5.05 p.m.

President: Mr. T. T. B. KOH (Singapore)

Report of the President on informal consultations conducted on 27 and 28 April

1. The PRESIDENT* said that the representatives of the Group of 77 had made three requests concerning the draft resolution in annex IV of the President's report (A/CONF.62/L.132). First, they had maintained that the size of the pioneer area contained in paragraph 1 (*e*) was too large and should be reduced. That position had been supported by Japan. They had also requested that the relinquishment procedure in paragraph 1 (*e*) should be accelerated and that the areas relinquished should be in contiguous areas. Secondly, they had requested that in paragraph 9 (*a*), the Enterprise should be guaranteed production authorization in respect of two mine sites instead of one and that that authorization should enjoy priority over the pioneer investors. Thirdly, they had requested that the industrialized countries should assist the Enterprise in financing the exploration and exploitation of the second mine site.

2. The last demand of the Group of 77 had been opposed by the Soviet Union and others; they had argued that it was an unacceptable attempt to reopen the negotiations on financial matters which had been conducted in negotiating group 2 and which had been settled.

3. In respect of the first and the second demands, a deal had been struck whereby in return for the Group of 77 not insisting on its position on paragraph 1 (*e*), the industrialized countries would agree that the Enterprise should have production authorization for two mine sites and such production authorization would enjoy priority over the pioneer investors. That proposed reformulation of paragraph 9 (*a*) was contained in the annex to document A/CONF.62/L.141.

4. The Soviet Union, supported by the other members of the group of Eastern European (socialist) States, had made two complaints in respect of paragraph 1 (*a*) (ii). Their first complaint had been that it was impermissible and inappropriate for an international diplomatic conference such as that on the law of the sea to decide to grant the status of a pioneer investor to private companies which would be identified by means of a reference to a United Nations document. The legal opinion of the Legal Counsel of the United Nations had been sought. His legal opinion and the reply of the Soviet Union thereto were contained in document A/CONF.62/L.133. The response of the Legal Counsel to the Soviet Union's reply was contained in document A/CONF.62/L.139. He himself concurred with the Legal Counsel's opinion that the approach adopted in paragraph 1 (*a*) (ii) was legally permissible and consistent with the practice of the United Nations.

5. The second complaint of the Soviet Union and its colleagues from the group of Eastern European (socialist) States had been that paragraph 1 (*a*) (ii) discriminated against the States referred to in subparagraphs 1 (*a*) (i) and 1 (*a*) (iii). Their argument had been that in the case of the States referred to in subparagraphs 1 (*a*) (i) and 1 (*a*) (iii), every

* The full text of the President's statement has been distributed as document A/CONF.62/L.141.