

August 4, 1990

Dear Alex:

*My god. Time is flying. We are almost there.*

*I know you really don't need my advice. You know better than I do what key to play on this very special occasion. For the IOI it is a unique opportunity - and we owe it largely to you!*

*What I would like us to do -- always! -- is to place the issue in its broader and more complex context.*

*All right: we deal here with ports and harbours. By itself very important. But.*

*Finishing by Perestroika/Law of the Sea paper, I came across this little concept:*

3. *My final point is the intimate and inseparable linkage between the marine sector and the rest of the global system - ecologically, economically, strategically, technologically. And as science and technology advance, this linkage becomes stronger yet.*

*A striking example is the global transport system. Until World War II and the advent of High Technology, sea transport and land transport constituted two fairly separate systems. Then came containerization and unitization, giving rise to a unitary multimodal system including the seas, railways, roads, rivers and airways. This is now being perfected through satellite-borne global positioning systems and electronic charting pinpointing and guiding vessels or vehicles on land, sea or in the air and harmonizing their traffic.*

*If it is one system, and we change part of it (the ocean part) we obviously are changing the whole system.*

*Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its unsettling, occasionally chaotic and threatening effects, it is, due to historic circumstances as well as to the nature of the aquatic medium -- it is in the wide spaces of the oceanic part of the system that we see the restructuring taking shape, in institutions and processes where the great concepts of Perestroika and of the Law of the Sea mingle to reinforce each*

*other. The rest, necessarily, will follow.*

*Ports and Harbours: Nodal points in a global system of transportation.*

*Ocean ecology/ economy: a nodal point in the problematique!*

*"The philosophy of the common heritage": the heart of the new needed paradigm.*

*But, as I say, these are just random ideas which I know you think better yourself!*

*I am enclosing the "executive summary" of the Perestroika case study. I shall bring the whole along to Rotterdam.*

*I hope you are having a marvellous vacation!*

*Much love to both of you,*

*Errol*

## EXECUTIVE SUMMARY

*This paper was written as a case study for an international project called "Common Action: A Global Response to Perestroika."*

*The Law of the Sea and ocean development constitute a perfect testing ground for the new concepts put forward by Perestroika. Issues which remain hidden on land, hedged by hoary custom, are blatant and open at sea, where concepts like "national," "international," "non-national" blend in a continuum, "boundaries" become porous, "environment" and "resource" are identical and thus there can be no conflict between "conservation" and "development" -- because we cannot develop and destroy our resource at the same time -- and ocean uses and ocean parts and ocean problems are closely interrelated and need to be considered as a whole.*

*It is thus no chance that "sustainable development" is articulated more precisely in the U.N. Convention on the Law of the Seas (1982) than in any other instrument of international law.*

*The central, if not yet fully developed, concept of the U.N. Convention on the Law of the Sea is that of the Common Heritage of Mankind. This concept, it is argued, with its developmental, environmental, and peace-enhancing connotations, contains the seeds of a new economic theory and of a new philosophical approach to the relationship among humans and nature which is basic to "sustainable development." The elaboration of such an approach poses an equal challenge to the centrally planned and the market economies and forces both to transcend themselves toward a point of possible convergence. Needless to add that this dialectics is not restricted to the "East" and the "West" but embraces the "South" which, presently, is equally locked in the stalemates resulting from obsolete economic theories.*

*The central concept of Perestroika is "comprehensive security," which also has its developmental, environmental, and disarmament dimensions. This study draws attention to the fact that the two concepts, "common heritage," and "comprehensive security," are in fact complementary and dependent on each other: which gives to this case study its particular cogency. "Sustainable development" results from their interaction. It is also pointed out that the merging of economic/environmental issues (which, thus far, occupied the agendas of the North-South dialogue) and military security issues (which constituted the focus of East West negotiations) implies the merging of the East-West and North-South debates and offers the best guarantee against the marginalisation of the "South."*

*All this, Gorbachev himself suggests, should be "pondered by an*

*independent commission of experts and specialists, which would submit its conclusions to the United Nations Organization." ("Realities and Guarantees for a secure world," 1987.)*

*This study consists of three parts. Part I covers the military dimension. This part, in turn, consists of three sections: the first dealing with the Law of the Seas and the 1972 Treaty Banning Nuclear Weapons and Other Weapons of Mass Destruction from the Ocean Floor; the second, covering the denuclearization of regional seas, and the third, collective security measures such as U.N. or regional naval units. Part II covers the environmental dimension. Starting from the UNEP-initiated Regional Seas programme for the protection of the marine environment, it tries to draw the functional and institutional consequences of the unitary concept of comprehensive security. It suggests specific pilot activities in the Arctic and in the Mediterranean regional seas. Part III deals with the economic dimension of comprehensive security and examines, in particular, the potential of some of the Perestroika proposals for the development of marine industrial technology, both a global and regional levels and the application of the principle of the common heritage to this sphere of action.*

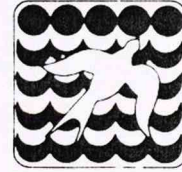
*The conclusion stresses the interdependence between ocean system and terrestrial system under the common roof of Outer Space. This interdependence implies that if part of the global system is changed, the whole will necessarily change. Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its unsettling, occasionally chaotic and threatening effects, it is in the wide spaces of the oceanic part of the system that we see the restructuring taking shape, in institutions and processes where the great concepts of Perestroika and of the Law of the Sea mingle to reinforce each other.*

*Mikhail Gorbachev once defined "the new thinking" that underlies Perestroika as "a bridge between word and deed." We hope that, with a case study bringing it into a ready-made scenario poised for action, we may have made a tiny contribution towards moving it to the forward end of the bridge.*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 5, 1990

*Ilmo. Sr. D.  
Ricardo Díez-Hochleitner  
Director General de Coordinación  
Técnica Comunitaria  
Maria de Molina, a39  
28006-Madrid, Spain*

*Dear Ricardo,*

*the enclosed letter fo Mr. Muños is self-explanatory. We only had seven applications. The delay to next May will give us the opportunity of of doing some more lobbying.*

*In Italy everything is prepared beautifully. Abdus Salam has given us 10 scholarships for participants from developing countries. it should be a very interesting programme.*

*I am enclosing a "case study" I just completed on Perestroika and the Law of the Sea which I thought might be of interest to you.*

*Thanks for everything,*

*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Academician Jerman Gvishiani  
Soviet Academy of Science  
Moscow, USSR*

*Dear Dr. Gvishiani:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

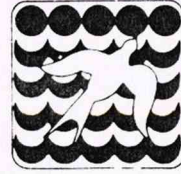
*Yours as ever,*

*Elisabeth Mann Borgese*  
Elisabeth Mann Borgese



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Professor Jan Tinbergen  
31 Haviklaan  
The Hague, Netherlands*

*Dear Jan:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*H.E. Ambassador José Luis Jesus  
Permanent Mission of Cape Verde  
New York. N.Y.  
USA*

*Dear José Luis:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

*Yours as ever,*

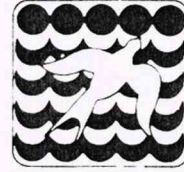
  
*Elisabeth Mann Borgese*





Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Arvid Pardo  
1702 Antigua Lane  
Nassau Bay, Texas 770458  
USA*

*Dear Arvid:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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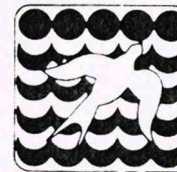
*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Alvaro de Soto  
Undersecretary General  
United Nations Secretariat  
United Nations Plaza  
New York, N.Y. 10016  
USA*

*Dear Alvaro:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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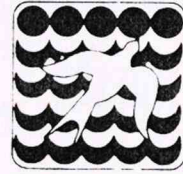
*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*H.E. Mr. Mikhail Gorbachev  
President  
Moscow, USSR*

*Dear Mr. President:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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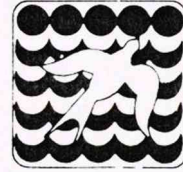
*Yours as ever,*

*Elisabeth Mann Borgese*  
Elisabeth Mann Borgese



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*H.E. Mr. Carlsson  
Prime Minister  
Government of Sweden  
Stockholm, Sweden*

*Dear Mr. Prime Minister:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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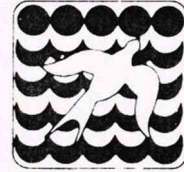
*Yours as ever,*

  
*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Willy Brandt  
Bundeshaus  
Bonn  
Germany, Federal Republic*

*Dear Dr. Brandt:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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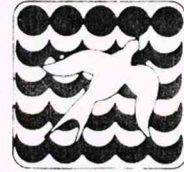
*Yours as ever,*

  
*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Ivan Head  
President  
IDRC  
P.O. Box 850 Ottawa, Ont. K1G 3H9*

*Dear Ivan:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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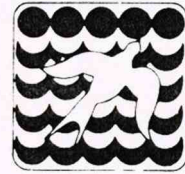
*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Marcel Massé  
President  
CIDA  
200 Promenade du Portage  
Hull, P.Q. K1A 0G4*

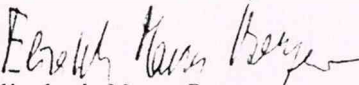
*Dear Dr. Massé:*

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*All the very best,*

*Yours as ever,*

  
*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Ronald Leger  
CIDA  
200 Promenade du Portage  
Hull, P.Q. K1A 0G4*

*Dear Ronald:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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*All the very best,*

*Yours as ever,*

*Elisabeth Mann Borgese*





Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Mr. Igor Yacoblev  
Permanent Mission of the USSR  
to the United Nations  
New York, N.Y.  
USA*

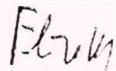
*Dear Igor:*

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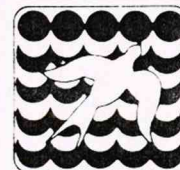
*Yours as ever,*

  
*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Mr. Igor Yacoblev  
Ministry for Foreign Affairs  
Law of the Sea  
Moscow, USSR*

*Dear Igor:*

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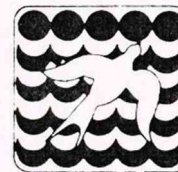
*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Mr. Jan Pronk  
1<sup>o</sup> Swweelinck Straat 4  
The Hague 2517 GC  
The Netherlands*

*Dear Jan:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Academician Yevgeny Velikhov  
Soviet Academy of Science  
Moscow, USSR*

*Dear Mr. Velikhov:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

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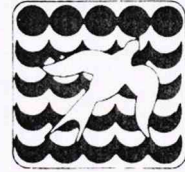
*Yours as ever,*

*Elisabeth Mann Borgese*  
Elisabeth Mann Borgese



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

Professor Norton Gisburg  
Ocean Yearbook  
East-West Center  
177 East-West Road  
Honolulu, Hawaii  
USA

Dear Norton:

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 6, 1990

*Dr. Sergei Kapitza  
Institute for Physical Problems  
Vorobiovskoe sh. 2  
11 7334 Moscow 7095  
USSr*

*Dear Sergei:*

*I am sending you herewith a case study I just completed on Perestroika and the Law of the Sea. As far as I am aware of, not much has been done on this subject, besides Movchan's paper which, however, is restricted to the disarmament aspect.*

*I would be most grateful for your comments and suggestions. I consider this really a first draft and would be happy to incorporate suggestions I might get from colleagues!*

*All the very best,*

*Yours as ever,*

*Elisabeth Mann Borgese*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 7, 1990


*Dr. Gaur, Secretary  
Department of Ocean Development  
Government of India  
New Delhi, India*

*Dear Dr. Gaur:*

*I just finished this draft of a case study on Perestroika and the Law of the Sea. I thought it might be of interest to you, and I would be most interested in having your reactions -- some time, when you have time.*

*With all good wishes,*

*Yours cordially,*

  
*Elisabeth Mann Borgese*  
Professor



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
August 7, 1990

*H.E. Mr. Xavier Perez de Cuellar  
Secretary-General  
The United Nations  
United Nations Plaza  
New York, N.Y. 10016  
USA*

*Dear Mr. Secretary-General:*

*I am taking the liberty of sending you a study -- still in draft form -- which I thought might be of interest to you.*

*It would be a great honour and pleasure if I could, some time in the future, have an opportunity to discuss this and similar problems with you personally.*

*Please remember me to Mrs. Perez de Cuellar.*

*With all good wishes,*

*Yours sincerely,*

*Elisabeth Mann Borgese*  
Elisabeth Mann Borgese  
Professor



*FRA  
Case  
study*



INTERNATIONAL DEVELOPMENT RESEARCH CENTRE  
CENTRE DE RECHERCHES POUR LE DÉVELOPPEMENT INTERNATIONAL

August 14, 1990

Ms. Elizabeth Mann Borgese  
Dalhousie University  
International Ocean Institute  
1321 Edward Street  
Halifax, N.S.  
B3H 3H5

Dear Ms. Mann Borgese:

This is simply to acknowledge receipt of your letter of August 6 to Mr. Head along with your case study on Perestroika and the Law of the Sea. You may rest assured that this material will be brought to Mr. Head's attention upon his return to the office next week.

Yours sincerely,

Chantal Roddy  
President's Office



Agence canadienne de  
développement international

Cabinet du Président

Hull (Québec)  
Canada  
K1A 0G4

Canadian International  
Development Agency

Office of the President

Hull, Quebec  
Canada  
K1A 0G4

*Perestroika  
Case Study*

August 17, 1990

Elisabeth Mann Borgese  
International Ocean Institute  
Dalhousie University  
Pearson Institute  
1321 Edward Street  
Halifax, Nova Scotia  
B3H 3H5

Dear Ms. Borgese,

I would like to acknowledge receipt of your letter addressed to Mr. Marcel Massé, President of CIDA, dated August 6, 1990, in which you included a copy of your case study on Perestroika and the Law of the Sea.

Your study has been forwarded to our officials in Policy Branch for a more thorough analysis. The President will, therefore, be responding to your request in the near future.

Yours sincerely,

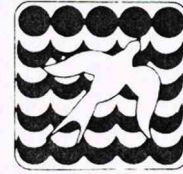
Linda Larente  
Secretary to the President

*Perestroika*



Dalhousie University

International Ocean  
Institute



I.O.I. - Malta  
September 4, 1990

*Professor Igor M. Averin  
Institute of World Economy  
and International Relations  
Moscow, USSR*

*Dear Professor Averin:*

*Unfortunately I lost the card on which you wrote the address of your colleague who works on the future of the Arctic. I put it in a briefcase which I checked with my luggage -- and Air Canada lost it. I still hope to get it back as there were quite a few papers in that briefcase which I need!*

*In the meantime, I am enclosing another copy of "Perestroika and the Law of the Sea", and I would be most grateful if you could give it to your colleague on my behalf, drawing his attention to the pages on the Arctic.*

*I am most anxious to hear from you with regard to my paper. I shall prepare the 10-page version by the end of October, as agreed.*

*With all good wishes and warmest personal regards,*

*Yours sincerely,*

*Elisabeth Mann Borgese*



Agence canadienne de  
développement international

Canadian International  
Development Agency

200, promenade du Portage  
Hull (Québec)  
CANADA  
K1A 0G4

200 Promenade du Portage  
Hull, Quebec  
CANADA  
K1A 0G4

Votre référence    Your file

Notre référence    Our file

SEP 14 1990

Dr. Elisabeth Mann Borgese  
Dalhousie University  
Pearson Institute  
1321 Edward Street  
Halifax, Nova Scotia  
B3H 3H5

Dear Dr. Borgese:

Pursuant to your letter to our President dated 6 August 1990 on the subject of Perestroika and the Law of the Sea, we are pleased to provide the enclosed specific and general comments.

I must add that I fully enjoyed the paper and was stimulated by many of the ideas it contained.

Yours sincerely,

Danielle Wetherup  
Vice-President  
Professional Services Branch

Encl.

Subject: Comments on Elisabeth Mann Borgese

Case Study: Perestroika and the Law of the Sea

A: Some General Observations

The paper is certainly an excellent presentation that contains a treasury of advanced thinking. The concepts and ideas are superb especially if Perestroika continues on the road its on (and lets hope that it will).

The paper presents many suggestions that are rather idealized- why not? However, some of the suggestions might be tempered by the fact that Perestroika is not yet reality.

It would seem that the theme of the paper is that the USSR has opened-up, and we need the Soviets to be in a strong global position (a truly global position) to do very positive things relating to ocean development and management. The paper certainly reflects thorough knowledge of ocean issues, and their geopolitical implications. Problems among them notwithstanding, the super powers are seen as a springboard to affect collective positive action in the ocean realm, which would be of immense benefit to mankind.

B: Some Specific Comments

Page 1. - "Boundaries" may be physically porous but psychologically they are not.

- "there can be no conflict etc" we would suggest "Should be no conflict".

- "we cannot develop and destroy our resource at the same time" but, surely\_ "we can".

Page 2. - 2nd to last para.

The idea overlooks the fact that a lot of the "parts" ( of the USSR ) did blow!

Page 7. para 2.

Perestroika may make it very clear that marginalization of the South is not acceptable - but the West has marginalized the South - and will likely continue to do so - and what is to prevent the third world from joining in doing so eventually? i. e., parts marginalizing other parts.

Page 8. last para to top of page 9.

The ideas here are somewhat idealistic, true perhaps for "outward thinking" collective groups, but individuals, especially fishermen, can battle vigorously for resources, putting the self before the

whole.

Page 9. para 3. "uninhabited by humans, etc."

but heavily travelled and damaged by them (Cousteau tells us a lot about pollution).

para 7.

We would argue that environmentally focussed security is equally land based.

Page 12. Para 2: Spacial

s p a t i a l

Page 21. Last sentence

It no longer does (referring to East-West tension) Can we be that certain?

Page 22. The 3 paragraphs suggest a "police" militarism -

demonstrating a singular lack among large numbers of people (even countries) of respect for the principles articulated in the paper. Perestroika and the concept of common heritage will not do the "full job"

Page 25. Last para

the "engine" "or pulling" powers of Perestroika seem to be pushed into somewhat absurd levels - The implications is that all which is discussed in the paragraph really did not proceed before Perestroika - anywhere - perhaps so, before, for the USSR, but not so elsewhere, where grass roots have counted.

page 26. The idea is to suggest that the third world would also provide leadership. Not just "follow ship".



JAN 8 1991

Академия наук СССР  
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27 November, 1990

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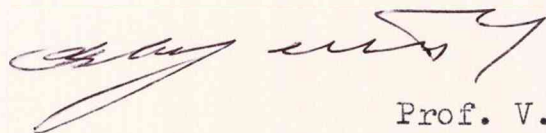
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Prof. E.M. Borgese  
Dalhousie University  
1321 Edward Street, Halifax  
Nova Scotia, Canada, B3H 3H5

Dear Prof. Borgese,

I am writing to you on behalf of a number of leading Soviet scholars in the field of international law from the Institute of State and Law, USSR Academy of Sciences. We were sincerely impressed by your case study "Perestroika and the Law of the Sea", which was addressed by you to the Soviet President M. Gorbachev. Your paper is a very interesting and fruitful attempt to put together two cardinal concepts of today international relations: the "common heritage of mankind" and "comprehensive security". Your basic idea of complementary and mutually dependent character of these concepts is sound and can be regarded as a new word in the doctrine of international law. Some of the specific proposals put forward by you are quite realistic and could be implemented rather easily, while others deserve further consideration.

We would highly recommend to publish your case study as soon as possible in order to make it available to the international legal community. This will undoubtedly give a new impetus to the development of the Law of the Sea as well as the doctrine of international law in general.



Sincerely yours,

Prof. V. Vereshchetin, Deputy Director

International Ocean Institute

9 June 1991

Dr. Vereshchetin:  
Academy of Science of the USSR  
Moscow, USSR

Dear Dr. ✓

Encouraged by your very kind and generous letter about my paper on Perestroika and the Law of the Sea, I turn to you today with an issue that causes me deep concern. I would be most grateful if this could be brought to the attention of President Gorbachev.

Thanking you in advance for your cooperation,

With all good wishes,

Sincerely yours,

*Elisabeth Mann Borgese*

Elisabeth Mann Borgese

PERESTROIKA AND THE LAW OF THE SEA

A Case Study

by

Elisabeth Mann Borgese

## EXECUTIVE SUMMARY

*This paper was written as a case study for an international project called "Common Action: A Global Response to Perestroika."*

*The Law of the Sea and ocean development constitute a perfect testing ground for the new concepts put forward by Perestroika. Issues which remain hidden on land, hedged by hoary custom, are blatant and open at sea, where concepts like "national," "international," "non-national" blend in a continuum, "boundaries" become porous, "environment" and "resource" are identical and thus there can be no conflict between "conservation" and "development" -- because we cannot develop and destroy our resource at the same time -- and ocean uses and ocean parts and ocean problems are closely interrelated and need to be considered as a whole.*

*It is thus no chance that "sustainable development" is articulated more precisely in the U.N. Convention on the Law of the Sea (1982) than in any other instrument of international law.*

*Although not yet fully developed and still restricted to the deep seabed, the central concept of the U.N. Convention on the Law of the Sea is that of the Common Heritage of Mankind. This concept, it is argued, with its developmental, environmental, and peace-enhancing connotations, contains the seeds of a new economic theory and of a new philosophical approach to the relationship among humans and between humans and nature which is basic to "sustainable development." The elaboration of such an approach poses an equal challenge to the centrally planned and the market economies and forces both to transcend themselves toward a point of possible convergence. Needless to add that this dialectics is not restricted to the "East" and the "West" but embraces the "South" which, presently, is equally locked in the stalemates resulting from obsolete economic theories.*

*The central concept of Perestroika is "comprehensive security," which also has its developmental, environmental, and disarmament dimensions. This study draws attention to the fact that the two concepts, "common heritage," and "comprehensive security," are in fact complementary and dependent on each other: which gives to this case study its particular cogency. "Sustainable development" results from their interaction. It is also pointed out that the merging of economic/environmental issues (which, thus far, occupied the agendas of the North-South dialogue) and military security issues (which constituted the focus of East West negotiations) implies the merging of the East-West and North-South debates and offers the best guarantee against the marginalisation of the "South."*

*All this, Gorbachev himself suggests, should be "pondered by an*

*independent commission of experts and specialists, which would submit its conclusions to the United Nations Organization." ("Realities and Guarantees for a secure world," 1987.)*

*This study consists of three parts. Part I covers the military dimension. This part, in turn, consists of three sections: the first dealing with the Law of the Sea and the 1972 Treaty Banning Nuclear Weapons and Other Weapons of Mass Destruction from the Ocean Floor; the second, covering the denuclearization of regional seas, and the third, collective security measures such as U.N. or regional naval units. Part II covers the environmental dimension. Starting from the UNEP-initiated Regional Seas Programme for the protection of the marine environment, it tries to draw the functional and institutional consequences of the unitary concept of comprehensive security. It suggests specific pilot activities in the Arctic and in the Mediterranean regional seas. Part III deals with the economic dimension of comprehensive security and examines, in particular, the potential of some of the Perestroika proposals for the development of marine industrial technology, both at global and regional levels, and the application of the principle of the common heritage to this sphere of action.*

*The conclusion stresses the interdependence between ocean system and terrestrial system under the common roof of Outer Space. This interdependence implies that if part of the global system is changed, the whole will necessarily change. Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its unsettling, occasionally chaotic and threatening effects, it is in the wide spaces of the oceanic part of the system that we see the restructuring taking shape, in institutions and processes where the great concepts of Perestroika and of the Law of the Sea mingle to reinforce each other.*

*Mikhail Gorbachev once defined "the new thinking" that underlies Perestroika as "a bridge between word and deed." We hope that, with a case study bringing it into a ready-made scenario poised for action, we may have made a tiny contribution towards moving it to the forward end of the bridge.*

## Contents

<i>Executive Summary</i>	<i>i</i>
<i>Introduction</i>	<i>1</i>
<i>Realism and Vision</i>	<i>2</i>
<i>Basic Principles</i>	<i>3</i>
<i>Part I: Military Security</i>	<i>11</i>
<i>Section 1: The LOS Convention     and the Seabed Treaty</i>	<i>11</i>
<i>Section 2: The denuclearization     of the oceans</i>	<i>15</i>
<i>Section 3: Institutional restructuring</i>	<i>20</i>
<i>Part II: Environment and Development</i>	<i>24</i>
<i>Part III: Development and Environment</i>	<i>26</i>
<i>Conclusions</i>	<i>29</i>
<i>Selected Bibliography</i>	<i>33</i>

## Perestroika and the Law of the Sea

### INTRODUCTION

*Throughout the 20 years of the genesis of the new Law of the Sea, we have considered the oceans as the great laboratory for the making of a new world order. The Convention that emerged in 1982 has officially been characterized as a "Constitution for the Oceans," which means, potentially, a Constitution for the World. Although not yet officially in force, the United Nations Convention on the Law of the Sea has already shaken the existing order and driven the engines of change and innovation.*

*In the meantime, a great deal of work has been accomplished to adumbrate the main requirements of a comprehensive new world order. The official documents of the United Nations -- the Declaration of Economic Rights and Duties of States; the Declaration on a New International Economic Order and the Plan of Action -- are, retrospectively, conservative. Had the programme been implemented, it would have served to prop up a dying economy rather than building a new one. Fairer terms of trade; better prices for commodities; debt relief; sovereign rights over natural resources; a code of conduct for multinationals: It would not have changed all that much, had it been attainable, which it was not, in the present structural context which it did not attempt to change. The proposals of the official Commissions -- the Brandt Commission, the Palme Commission, the Brundtland Commission, the South Commission,<sup>1</sup> the Human Rights Commission -- pointed farther in the direction of change, but have remained on the drawing board. One, the most recent, **Perestroika**, is changing the face of the earth.*

*Where does it come from, and why is it having such dramatic, if not traumatic effects?*

---

<sup>1</sup>The Report of the Brandt Commission focuses on the financing needed to narrow the development gap to acceptable dimensions. It envisages that the needed funds should come primarily from vastly increased official development aid.

*The Report of the Palme Commission focuses on the military aspects of security. It puts forward the concept of "common security" and proposes the most advanced institutional framework for its implementation.*

*The Report of the Brundtland Commission focuses on environmental security. It puts forward the concept of sustainable development which is to reconcile developmental and environmental concerns.*

*The Report of the South Commission focuses on the needed changes in the South itself.*

## Realism and Vision

*Perestroika -- which means "restructuring" -- appears to have been generated by realism and vision.*

*Realism is to be understood here as pragmatic, realistic, assessment of the situation surrounding us here and now. This situation had become untenable and explosive. Economic growth in the Soviet Union and its allies was declining to a level close to stagnation. Technological innovation was restricted to the military sector while there was an obvious lack of efficiency in using scientific achievements for economic needs. Consequently, for all "gross output," there was a shortage of goods. The Soviet Union spent, in fact is still spending, far more on raw materials, energy and other resources per unit of output than other developed nations.*

*Economic stagnation went hand in hand with intellectual stagnation. Creative thinking was driven out from the social sciences. Intellectual barrenness breeds corruption; alcoholism, drug addiction and crime were growing, and society was becoming increasingly unmanageable.*

*The juncture of this kind of situation with underlying racial, religious, or national tensions is the perfect recipe for explosion, and the pressure was gathering within the republics of the Soviet Union and those surrounding it.*

**This society is ripe for change. it has long been yearning for it. Any delay in beginning perestroika could have led to an exacerbated international situation in the near future which, to put it bluntly, would have been fraught with serious social, economic, and political crises.**

*Gorbachev did not create this situation. He inherited it, but he had the courage to recognize it, and to act. He tried to release the pressure gently by raising the lid which would have been blown with violence in the near future. At the same time he tried to give a direction to the released energies.*

*This required vision: the vision of a better future, of a genuinely new order, which, in his thought, appears to rest on certain pillars.*



## Basic Principles:

### Pillars of Perestroika

*This is the situation from which Perestroika takes off from within the USSR:*

*The pressure of the arms race, on the one hand; rigidity and isolation of socio-economic structures, on the other, have paralysed the country. The arms race must be stopped; rigidity and isolation must be broken. The required changes are dramatic. They also are mutually dependent. Perhaps they can all be brought on a common denominator: A new relationship between individual initiative and common cause. As it applies to individual and collectivity, it applies to the reshaping of the relationship between individual enterprise and common planning, market and socialism, as it does to that between individual national community and global, international community.*

*The new, integrative relation between the individual and the collective has two further implications: It implies an integrated concept of what is "inside" and what is "outside," i.e., the recognition of inseparable linkages between domestic and foreign issues and policies. It equally applies to the relationship between continuity (mankind extends in time as it does in space, comprising present as well as past and future generations) and change (which is episode, the part that makes up the whole, but also depends on that whole, without which it cannot take place), and between long-term and short-term, neither of which can be conceived without the other.*

**Individual initiative and common cause.** *Gorbachev emphasizes individual values and aspirations.*

Today our main job is to lift the individual spiritually, respecting his inner world and giving him moral strength. We are seeking to make the whole intellectual potential of society and all the potentialities of culture work to mold a socially active person, spiritually rich, just and conscientious.

What is needed to achieve this aim is finding the most effective and modern forms of blending public ownership and the personal interest that is the ground work for all our quests, for our entire concept of radically transforming economic management.

*And again:*

We believe that combining personal interests with socialism has still remained the fundamental problem....Then we will combine the advantages of a large collective economy with the individual's interests..."

**Socialism and market.** *Obviously this can never entail a repudiation of socialism and an embrace of capitalism.*

**There was an opinion, for instance, that we ought to give up planned economy and sanction unemployment. We cannot permit this, however, since we aim to strengthen socialism, not replace it with a different system. What is offered to us from the West, from a different economy, is unacceptable to us.**

*The search for new ways of enhancing individual motivation and initiative, even competition, in a socialist system geared to the common good results in something very much resembling the Yugoslav ideals of the 'fifties and 'sixties: the ideals of self-management based on social ownership. Gorbachev calls for decentralisation of government responsibilities which must be devolved on the enterprises themselves, including the transfer of cost accounting, a radical transformation of the centralised management of the economy, fundamental changes in planning, a reform of the price formation system and of the financial and crediting mechanism. Planning, from now on, must start at the grass roots, at the enterprise level. This, however, does not mean the abandonment of planning. It makes planning more complex and brings it closer to people, that is, to the demand side. The enterprise itself must be democratised. Workers must be fully involved in the decision-making process, and they must have the right to elect their own managers. This, in fact, is the essence of the self-management system, and the coincidence is not a casual one. Gorbachev has indeed discussed these theories with the surviving leaders of the Yugoslav revolution of the fifties.*

**The local and the universal.** *Internal progress largely depends on international conditions. Coping with the internal consequences of the arms race, of technological change, and of environmental degradation requires changes in the international system.*

**Now the whole world needs restructuring, i.e., progressive development, a fundamental change.**

**Revolution from above and from below.** *To achieve change, a revolution must be both "from above" and "from below". Or, to change the metaphor, there must be "push" as well as "pull." Organised ideas and concepts are more likely to come from individuals or leadership groups; but if there is no "pull," i.e., if the masses of people are not ready for the change, it will not occur, or it will not last.*

**Perestroika would not have been a truly revolutionary undertaking, it would not have acquired its present scope, nor would it have had any firm chance of success if it had not merged the initiative from "above" with the grass-roots movement; if it had not expressed the fundamental, long-term interests of all the working people; if the masses had not regarded it as their program, a response to their own thoughts and a recognition of their own demands; and if the people had not supported it so vehemently and effectively.**

**Continuity and change.** *The book is pervaded by a yearning to find legitimacy in the teachings of the past, especially the later writings of Lenin and his emphasis on "socialist democracy." While this, undoubtedly, was also politically expedient: an armour against attacks from the guardians of orthodoxy, I would venture to say that it is more, and deeper than that: the need for an anchor in the sea of change; an attitude of piety, familial religiosity; and I am using "religion" in the sense of that which binds the past with the future, the familiar with the novel.*

**Common issues and common ownership.** *If it is possible -- indeed, more than possible, necessary -- at the local and national level to combine the driving forces of individual freedom and initiative with the stabilising power of the common interest, in a mutually reinforcing synthesis of democracy and socialism, the same applies to the international level and the relations between socialist and free-market based States in a global system that transcends both. There are in fact a number of systems-transforming developments on the global scene which, in terms of the Palme Commission -- fully endorsed by Gorbachev -- are "ideology bridging": issues of the conservation of the environment; issues of the economic cost of, and environmental dangers inherent in, the arms race, in particular; issues of the impact of modern technology, more generally.*

Another no less obvious reality of our time is the emergence and aggravation of the so-called global issues which have also become vital to the destinies of civilization. I mean nature conservation, the critical condition of the environment, of the air basin and the oceans, and of our planet's traditional resources which have turned out not

to be limitless. I mean old and new awful diseases and mankind's common concern: how are we to put an end to starvation and poverty in vast areas of the Earth? I mean the intelligent joint work in exploring outer space and the world ocean and the use of the knowledge obtained to the benefit of humanity.

*If it is these issues that have challenged the socialist system, forced it to transcend itself and incorporate elements of the market system, they are equally challenging the market system, forcing it to transcend itself and to incorporate certain elements that used to be associated with socialism. The Brundtland Report -- fully endorsed by Gorbachev -- makes it amply clear that these are issues the "market" cannot resolve. The all pervasive and dramatically urgent problems of the conservation of the environment require planning and regulation, whatever the economic system and the ideology it is based on. Poverty, just as consumerism, is incompatible with the conservation of the environment and must be abolished: a goal that, undoubtedly introduces a strong dosis of what used to be called "socialism" into our market system. It pushes both sides towards the development of a new economic system, based on a new economic theory, which I like to call the Economics of the Common Heritage.*

**The necessity of effective, fair, international procedures and mechanisms which would ensure rational utilization of our planet's resources as the property of all mankind becomes ever more pressing.**

#### **Common and comprehensive security**

*The Palme Report stressed the concept of common security, meaning that, in the nuclear age, security cannot be acquired by any one nation at the expense of the security of another nation; that security must be common security; that only the security of all is the security of each. Gorbachev fully endorses this concept.*

The idea of 'security for all,' which was put forward by him [Olof Palme] and further elaborated by the International Palme Commission, has many points of similarity with our concept of comprehensive security.

*Comprehensive security, including economic and environmental security, together with military security, is an enlargement of the Palme concept.*

Defining for itself the main principles of the concept of ecological security, the Soviet Union considers disarmament, the economy and ecology as an integral whole. (Edward Shevardnadze, Foreign Policy and Perestroika, 1989).

*The search for military security through arms control and disarmament negotiations has dominated, thus far, the East-West agenda, while the search for economic security through development cooperation and, eventually, the building of a new economic order, had been the theme of North-South dialogue.*

*The joining of the two issues in the concept of common and comprehensive security means the joining of the East-West and the North-South dialogue. It offers the best guaranty against the marginalisation of the South. Common and comprehensive security cannot brook any marginalisation of the South. Perestroika makes this unmistakably clear.*

**We stand for the internationalization of the efforts to turn disarmament into a factor of development.**

**The implementation of the basic principle 'disarmament for development' can and must rally mankind, and facilitate the formation of a global consciousness.**

*Its scope is global, and the third component of the concept, environmental security, is perhaps the one that ties the whole concept together as the major problems of the environment are tangibly global and do not distinguish between East, West, South, or North.*

## **Land**

*Gorbachev's vision is continent-centred. His historic linkages extend both to the "European homeland" and to the ancient cultures of the Far East. The Soviet Union's two faces pose a unique challenge and opportunity. This unique historic endowment also offers the potential of peace-making over this the greatest continental expanse on earth around which world peace might gravitate.*

**Efforts in this direction by countries of the two continents -- Europe and Asia -- could be pooled together to become a common Euro-Asian process which would give a powerful impulse to an all-embracing system of international security.**

## **Sea**

*While this worldview is continent-centred, not without reflexes of Sir Halford Mackinder's heartland theory within which, however, "domination" has been replaced by "cooperation," Gorbachev is fully cognizant of the enormous importance of the*

*oceans surrounding this landmass: the Arctic; the Baltic; the Pacific; the Mediterranean; the Indian Ocean: the world ocean as a whole: for communication within the system as a whole; for peace and security; for the protection of the environment; for scientific research; and for development. East, west, North, South.*

*Planet Earth, it has been said, is blue as seen from outer space. It should be renamed Planet Ocean. The oceans, covering three-fourths of the surface of the planet, represent common heritage, communality, continuity; the continents, as it were, may symbolize differentiation, "individuality."*

*Clearly, the basic principles of **Perestroika** apply to the new order in the oceans as well as to that on land.*

*Nowhere on the planet are local, regional, and global issues and regimes more closely interwoven than in the marine environment, necessitating new forms of interaction and cooperation between national governments and regional and global organisations.*

*The Marine Revolution, no less than **Perestroika**, must be a revolution from above and from below, or else it shall not be at all. There must be pull as well as push; It is the lack of a constituency, putting pressures on governments, that is slowing down the ratification process and the coming into force of the Law of the Sea Convention. Mass movements in favour of the conservation of the marine environment, based on a better understanding of the importance of the oceans in determining the global climate as well as of the potential contributions the oceans can make in providing food and fibre, energy and minerals; mass movements in favour of saving the Great Whales, based on awareness of the importance of species diversity on our planet, must be mobilised, if the marine revolution is to be successful and lasting.*

*Continuity and change express the eternal rhythm of the world ocean itself, its ebb and flow tides and reflect the progression of life from the sea to land and air, and of human activities, from the oldest, fishing and navigating, to the newest, high-technology based. The Law of the Sea is the oldest of international laws, and it is also the most advanced and evolved.*

*Where everything flows, no rigid concept of individuality or ownership (and that the two are linked was known already to the Buddha two thousand five hundred years ago) can resist. Rigid and flow are contradictions in terms. It is in fact in the Law of the Sea that the concept of the Common Heritage of Mankind has been developed and given legal content; the emerging economics of the common heritage*

*promises a synthesis, not only of economics and ecology, but also of individual initiative and common cause, of freedom and of planning.*

*Marine resources include the water that environs them. Thus the destruction of the environment destroys development. Since the destruction of the aquatic environment results equally from underdevelopment (sewage; erosion; urban wastes) or overdevelopment (industrial wastes); and since industrial wastes are generated as much by the industrial/military complex as for peaceful purposes, it follows that development and environment and a stop to the arms race are closely interlinked in the ocean world. Environmental security, which is basic for the development of marine resources, is unattainable without military as well as economic security: i.e., security must be comprehensive or it will not be at all.*

*Humans are concentrated on the land portion of planet earth. Nuclear holocaust is the most concentrated threat to their survival. The central element of comprehensive security on land is military security which, however, is unattainable without economic and environmental security, including the aquatic environment.*

*In the vast oceans, uninhabited by humans, the central element of comprehensive security is environmental. This, however, is unattainable without economic and military security on land.*

*The management of environmentally focused security has different geographic parameters than that of militarily focused security. Militarily-focused security is land-based, terrestrial and politically organised; Europe, Asia, the Americas are terrestrial regions. Environmentally focused security is ocean-based and transcending political boundaries. The Mediterranean basin, the wider Caribbean, the Indian Ocean, the circumpolar Arctic are ocean-centred regions dominated by the requirements of environmentally-focused security.*

*Ocean-centred and land-based regions obviously overlap. All Mediterranean countries, North, South, East and West, belong to the Mediterranean environmental security system articulated in the Mediterranean Regional Seas Programme of the United Nations Environment Programme and its Action Plan. At the same time some of them are part of the European Community or of NATO; others, of the Arab League, or the Organisation of African Unity: systems focused on economic or military security. In building a system of common and comprehensive security, these systems complement and depend on, and reinforce one another. Ocean-centred, environmentally focused, and boundary-transcending security may be the element that holds the whole system together, makes it global and stable.*

*This study is organised around the convergent concepts of Common Heritage and Comprehensive Security, each with its threefold military, environmental, and economic connotations. Part I will cover the military dimension. This Part, in turn, will consist of three sections: the first dealing with the Law of the Sea and the 1972 Treaty Banning Nuclear Weapons and Other Weapons of Mass Destruction from the Ocean Floor; the second, covering the denuclearization of regional seas, and the third, collective security measures such as U.N. or regional naval units. Part II will cover the environmental dimension. Starting from the UNEP-initiated Regional Seas project for the protection of the marine environment, it will try to draw the functional and institutional consequences of the unitary concept of comprehensive security. Part III will deal with the economic dimension of comprehensive security and examine, in particular, the potential of some of the Perestroika proposals for the development of marine industrial technology, both at global and regional levels.*



Part I

Military Aspects

**Reservation for Peaceful Purposes**

*This part will have three sections: section 1 will deal with the need for harmonisation between the Law of the Sea Convention (1982) and the Treaty Banning Nuclear Weapons and Other Weapons of Mass Destruction from the Seabed (1972) in the light of Perestroika. Section 2 will deal with the denuclearization of regional seas. Section 3 will address the proposals for the establishment of regional and United Nations naval units.*

Section 1: LOS Convention and Seabed Treaty

*The U.N. Convention on the Law of the Sea reserves the High Seas for peaceful purposes (Art.88). According to Art. 58 and 86, this applies as well to the 200-mile Exclusive Economic Zone. The sea-bed, beyond the limits of national jurisdiction, furthermore, is reserved "exclusively for peaceful purposes" (Art. 141). According to Art. 240, finally, "marine scientific research shall be conducted exclusively for peaceful purposes."*

*While potentially revolutionary, the concept of reservation for peaceful purposes lacks legal content and definition in the U.N. Convention on the Law of the Sea. UNCLOS III felt it had no mandate to deal with the military uses of the sea, the regulation of which was left to the Disarmament Committee in Geneva. Thus the concept of the Common Heritage of Mankind which postulates both management of peaceful uses and reservation for peaceful purposes, was split in two, a consequence not only of political expediency (many of the diplomats dealing with UNCLOS III were of the opinion that the job of drafting the Convention would have become unmanageably complicated had it also to cover the regulation of military uses, arms control and disarmament) but also of the fragmented nature of the U.N. system. Thus two U.N. bodies, the Disarmament Committee and UNCLOS III, worked independently, and produced two independent Conventions, at different points in time (1971 and 1982). Once the 1982 Convention comes into force, it will be necessary to harmonize the two instruments. In a paper written 1984<sup>2</sup>, I identified*

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<sup>2</sup>*"The Sea-bed Treaty and the Law of the Sea: Prospects for Harmonisation," in R.B. Byers, The Denuclearisation of the Oceans, London: Croom Helm, 1986.*

five levels at which such harmonisation should take place: geographic scope, functional scope, the problem of verification, the considerations of technology, and dispute settlement.

*The spacial organisation of the world ocean in the 1982 Convention is different from the one in the 1972 Treaty: the 12-mile Territorial Sea, the Exclusive Economic Zone, the High Seas, the Continental Shelf, the archipelagic waters, and the International sea-bed Area each call for different treatment.*

*With regard to the functional scope, prohibition in the 1972 Treaty is restricted, adopting the U.S. formula, to "the implanting and emplacing of nuclear weapons or other weapons of mass destruction." This, however, was to be considered merely as a first step towards the total demilitarisation of the seabed, as advocated by the USSR. The obligation, in the Preamble, "to continue negotiations concerning further measures leading to this end," introduced a time dimension, a dynamic aspect into the Treaty which clearly indicates that a process is involved with demilitarisation of the sea-bed as the ultimate objective.*

*To harmonize the two instruments, we suggested that demilitarisation (the more advanced concept) should apply to the international sea-bed area which now is reserved for exclusively peaceful purposes, while denuclearization could apply, for the time being, to the seabed up to the 12-mile limit of the territorial sea of the 1982 Convention (the term "contiguous zone" in the 1972 Convention has to be amended), as well as to the water column above it: the High Seas, reserved, according to the 1982 Convention, "for peaceful purposes."*

*Verification, in the 1972 Treaty, is entirely the responsibility of the States Parties, even though a number of Delegations wanted to go much further and establish some form of international verification mechanism; in the 1982 Convention, verification with regard to sea-bed activities is entrusted to the International Sea-bed Authority which has to establish and direct an Inspectorate for this purpose. "Activities in the Area," however, are to be construed as activities directly related to the exploration and exploitation of manganese nodules (surveillance with regard to economic and environmental aspects). Military activities are not in the purview of this provision as it now stands.*

*To harmonize the two instruments, we suggested that surveillance by the Inspectorate be made multipurpose, i.e., pertaining to military as well as environmental and economic aspects. The monitoring technologies, in any case, are the same. This would be in line with contemporary thinking and would be perfectly legitimate, considering the environmental hazards inherent in the deployment of nuclear weapons*

on the sea-bed. The idea is not new, incidentally: the Delegation of Canada proposed it in the early days of the Sea-bed Committee (prior to UNCLOS III). It would also be in line with the proposals of **Perestroika**: The responsibilities of the **World Space Organisation** proposed by the Soviet Union, are multi-purpose. Its satellites are to monitor compliance with the provisions of arms control and disarmament agreements as well as any changes in the environment of the biosphere. They also are to serve the progress of science and economic development for the benefit of all people.

The jurisdiction of the Authority only extends to the outer edge of the continental margin, up to 350 nautical miles or even more in some cases, from the coast. We suggested that monitoring and surveillance of the shelf area, between 350 and 12 miles from the coast, should be entrusted to self-management through regional security arrangements which might be perceived as less intrusive and offensive and would also be less costly.

The 1972 Treaty is subject to review and revision every five years. In order to be able to review the proper functioning of the Treaty, Delegations need information on the state of the art of seabed technology. The review of the Treaty, according to article VII "shall take into account any relevant technological developments." As it turned out, this information was hard to come by. Time and again States would simply report that no relevant technological development had taken place. In the face of the vast sums spent on R&D in deep-sea technology such statements are not very convincing.

Meanwhile, technology transfer for the peaceful uses of the sea-bed had become a burning issue; developing States demanded information on the state of the art which was crucial as a basis for their decision-making with regard to the 1982 Convention. The Office of Ocean Affairs and the Law of the Sea of the United Nations Secretariat has established a data base. Although this effort is as yet quite modest and in need of more funding and better cooperation, it is a step in the right direction.

To harmonize the two Treaties, we proposed the establishment of a technology bank which would provide information to the Parties both to the 1972 and 1982 Treaties. The technology relevant to both Treaties is the same.

The Law of the Sea Convention of 1982, as is well known, contains the most comprehensive and the most binding system for the peaceful settlement of disputes that was ever devised by the international community. The 1972 Treaty contains no provisions on dispute settlement, although at one point, the Delegation of Brazil had

*proposed it, in a working paper (1969), stressing the importance of a credible system of dispute settlement for the acceptance of verification measures.*

*The Brazilian proposal was ahead of its time. It was hardly even discussed.*

*Now, to harmonize the two treaties, the settlement of any dispute that might arise under the 1972 Treaty could be entrusted to the International Tribunal for the Law of the Sea, established under the 1982 Convention. This could easily be done through a protocol added to the 1972 Treaty, at the next Revision Conference.*

*One might ask: why all this fuss about the 1972 Treaty? There has been no trouble with it. There has been no violation of it. Don't fix it if it ain't broke. Furthermore, the Treaty has lost interest in the public eye. It prohibits what States did not intend to do anyway; it has not done a thing to prevent the nuclear arms race in the seas and oceans.*

*One might answer: The Treaty might be irrelevant, were it not for one provision: It establishes an obligation to continue negotiations concerning further measures leading to the complete exclusion of the nuclear arms race from the seas and oceans.*

*It is precisely this provision that has been violated during the almost two decades since the adoption of the Treaty, because no such negotiations have taken place, due to the cold war and the stubborn resistance of the United States against including naval armaments in general disarmament discussions.*

*Now, however, there has been a drastic change. With the propositions of Perestroika on the negotiating table, the continuation of the dialogue on the 1972 Treaty, and the widening of its geographic and functional scope, becomes mandatory.*

*To widen the geographic scope would mean, first of all, to extend the jurisdiction of the Treaty from the seabed, which is far less relevant for the installation of nuclear weapons, to the superjacent waters, where submarine and naval activities take place. The limitation of the Treaty to the seabed was much criticized right from the beginning (see for instance, Alva Myrdal, Proceedings, Pacem in Maribus III, 1972). Now the time has come to do something about it.*

*To widen the functional scope would mean to pass from the U.S. formula of 1972, limiting the Treaty to the prohibition of nuclear weapons and other weapons of mass destruction, to the USSR formula of 1972, extending it eventually to all military activities, a formula to which Perestroika has remained faithful.*

Section 2: The Denuclearization of the Oceans

*The nuclearization of the oceans is incompatible with environmental security. In particular, there are three aspects that should be kept in mind:*

*. At present, almost 30 percent of the world nuclear arsenal is sea-borne. The five nuclear powers together possess more than 7,200 submarine-launched ballistic missile warheads plus 5,900 tactical nuclear weapons. About 13,100 nuclear weapons in total are earmarked for naval use, that is almost one-third of the world's stockpile of nuclear weapons. This has led to numerous incidents and constitutes serious danger, especially in enclosed and semi-enclosed seas where close encounters are the order of the day.*

*. nuclear testing contaminates marine flora and fauna and endangers the health of human populations over wide areas.*

*. The dumping of nuclear waste in canisters whose corrosion-resistance is certainly shorter than the half-life of the material they contain, constitutes an intolerable threat to the environmental security of future generations.*

*(a) existing arrangements*

*the inhabitants of affected zones have been painfully aware of these danger for some time, and a number of international agreements have been put into place to cope with the situation. In most cases, however, these have not yet been effectively enforced.*

*One should mention, in particular: The Antarctic Treaty; the Treaty of Tlatelolco; the Treaty of Raratonga (South Pacific); and the United Nations Resolutions declaring the Indian Ocean a Zone of peace.*

*The Antarctic Treaty (1959), increasingly vulnerable from other points of view, has been the most successful in keeping a continent -- including its territorial sea -- completely demilitarized. Article I states that "Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measures of a military nature such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons." Military personnel and equipment, however, may be used for scientific research or any other peaceful purpose. Article V prohibits "any nuclear explosions in Antarctica and the disposal there of radioactive waste material." It should be noted, however, that these provisions*

do not apply to the High Seas within the area south of 60° South Latitude which thus are neither denuclearized nor demilitarized or reserved for peaceful purposes.

The Treaty of Tlatelolco (1967), which also provides for an elaborate regional institutional infrastructure, stipulates in Art. 1 that "The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories: (a) the testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way; and (b) the receipt, storage, installation, deployment and any form of possession of any nuclear weapon directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way. The Parties also undertake not to participate in any way in the testing, use, manufacture, production, possession or control of any nuclear weapon. The Parties consider this as a step toward general and complete disarmament under effective international control which is the final goal at a later stage. The provisions of the Treaty of Tlatelolco apply to the land territories of the States Parties as well as to their territorial seas: which, at the time of signing, extended, in many cases to 200 nautical miles from the baselines. Perhaps the time has come to review and revise this pioneering treaty which, in the present circumstances, has not been able to prevent e.g., the nuclearization of the Caribbean.

The Treaty of Rarotonga (1985), like that of Tlatelolco, prohibits to States Parties the manufacture, acquisition, control or possession of nuclear explosive devices. They may not allow the stationing or testing of such devices or the dumping of radioactive wastes within their territory. The boundaries of the Nuclear Free Zone are defined in Annex I. Whereas the Treaty of Tlatelolco applies basically to land territory, including the territorial sea, the Treaty of Rarotonga applies primarily to the sea. Land accounts to only 2 percent of the region's total area. The Treaty of Rarotonga has been signed by nine South Pacific States. Three Protocols, binding third States, in particular, the nuclear powers, have not been signed by France and the United States.

The Indian Ocean Resolutions, finally, are not enforceable.

the 1982 United Nations Convention on the Law of the Sea provides a new legal framework for the denuclearization of oceanic regions. Jens Evensen (1986) stated

Part IX of the Convention contains certain provisions concerning enclosed or semi-enclosed seas. The main provisions contained in article 123 indicate that 'States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention.' This suggests that such states have special rights and obligations to formulate policies

*with regard to the peaceful development in their enclosed or semi-enclosed seas. The establishment of zones of peace, nuclear-weapons free zones and other peace-related activities in the area, such as safe havens for home fleets in certain maritime areas, special procedures for the commencement of naval manoeuvres and the like would be examples. Such initiatives have been proposed for the Baltic and the Caribbean. These possibilities should be further explored.*

*The Law of the Sea Convention does not directly address the denuclearisation of the oceans or related arms limitation issues. However, the Convention further codifies the principles which underlie the peaceful uses of ocean space. As such the Convention could serve as a legal basis for more directly addressing the issue of nuclear weapons at sea.*

*It is on this new legal basis that one should promote the implementation of the more recent and more specific Perestroika proposals. They draw, as it were legitimization from the Convention. At the same time they contribute to the implementation and progressive development of its provisions.*

(b) Perstroika proposals

*A.P. Movchan, in his paper "The Law of the Sea in Light of the New Political Thinking" (William Butler, ed., **Perestroika and International law**, 1990) states:*

*The essence and central arrangement or basic and principal legal requirement of the principle of the use of the World Ocean for peaceful purposes is to exclude the use or threat of force in the maritime activities of States and, consequently, to ultimately prohibit military activities of States on the seas and oceans and ensure in fact that they are used only for peaceful purposes. However, the practical realisation of this main requirement is possible only through specific prohibitions of military activities in certain specific expanses of the World Ocean or specific types of such activities. The 1982 Convention was drafted with this in view with regard to the principle of using the seas for peaceful purposes.*

In his Vladivostok address (1986), Gorbachev made specific proposals for the denuclearization of the Asian Pacific oceanic region<sup>3</sup>. He suggested "that there be in the foreseeable future a Pacific conference attended by all countries gravitating towards the ocean. In a statement in Delhi, the same year, he advocated a new international conference for the implementation of the U.N. Resolutions declaring the Indian Ocean as a Zone of Peace. His Murmansk statement (1987) contained proposals for the demilitarization of the Arctic ocean as well as international cooperation for the protection of the Arctic environment, for scientific research and economic development<sup>4</sup>. In Belgrade (1988) he proposed to convoke a special

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<sup>3</sup> For the Pacific, Gorbachev made the following suggestions ("Time for Action. Time for Practical Work", September, 1988):

First: Aware of the Asian and Pacific countries' concern, the Soviet Union will not increase the amount of any nuclear weapons in the region; it has already been practising this for some time -- and is calling upon the United States and other nuclear powers not to deploy them additionally in the region.

Second: The Soviet Union is inviting the main naval powers of the region to hold consultations on not increasing naval forces in the region.

Third: The USSR suggests that the question of lowering military confrontation in the areas where the coasts of the USSR, the PRC, Japan, the DPRK and South Korea converge be discussed on a multilateral basis with a view to freezing and commensurately lowering the levels of naval and air forces and limiting their activity.

Fourth: If the United States agrees to eliminate military bases in the Philippines, the Soviet Union will be ready, in agreement with the government of the Socialist Republic of Vietnam, to give up the fleet's material and technical supply station in Camranh Bay.

Fifth. The interests of the safety of sea lanes and communications in the region, the USSR suggests that measures be jointly elaborated to prevent incidents in the open sea and air space over it. The experience of the already existing bilateral Soviet-American and Soviet-British accords as well as the USA, USSR-Japan trilateral accord could be used in the elaboration of these measures.

<sup>4</sup>For the Arctic (Speech in Murmansk, 1987):

Firstly, a nuclear-free zone in Northern Europe. If such a decision were adopted, the Soviet Union, as has already been declared, would be prepared to act as a guarantor.

Secondly, we welcome the initiative of Finland's President Mauno Koivisto on restricting naval activity in the seas washing the shores of Northern Europe. For its part, the Soviet Union proposes consultations between the Warsaw Treaty Organization and NATO on restricting military activity and scaling down naval and air force activities in the Baltic, Northern, Norwegian and Greenland Seas, and on the extension of confidence-building measures to these areas.

Thirdly, the Soviet Union attaches much importance to peaceful cooperation in developing the resources of the North, the Arctic. Here an exchange of experience and knowledge is extremely important.



*conference to discuss questions of limiting the activities of naval forces and of reducing them in the Mediterranean and of declaring that sea a zone of peace.*

*Perestroika also makes provision for the prohibition of naval activities in agreed zones of international straits and areas of intensive international navigation and fishing; limiting the number of large-scale naval exercises in each ocean and sea theatre of military operations; and limiting the navigation of warships carrying nuclear weapons.*

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*Through joint efforts it could be possible to work out an overall concept of rational development of northern areas. We propose, for instance, reaching agreement on drafting an integral energy programme for the north of Europe. According to existing data, the reserves there of such energy sources as oil and gas are truly boundless. But their extraction entails immense difficulties and the need to create unique technical installations capable of withstanding the Polar elements. It would be more reasonable to pool efforts in this endeavour, which would cut both material and other outlays. We have an interest in inviting, for instance, Canada and Norway to form mixed firms and enterprises for developing oil and gas deposits of the shelf of our northern seas. We are prepared for relevant talks with other states as well.*

*Fourthly, the scientific exploration of the Arctic is of immense importance for the whole of mankind. We have a wealth of experience here and are prepared to share it. In turn, we are interested in the studies conducted in other sub-Arctic and northern countries. We already have a programme of scientific exchanges with Canada.*

*Fifthly, we attach special importance to the cooperation of the northern countries in environmental protection. The urgency of this is obvious. It would be well to extend joint measures for protecting the marine environment of the Baltic, now being carried out by a commission of seven maritime states, to the entire oceanic and sea surface of the globe's North.*

*Sixthly, the shortest sea route from Europe to the Far East and the Pacific Ocean passes through the Arctic. I think that depending on progress in the normalization of international relations we could open the North Sea Route to foreign ships, with ourselves providing the services of ice-breakers.*

*Two Conferences in Moscow, Pacem in Maribus XVIII (1989)<sup>5</sup> and Mir na moriach (Peace to the Oceans) (1990) spelled out these proposals in great detail.*

*Two points about these proposals:*

*First: In spite of past efforts to keep the naval arms race separate from the rest of the arms race and exclude it adamantly from general disarmament or arms control discussions, it obviously is part of it. This means: naval disarmament by itself could not solve the wider arms race problem, whereas the abandonment of the arms race in general is likely to overtake the partial solutions proposed with regard to the denuclearisation of the oceans. This, however is no reason for abandoning the proposals at this point or for detracting from their long-term usefulness -- likely to last beyond the end of the arms race, and this for the reasons pointed out next.*

*Second: Perestroika looks at denuclearization of the oceans in the context of comprehensive security: that is, the proposals are linked with proposals for environmental, scientific, and developmental cooperation in the denuclearized areas. This requires a progressive development of the institutional framework of the existing regional seas programmes to which we shall return in Chapter III. The emerging institutional framework may be one of the essential elements of the new paradigm.*

### Section 3: Institutional Restructuring

*With regard to institutional restructuring, the Palme Report, fully endorsed by Gorbachev, is more advanced than any of the reports preceding or following it.*

*Palme's institutional framework for "common security" has three major components: Changes in the political decision-making mechanism (Security Council);*

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<sup>5</sup>*In its Declaration Pacem in Maribus XVII noted, "The new order for the seas and oceans emerging from the 1982 United Nations Convention on the Law of the Sea should be considered as a first step in international Perestroika: a restructuring, a fundamental change in an area covering over two thirds of the surface of the Earth."*

*The conference urged "the inclusion of the naval arms race in ongoing negotiations on arms control and disarmament and the establishment of nuclear weapons free zones in the Baltic, the Sea of Japan, and the East China Sea, as well as zones of peace in the Indian Ocean and in the South Atlantic, in implementation of the Declarations by the United Nations General Assembly. It also urged the establishment of such zones in the South Pacific, the Mediterranean, and the Arctic.*

*The recommendations of Pacem in Maribus XVII were based on the concept of comprehensive security, including military, economic and environmental security, in accordance with Perestroika.*

*strengthening of the technical instruments of collective security (United Nations Peace-keeping forces); and regional collective security arrangements.*

*Palme's proposals were far ahead of their time. They exemplify the kind of utopianism of yesterday that becomes the realism of today. Today they provide the institutional framework that is absolutely essential in the light of perestroika and the ongoing dismantling of the arms race. Disarmament, without an institutional framework for collective security (including verification) either does not happen or becomes chaotic. Palme and Gorbachev reinforce each other and must be considered together.*

**(a) Changes in the Decision-making mechanism**

*The Palme Commission suggests that the permanent members of the Security Council should solemnly agree to a kind of "political concordat" to support collective security operations, or, at least, not to vote against them, whenever disputes arise which are likely to cause, or actually result in, a breach of peace. Such a "concordat" obviously is intended to offset the paralysing effect of the veto power and to restore the collective security role originally envisaged for the U.N. The Palme report cautiously -- perhaps overcautiously -- limits this concordat, to start with, to disputes that might arise among Third-World countries. Such a limitation would not appear to be justified today. Disputes of the kind envisaged might develop anywhere, and they must be prevented from erupting and escalating into global catastrophes. They must be brought to peaceful settlement.*

*The Palme report itself suggests:*

*The question may be asked, Why limit collective security measures to Third World disputes? In theory, there can be no objection to a global approach. practicality, however, dictates otherwise. Disputes beyond the Third World invariably involve NATO or Warsaw Pact countries. The East-West conflict has prevented the development of international collective security in the past. It retains the potential to frustrate its evolution still.*

*It no longer does. Perestroika has cleared the way for a global approach to the kind of concordat proposed by the Palme Report.*

**(b) United Nations Peace Keeping Forces**

*The decisions of the Security Council should be backed up by the strengthening of the operational structure for UN standby forces as envisaged in Article 43 of the Charter. The Military Staff Committee should be reactivated and strengthened for this purpose. What is of special interest in the perspective of the present study is that, according to the recommendations of the Palme Report, these standby forces should include a U.N. naval unit.*

*The UN also must be prepared to respond to new kinds of challenges to international peace and security. For example, the emergence of extensive piracy in the areas off South East Asia might suggest the creation of a small UN naval patrol force based on the voluntary assignment of naval vessels and crews to UN duty by member states, and the consent of the littoral states.*

*The establishment of naval units flying the UN flag raises an interesting question relating to the provisions of the Law of the Sea Convention postulating a "genuine link" between the "flag state" and the ship. Art. 93 of the Law of the Sea Convention provides for "Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency," but what should be the "genuine link" and the enforcement power, is not yet quite clear.*

### **(c) Regional collective security arrangements**

*Regional approaches to security are conceived as a supplement, not as an alternative, to the global collective security structure needed. They are in fact to be closely interlinked. The measures suggested include Regional arrangements to promote units for peacekeeping duties on a standby basis and the establishment of regional conferences on security and cooperation.*

*The [Palme] Commission recommends that the countries making up the various regions, and in some instances sub-regions, of the Third World consider the convocation of periodic or ad hoc Regional Conferences on Security and Cooperation similar to the one launched in Helsinki for Europe in 1975. Regional Conferences on Security and Cooperation could add new substance to the concept of common security...*

*It is envisaged that the Regional Conferences could provide an overall framework for cooperation not only on matters directly relating to security, but in the economic, social, and cultural<sup>6</sup> spheres as well.*

*This is where the Palme Report comes closest to Perestroika's concept of comprehensive security. In fact, it provides an institutional framework for its implementation and should be read in conjunction with Perestroika's proposals for denuclearization and cooperation in the Arctic, the Indian Ocean, the Pacific, the Mediterranean, etc. It might well be that comprehensive security could best be implemented at the regional level -- provided there are the proper linkages, backward, as it were, to the national, and forward, to the global level.*

*The comprehensive mandate of these Regional Conferences would include matters such as the adoption of codes of conduct and confidence-building measures, establishment of zones of peace and nuclear-weapon-free zones, and agreements on arms limitations and reductions. They might also establish Boundary Commission to investigate and make recommendations on solutions for border disputes arising from the limits of territorial seas and exclusive economic zones. They also could establish Regional research institutes to analyze security issues of relevance to the particular region and formulate recommendations for the consideration of the Conference.*

*The Report stresses that*

*in our opinion, the concept of regional security will be unlikely to take root unless it is sustained by programmes for economic cooperation to encourage countries to see themselves as having a national stake in actively working to achieve regional harmony. An important focus of the Regional Conferences must therefore be the establishment of joint projects that are designed to benefit all participating states.*

*Examples of such joint projects are schemes for regional cooperation on the peaceful exploitation of nuclear energy in a manner which would strengthen an equitable nonproliferation regime. This, again, is in line with Perestroika which, however, goes one step further and recommends cooperative projects on nuclear fusion*

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<sup>6</sup>*comprehensive security, according to Perestroika, has a cultural dimension as well:*

*Pooling efforts in the sphere of culture, medicine and humanitarian rights is yet another integral part of the system of comprehensive security (Gorbachev, **Realities and Guarantees for a Secure World**, 1987)*

research.

## Part II

### Environment and Development

*It should be noted that the environment was omitted among the spheres of action to be dealt with by the Regional Conferences. It would appear, however, that the omission is accidental rather than intentional. It is inconceivable today to consider programmes in the economic, social, and cultural spheres without including environmental aspects which are an integral part of comprehensive security.*

*The linkage to environmental issues -- inevitable in the 'nineties and in line with Perestroika -- might lead to a further suggestion.*

*Why not utilise the existing institutional framework of the UNEP-initiated Regional Seas Programmes? The Conferences of States Parties to the Regional Conventions could take the place of the "Regional Conferences." Secretarial infrastructure already exists. During the 'nineties, it is incumbent on the Regional Seas Programmes to widen their responsibilities by finding institutional ways and means to integrate environment and development, in accordance with the recommendations of the Brundtland Report.*

*One might suggest that pilot experiments should be undertaken in an area where there is as new beginning, such as the Arctic, and that it might start with a conference of all circumpolar States, with the participation of the competent international organisations. Another pilot experiment might be initiated in the Mediterranean, where the Regional Seas Programme is most advanced and ready for the next phase of its evolution.*

*The widening of functions will require corresponding structural changes. Thus far, limitation to environmental concerns has resulted in a single linkage between the regional conference of States and the Ministry of the Environment at the national level. If the mandate of the regional conference is comprehensive security, with its military, economic, and environmental components, linkages must be more complex and cover a number of ministries at the national level, viz. Defense, Science and Technology, Agriculture and Fisheries, Energy and Mines, Shipping, Ports and Harbours, Tourism, besides Environment.*

*As the Brundtland Report points out, the interdisciplinary nature of environment issues and the unbreakable linkage between environment and development have begun to make the walls separating different Ministries porous and permeable, just as the interaction of local and regional (transboundary) environmental and*

*economic issues are breaking down the boundaries between national, regional, and global levels of management and policy.*

*In the wake of the adoption of the U.N. Convention on the Law of the Sea and the establishment of Exclusive Economic Zones, many States have established, or are in the process of establishing, inter-ministerial co-ordinating mechanisms, under the leadership of the Prime Minister or of a newly established Ministry for Ocean Development to enable them to formulate an integrated and comprehensive policy for the management of their Economic Zones. It is on these inter-ministerial co-ordinating mechanisms that the Regional Conferences must be based. Perestroika suggests that the opinions of other entities, such as nongovernmental organisations or even individuals representing a form of "citizens diplomacy," should be considered in decision-making. Such opinions might be articulated in advisory councils of some sort.*

*In my book **The Future of the Oceans: a Report to the Club of Rome (1986)** I proposed the establishment of Regional Councils composed of (a) plenipotentiary representatives of the interministerial oceans councils of all States of the Region; and (b) the regional representatives of the "competent international organisations" (FAO, IMO, UNEP, UNESCO/IOC, UNIDO, ILO, IAEA) dealing with ocean affairs in the region. These Regional Councils would be competent to deal with ocean affairs in an integrated manner, focused on the concept of comprehensive security, including its military, economic, and environmental dimensions. These bodies would replace the conferences of States Parties to the Regional Seas Programmes. They would be neither more complex nor more costly than these well established meetings, except that their linkages with national governments would be interdepartmental rather than restricted to Departments of the Environment and/or Foreign Affairs. Group (a) in these regional Councils would ensure coordination of national policies; group (b) would link regional policies with the global competent international institutions. All three levels -- national regional, and global -- are essential for policy making in ocean affairs, and they must be linked properly.*

*Here, again, is an area where the emerging new order in the seas and oceans and Perestroika can reinforce, and mutually advance each other.*

### Part III

#### Development and Environment

*Perestroika abounds in suggestions for new forms of scientific industrial international cooperation for co-development.*

*The USSR and the USA, Perestroika suggests, could come up with large joint programs, pooling resources and scientific and intellectual potentials in order to solve the most diverse problems for the benefit of humankind.*

*With regard to cooperation in utilizing thermonuclear energy, in particular, Gorbachev states that a scientific base has been created by scientists from a number of countries working on ideas suggested by their Soviet colleagues. American scientists could join in this research. There are also such possibilities as joint exploration and use of outer space and of planets of the solar system, and research in the field of superconductivity and biotechnology.*

*Joint work in exploring outer space and the world ocean and the use of the knowledge obtained to the benefit of humanity would be another promising field, according to Perestroika.*

*Scientific/ industrial co-development should, of course, also be implemented in Eastern Europe:*

*We hope to accelerate the process of integration in the forthcoming few years. To this end, the CMEA [COMECON] should increasingly focus on two major issues:*

*First, it will coordinate economic policies... and promote major joint research and engineering programs and projects. In doing so it is possible and expedient to cooperate with non-socialist countries and their organizations...*

*The proposal retains its validity in spite of recent developments in Eastern Europe. A couple of years ago, the Eastern European Socialist States established a joint undertaking, under the name of Interoceanmetal Inc., for the joint exploration of a mine site in the deep seabed and for the development of the requisite technology. Far from being overtaken by centrifugal trends, this venture is now at the point of applying to the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea for registration as the fifth Pioneer Investor.*



*Here is another example for the convergence, and mutual reinforcement between Perestroika and the Law of the Sea.*

*Joint undertakings of the same type, according to Perestroika, should also be established between the USSR and its Asian Pacific neighbours as well as with "the European home."*

*We believe that **joint firms and ventures** set up in collaboration with the business circles of Asia-Pacific countries could take part in tapping the wealth of these areas*

*and*

*The building of the "European home" requires a material foundation...We, in the Soviet Union are prepared for this, including the need to search for new forms of cooperation such as the launching of joint ventures, the implementation of joint projects in third countries, etc. We are raising the question of broad scientific **and technological cooperation....***

*The United Nations Convention on the Law of the Sea provides the most advanced framework for the realization of these principles of broad scientific and technological cooperation.*

*Proposals for technology co-development in the context of Registered Pioneer Activities have been put forward at the Preparatory Commission by the Delegations of Austria (1984) and Colombia (1988), and now by the Asian African Legal Consultative Committee. An international joint undertaking in R&D in seabed-mining related high technologies would be the most efficient, if not the only, way of dealing with the environmental issues stressed so eloquently by the Soviet Delegation at the Jamaica session in March 1990.*

*A proposal to organise the Regional Centres for the advancement of marine science and technology, mandated in Articles 276 and 277 of the Law of the Sea Convention, on the principle of technology-codevelopment, was put forward by the Government of Malta and elaborated in cooperation with UNIDO and UNEP. A first such Centre, the Mediterranean Centre for Research and Development in Marine Industrial Technology, is being established in Malta. A feasibility study for the*

*Caribbean, based on the Mediterranean experience but adapting it to the specific situation in the Caribbean, is in the making. Other oceanic regions will follow.*

*All these proposals are based on the simple concept of (a) utilizing and developing the legal framework provided by the Law of the Sea Convention; (b) filling that frame with the most advanced concepts of technology development and management as applied, e.g., in the European Community (EUREKA, etc.); and (c) opening them up to participation by Eastern European as well as developing countries and industries, their participation to be financed by public granting or lending institutions such as the World Bank, UNDP, regional development banks, etc.*

*Thus the basic structure of the Regional Centres to be established under Articles 276 and 277 of the Law of the Sea Convention, and of the Joint Enterprise to be established by the Pioneer Investors under Resolution II (which would become "the Enterprise" when the Convention comes into force), would be similar, unbureaucratic, and cost-effective. They would be small co-ordinating Centres, administering an R&D programme in marine industrial industry. Projects would be selected by a network of national coordinators (following the EUREKA pattern) and approved by a conference of Ministers, in the case of the regional Centres; by the Prep.Com, in the case of the Pioneer joint venture (by the Council of the International Seabed Authority, when the Convention is in force). Projects would be self-financing, i.e., the scheme would generate investments rather than "costs." Half of these investments would come from the companies which proposed the project; the other half would come from their Governments. The participation of developing countries (which would have to be included in all projects) would be paid for by international (or national) development cooperation institutions. This would imply a redirection of development strategy towards science, research and development in developing countries. Such a redirection is indeed overdue.*

*Considering that marine technology involves, and is dependent on, the whole range of technologies constituting the new phase of the industrial revolution (micro-electronics and information technology; genetic engineering and bioindustrial processes; new materials; laser, space technology) it may safely be assumed that a break-through in international cooperation to "technology co-development" between North South East and West might have far reaching implications bridging gaps and enhancing confidence and economic security. Projects selected for co-development would have a strong environmental component: i.e., technologies to be developed must be "environmentally safe and socially relevant." It is hard to imagine a more direct application of the more general proposals put forward in Perestroika.*

## CONCLUSION

*Three points in conclusion.*

1. *We have stressed the complementarity of the two basic concepts "comprehensive security" (Perestroika) and "common heritage of mankind" (Law of the Sea).*

*The Common Heritage of Mankind, incorporated in the Moon Treaty (which is in force) and in the Law of the Sea Convention (about to enter into force) is already a principle of international law. Unlike the principle of the "global commons," which assumes a free-for-all system within which resources may be exploited and depleted on a first-come-first-serve basis, the Common Heritage regime postulates a system of management in which all users share and within which resources are rationally utilized for the benefit of mankind as a whole. This provides the basis for "economic security" in the Perestroika concept.*

*"Mankind" in the common heritage concept, includes future generations which also have a right to share in the common heritage. Intra-generational equity, as the Brundtland Report puts it, must be complemented by inter-generational equity. This implies conservation of resources and environment and harmonisation between long-term and short-term policies. It provides the basis for "environmental security."*

*The common heritage of mankind, finally, is reserved exclusively for peaceful purposes. Activities undertaken for military or strategic purposes are excluded from the area that has been declared the common heritage of mankind. This provides the basis for military security.*

*Together, common heritage and comprehensive security provide the basis for "sustainable development," i.e., a development which, itself, has an economic as well as an environmental and military dimension (incompatibility with the arms race).*

*The emerging conceptual framework transcends the boundaries of the traditional concepts of sovereignty (porousness of the walls separating disciplines, governmental departments and national, regional and global levels of governance), and of ownership (the common heritage cannot be appropriated: it is a concept of non-ownership; the common heritage can be managed, but not owned). Thus it transcends the tenets both of the market and of the centrally planned systems.*

*Some of the institutional implications have been dealt with in these pages. There is one point that should be added in conclusion.*

2. *To be effective, the new institutions must be funded in a different way. The traditional idea of establishing a "fund" to be nourished by quotas assigned to States or by voluntary contributions is totally inadequate. It leaves these "funds" at the mercy of the few economically strongest States and exposes even the best programmes to the danger of never being implemented. Development economists, from Jan Jan Tinbergen to Willy Brandt to the World Bank have long advocated greater "automaticity" in*

*funding, e.g., through a system of international taxation. The conservation of the environment implies certain costs (even though in the long term it is extremely economical), and UNEP has completed studies on, e.g., a system of international taxation to pay for de-desertification programmes. Peace-keeping activities also cost money that presently is not available, and the Palme Report recommends the establishment of*

*an appropriate funding mechanism with built-in automaticity....We believe that collective security operations and, for other purposes, peacekeeping ones as well, need to be financed through an independent source of revenue.*

*An international levy on international arms transfers, amounting to over 30 billion dollars annually, has been suggested at various times<sup>7</sup>. This would be based on a register of weapons sales and transfers, as a first step.*

*No one in the world can yet bid farewell to arms, but we can abandon, once and for all -- and we can do it now -- the practice of unconstrained and uncontrolled international weapons transfers. To that end the principles of glasnost and openness should be asserted here as well. The USSR reaffirms its willingness to participate in the establishment of a United Nations register of weapons sales and transfers, including work on parameters. (Perestroika)*

*And there are other international services which will have to be paid for.*

*In the emerging ocean regime, there are starting points for the development of new systems of generating international revenue.*

*One is a system of international taxation. The other is through the type of international, public/ private enterprises described in these pages.*

*The legal basis for international taxation is given in Parts VI and XI of the United Nations Convention on the Law of the Sea.*

*Part VI (Art.82) provides for the payment of royalties on mineral production on the continental shelf under national jurisdiction, but beyond the 200-limit of the Exclusive Economic Zone. It should be stressed that this tax applies to resources over which the coastal State has sovereign rights. It also should be stressed that this provision (unlike Part XI) was adopted by consensus.*

*Part XI, and particularly Annex III, Art. 13, provides for an elaborate system of royalties and production charges to be imposed on contractors/ miners. This may be workable or not. The important point is that the principle of an international tax to be imposed on companies and to be paid to an international authority, has been recognized and embodied in international law. On this precedent, other systems may be now devised as necessary.*

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<sup>7</sup>e.g., by the Delegation of Malta in the Disarmament Committee, 1967.

*To be effective, a tax system needs (a) an institutional infrastructure; and (b) a publicly accepted purpose.*

*During the next stage of historic evolution it is likely that both will be best defined at the regional level. The regional institutions described in Part II of this study might be best qualified for the levying of such taxes for determined regional community purposes and services. E.g., the International Ocean Institute is presently conducting a feasibility study on the establishment of a small levy on the 100-300 million tourists visiting the Mediterranean annually. Such a levy would constitute a crucial contribution to the financing of the Mediterranean Action Plan for the conservation of the environment, and it might pay for other determined purposes as well. Regional multipurpose monitoring and surveillance as well as peace-keeping services might equally be financed through schemes of regional taxation, although a tax on international arms sales would be a feasible global tax.*

*Economic development projects should increasingly become self-financing as they are becoming self-managed: Not through "privatisation" which I consider a temporary aberration, but through new forms of public/ private cooperation generating investments rather than costs. A possible institutional framework for this kind of cooperation is described in part III of this study. It should, of course, be expanded from the Research and Development Sector, which is the basis and includes the development of human resources as well as the application of the common heritage principle to technologies resulting from joint R&D, to the full cycle of production, including marketing and disposal (recycling).*

3. *My final point is the intimate and inseparable linkage between the marine sector and the rest of the global system -- ecologically, economically, strategically, technologically. And as science and technology advance, this linkage becomes stronger yet.*

*A striking example is the global transport system. Until World War II and the advent of High Technology, sea transport and land transport constituted two fairly separate systems. Then came containerization and unitization, giving rise to a unitary multimodal system including the seas, railways, roads, rivers and airways. This is now being perfected through satellite-borne global positioning systems and electronic charting pinpointing and guiding vessels or vehicles on land, sea or in the air and harmonizing their traffic.*

*If it is one system, and we change part of it (the ocean part) we obviously are changing the whole system.*

*Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its unsettling, occasionally chaotic and threatening effects, it is, it is in the wide spaces of the oceanic part of the system -- due to historic circumstances as well as to the nature of the aquatic medium -- that we see the restructuring taking shape, in institutions and processes where the great concepts of*

*Perestroika and of the Law of the Sea mingle to reinforce each other. The rest, necessarily, will follow.*

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## **Perestroika and the Law of the Sea**

by

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### **Introduction**

Throughout the 20 years of the genesis of the new Law of the Sea, we have considered the oceans as the great laboratory for the making of a new world order. The Convention that emerged in 1982 has officially been characterized as a "Constitution for the Oceans," which means, potentially, a Constitution for the World. Although not yet officially in force, the United Nations Convention on the Law of the Sea has already shaken the existing order and driven the engines of change and innovation.<sup>1</sup>

A great deal of work has been accomplished to adumbrate the main requirements of a comprehensive new world order. The official documents of the United Nations -- the Declaration of Economic Rights and Duties of States; and the Declaration on a New International Economic Order and the Plan of Action -- are, retrospectively, conservative. Had they been implemented, they would have served to prop up a dying economy, rather than build a new one. Fairer terms of trade, better prices for commodities, debt relief, sovereign rights over natural resources, and a code of conduct for multinationals would not have been attainable in the present structural context, which the

new ideas did not attempt to change. The proposals of the official Commissions<sup>2</sup> -- the Brandt Commission, the Palme Commission, the Brundtland Commission, the South Commission, and the Human Rights Commission -- pointed farther in the direction of change, but have remained on the drawing board. One, the most recent, Perestroika, is changing the face of the earth.

Where does it come from, and why is its effect so dramatic, if not traumatic?

### **Realism and Vision**

Perestroika, which means "restructuring", appears to have been generated by realism and vision. Realism, understood here as a pragmatic and realistic assessment of the situation surrounding us here and now. This situation had become untenable and explosive. Economic growth in the Soviet Union and its allies was declining to a level close to stagnation. Technological innovation was restricted to the military sector, while there was an obvious lack of efficiency in using scientific achievements for economic needs. Consequently, for all "gross output," there was a shortage of goods. The Soviet Union spent, in fact is still spending, far more on raw materials, energy, and other resources per unit of output than other developed nations.

Economic stagnation went hand in hand with intellectual stagnation. Creative thinking was driven out from the social sciences. Intellectual barrenness was breeding corruption; alcoholism, drug addiction, and crime were growing, and society was becoming increasingly unmanageable.

The combination of this situation with underlying racial,

religious, or national tensions was a recipe for explosion, and the pressure was gathering within the republics of the Soviet Union and those surrounding it. In Gorbachev's words:

This society is ripe for change. It has long been yearning for it. Any delay in beginning perestroika could have led to an exacerbated international situation in the near future which, to put it bluntly, would have been fraught with serious social, economic, and political crises.<sup>3</sup>

Gorbachev did not create this situation. He inherited it, but he had the courage to recognize it, and to act. He tried to release the pressure gently by raising the lid which would have been blown with violence in the near future. At the same time he tried to provide direction to the released energies. This required vision: the vision of a better future, of a genuinely new order, which, in his thought, appears to rest on certain pillars.

#### **Basic Principles: Pillars of Perestroika**

This is the situation from which Perestroika takes off from within the USSR. The pressure of the arms race, on the one hand, and rigidity and isolation of socioeconomic structures on the other, have paralyzed the country. The arms race must be stopped; rigidity and isolation must be broken. The required changes are dramatic. They also are mutually dependent. Perhaps there is a common denominator: A new relationship between individual initiative and common cause.

The new, integrative relation between the individual and the collective has two further implications: It implies an integrated

concept of what is "inside" and what is "outside". That is, the recognition of inseparable linkages between domestic and foreign issues and policies. It equally applies to the relationship between continuity (mankind extends in time as it does in space, comprising present as well as past and future generations) and change (which is episodic, the part that makes up the whole, but also depends on that whole, without which it cannot take place), and between long-term and short-term, neither of which can be conceived without the other.

#### Individual initiative and common cause

Gorbachev emphasizes the role of the individual and the public.

"What is needed to achieve this aim is finding the most effective and modern forms of blending public ownership and the personal interest that is the ground work for all our quests, for our entire concept of radically transforming economic management."

And again:

"We believe that combining personal interests with socialism has still remained the fundamental problem...Then we will combine the advantages of a large collective economy with the individual's interests..."

#### Socialism and market

Obviously this can never entail a repudiation of socialism and an embrace of capitalism.

"There was an opinion, for instance, that we ought to give up planned economy and sanction unemployment. We cannot permit

this, however, since we aim to strengthen socialism, not replace it with a different system. What is offered to us from the West, from a different economy, is unacceptable to us."

Gorbachev calls for decentralization of government responsibilities, which must be devolved on the enterprises themselves, including the transfer of cost accounting, a radical transformation of the centralised management of the economy, fundamental changes in planning, and a reform of the price formation system and of the financial and crediting mechanism. Planning, must start at the grass roots, at the enterprise level. This, however, does not mean the abandonment of planning. It makes planning more complex and brings it closer to people, that is, to the demand side. The enterprise itself must be democratised. Workers must be fully involved in the decision-making process, and they must have the right to elect their own managers.

The local and the universal

Internal progress largely depends on international conditions. Coping with the internal consequences of the arms race, of technological change, and of environmental degradation requires changes in the international system.

"Now the whole world needs restructuring, i.e., progressive development, a fundamental change."

Revolution from above and from below

To achieve change, a revolution must be both "from above" and

"from below". Or, to change the metaphor, there must be "push" as well as "pull." Organized ideas and concepts are more likely to come from individuals or leadership groups; but if there is no "pull," if the masses of people are not ready for the change, it will not occur, or it will not last.

"Perestroika would not have been a truly revolutionary undertaking, it would not have acquired its present scope, nor would it have had any firm chance of success if it had not merged the initiative from "above" with the grass-roots movement; if it had not expressed the fundamental, long-term interests of all the working people; if the masses had not regarded it as their program, a response to their own thoughts and a recognition of their own demands; and if the people had not supported it so vehemently and effectively."

#### Continuity and change

Perestroika is pervaded by a yearning to find legitimacy in the teachings of the past, especially the later writings of Lenin and his emphasis on "socialist democracy." While this, undoubtedly, was also politically expedient, an armor against attacks from the guardians of orthodoxy, it is more, and deeper than that: the need for an anchor in the sea of change; an attitude of piety, familial religiosity; "religion" in the sense of that which binds the past with the future, the familiar with the novel.

#### Common issues and common ownership

If it is possible, indeed, necessary, at the local and national level to combine the driving forces of individual freedom and

initiative with the stabilising power of the common interest, in a mutually reinforcing synthesis of democracy and socialism, the same applies to the international level and the relations between socialist and free-market based States in a global system that transcends both. There are in fact a number of systems-transforming developments on the global scene which, in terms of the Palme Commission -- fully endorsed by Gorbachev -- are "ideology bridging": conservation of the environment; the economic cost of, and environmental dangers inherent in, the arms race, in particular; the impact of modern technology, in general.

Another no less obvious reality of our time is the emergence and aggravation of the so-called global issues which have also become vital to the destinies of civilization. I mean nature conservation, the critical condition of the environment, of the atmosphere and the oceans, and of our planet's traditional resources which have turned out not to be limitless. I mean old and new awful diseases and mankind's common concern: how are we to put an end to starvation and poverty in vast areas of the Earth? I mean the intelligent joint work in exploring outer space and the world ocean and the use of the knowledge obtained to the benefit of humanity.

If it is these issues that have challenged the socialist system, forced it to transcend itself and incorporate elements of the market system, they are equally challenging the market system, forcing it to transcend itself and to incorporate certain elements that used to be associated with socialism. The Brundtland Report, also fully endorsed by Gorbachev, makes it amply clear that these are issues the

"market" cannot resolve. The all pervasive and dramatically urgent problems of the conservation of the environment require planning and regulation, whatever the economic system and the ideology it is based on. Poverty, just as consumerism, is incompatible with the conservation of the environment and must be abolished: a goal that, undoubtedly introduces a strong dose of what used to be called "socialism" into our market system. It pushes both sides towards the development of a new economic system, based on a new economic theory, which could be called the "Economics of the Common Heritage."

The necessity of effective and fair international procedures and mechanisms which would ensure rational utilization of our planet's resources as the property of all mankind, becomes ever more pressing.

#### Common and comprehensive security

The Palme Report stressed the concept of common security, meaning that, in the nuclear age, security cannot be acquired by any one nation at the expense of the security of another nation; that security must be common security; that only the security of all is the security of each. Gorbachev fully endorses this concept.

The idea of "security for all", which was put forward by him [Olof Palme] and further elaborated by the International Palme Commission, has many points of similarity with our concept of comprehensive security.

Comprehensive security, including economic and environmental security, together with military security, is an enlargement of the Palme concept.



Defining for itself the main principles of the concept of ecological security, the Soviet Union considers disarmament, the economy, and ecology as an integral whole.<sup>4</sup>

The search for military security through arms control and disarmament negotiations has thus far dominated the East-West agenda. The search for economic security through development cooperation and, eventually, the building of a new economic order, had been the theme of North-South dialogue.

The joining of the two issues in the concept of common and comprehensive security means the joining of the East-West and the North-South dialogue. It offers the best guarantee against the marginalisation of the South.

Comprehensive security's scope is global, and the third component of the concept, environmental security, is perhaps the one that ties the whole concept together, as the major problems of the environment are tangibly global and do not distinguish between East, West, South, or North.

#### Land

Gorbachev's vision is continent-centered. His historic linkages extend both to the "European homeland" and to the ancient cultures of the Far East. The Soviet Union's two faces pose a unique challenge and opportunity.

"Efforts in this direction by countries of the two continents -- Europe and Asia -- could be pooled together to become a common Euro-Asian process which would give a powerful impulse to an

all-embracing system of international security."

#### Sea

While this worldview is continent-centered, Gorbachev is fully cognizant of the enormous importance of the oceans surrounding this landmass: the Arctic, the Baltic, the Pacific, the Mediterranean, the Indian Ocean, the world ocean as a whole for communication within the system as a whole, for peace and security, for the protection of the environment, for scientific research, and for development -- East, West, North, and South.

The oceans, covering more than 70% of the surface of the planet, represent common heritage, communality, continuity; the continents may symbolize differentiation, "individuality." Clearly, the basic principles of Perestroika apply to the new order in the oceans as well as to that on land.

Nowhere on the planet are local, regional, and global issues and regimes more closely interwoven than in the marine environment, necessitating new forms of interaction and cooperation between national governments and regional and global organizations.

The marine revolution, no less than Perestroika, must be a revolution from above and from below. There must be pull as well as push. It is the lack of a constituency, putting pressures on governments, that is slowing down the ratification process and the coming into force of the Law of the Sea Convention. Mass movements in favor of the conservation of the marine environment, based on a better understanding of the importance of the oceans in determining the

global climate, as well as of the potential contributions the oceans can make in providing food and fiber, energy and minerals; and saving the great whales, based on awareness of the importance of species diversity on our planet, must be mobilized, if the marine revolution is to be successful and lasting.<sup>5</sup>

Continuity and change express the eternal rhythm of the world ocean itself, and reflect the progression of life from the sea to land and air, and of human activities, from the oldest, fishing and navigating, to the newest, high-technology based. The Law of the Sea is the oldest of international laws, and it is also the most advanced.

Where everything flows, no rigid concept of individuality or ownership (and that the two are linked was known already to the Buddha two thousand, five hundred years ago) can resist. Rigid and flow are contradictions in terms. It is in the Law of the Sea that the concept of the "Common Heritage of Mankind" has been developed and given legal content; the emerging economics of the common heritage promises a synthesis, not only of economics and ecology, but also of individual initiative and common cause, of freedom, and of planning.

Marine resources include the water that environs them. Thus the destruction of the environment destroys development. Since the destruction of the aquatic environment results equally from underdevelopment (sewage, erosion, and urban wastes) and overdevelopment (industrial wastes); and since industrial wastes are generated as much by the industrial/military complex as for peaceful purposes, it follows that development, environment, and a stop to the arms race are closely interlinked in the ocean world. Environmental security, which is basic for the development of marine resources, is

unattainable without military as well as economic security, that is, security must be comprehensive or it will not be at all.

Humans are concentrated on the land portion of planet earth. Nuclear holocaust is the most concentrated threat to their survival. The central element of comprehensive security on land is military security which, however, is unattainable without economic and environmental security, including the aquatic environment.

In the vast oceans, uninhabited by humans, the central element of comprehensive security is environmental. This, however, is unattainable without economic and military security on land.

The management of environmentally focused security has different geographic parameters than that of militarily focused security. Militarily-focused security is land-based, terrestrial and politically organised; Europe, Asia, and the Americas are terrestrial regions. Environmentally focused security is ocean-based and transcending political boundaries. The Mediterranean basin, the wider Caribbean, the Indian Ocean, and the circumpolar Arctic are ocean-centered regions dominated by the requirements of environmentally-focused security.

Ocean-centered and land-based regions obviously overlap. All Mediterranean countries, North, South, East, and West, belong to the Mediterranean environmental security system articulated in the Mediterranean Regional Seas Programme of the United Nations Environment Programme and its Action Plan.<sup>6</sup> At the same time some of them are part of the European Community or of NATO; others, of the Arab League, or the Organisation of African Unity: systems focused on economic or military security. In building a system of common and

comprehensive security, these systems complement and depend on, and reinforce one another. Ocean-centered, environmentally focused, and boundary-transcending security may be the element that holds the whole system together, makes it global and stable.

This study is organized around the convergent concepts of Common Heritage and Comprehensive Security, each with its threefold military, environmental, and economic connotations.

### **Military Aspects**

#### Reservation for Peaceful Purposes

The U.N. Convention on the Law of the Sea reserves the high seas for peaceful purposes (Art. 88). According to Art. 58 and 86, this applies as well to the 200-mile exclusive economic zone. The sea-bed, beyond the limits of national jurisdiction, furthermore, is reserved "exclusively for peaceful purposes" (Art. 141).<sup>7</sup> According to Art. 240, finally, "marine scientific research shall be conducted exclusively for peaceful purposes."

While potentially revolutionary, the concept of reservation for peaceful purposes lacks legal content and definition in the U.N. Convention on the Law of the Sea. UNCLOS III felt it had no mandate to deal with the military uses of the sea, the regulation of which was left to the Disarmament Committee in Geneva. Thus the concept of "Common Heritage of Mankind," which postulates both management of peaceful uses and reservation for peaceful purposes, was split in two, a consequence not only of political expediency (many of the diplomats dealing with UNCLOS III were of the opinion that the job of drafting the Convention would have become unmanageably complicated had it also

to cover the regulation of military uses, arms control, and disarmament) but also of the fragmented nature of the U.N. system. Thus two U.N. bodies, the Disarmament Committee and UNCLOS III, worked independently, and produced two independent Conventions, at different points in time (1971 and 1982). Once the 1982 Convention comes into force, it will be necessary to harmonize the two instruments. In a paper written in 1984,<sup>8</sup> I identified five levels at which such harmonization should take place: geographic scope, functional scope, the problem of verification, the considerations of technology, and dispute settlement.

The spatial organization of the world ocean in the 1982 Convention is different from the one in the 1972 Treaty: the 12-mile territorial sea, the exclusive economic zone, the high seas, the continental shelf, the archipelagic waters, and the international sea-bed area, each call for different treatment.

With regard to the functional scope, prohibition in the 1972 Treaty is restricted, adopting the U.S. formula, for "the implanting and emplacing of nuclear weapons or other weapons of mass destruction." This, however, was to be considered merely as a first step towards the total demilitarization of the sea-bed, as advocated by the USSR. The obligation in the Preamble, "to continue negotiations concerning further measures leading to this end," introduced a time dimension, a dynamic aspect into the Treaty which clearly indicates that a process is involved with demilitarisation of the sea-bed as the ultimate objective.

To harmonize the two instruments, demilitarisation (the more advanced concept) should apply to the international sea-bed area which

now is reserved for exclusively peaceful purposes, while denuclearization could apply, for the time being, to the sea-bed up to the 12-mile limit of the territorial sea of the 1982 Convention (the term "contiguous zone" in the 1972 Convention has to be amended), as well as to the water column above it: the high seas, reserved, according to the 1982 Convention, "for peaceful purposes."

Verification, in the 1972 Treaty, is entirely the responsibility of the States Parties, even though a number of delegations wanted to go much further and establish some form of international verification mechanism; in the 1982 Convention, verification with regard to sea-bed activities is entrusted to the International Sea-Bed Authority which has to establish and direct an inspectorate for this purpose. "Activities in the Area," however, are to be construed as activities directly related to the exploration and exploitation of manganese nodules (surveillance with regard to economic and environmental aspects). Military activities are not in the purview of this provision as it now stands.

To harmonize the two instruments, surveillance by the inspectorate should be multipurpose, pertaining to military as well as environmental and economic aspects. The monitoring technologies, in any case, are the same. This would be in line with the contemporary thinking and would be perfectly legitimate, considering the environmental hazards inherent in the deployment of nuclear weapons on the sea-bed. The idea is not new, incidentally as the Delegation of Canada proposed it in the early days of the Sea-Bed Committee (prior to UNCLOS III). It would also be in line with the proposals of Perestroika: The responsibilities of the World Space Organisation

proposed by the Soviet Union, are multi-purpose. Its satellites are to monitor compliance with the provisions of arms control and disarmament agreements as well as any changes in the environment of the biosphere. They also are to serve the progress of science and economic development for the benefit of all people.

The jurisdiction of the Authority only extends to the outer edge of the continental margin, up to 350 nautical miles or even more in some cases, from the coast. Monitoring and surveillance of the shelf area, between 350 and 12 miles from the coast, should be entrusted to self-management through regional security arrangements which might be perceived as less intrusive and offensive and would also be less costly.

The 1972 Treaty is subject to review and revision every five years. In order to be able to review the proper functioning of the Treaty, delegations need information on the state of the art of sea-bed technology. The review of the Treaty, according to Article VII "shall take into account any relevant technological developments." As it turned out, this information was hard to come by. Time and again States would simply report that no relevant technological development had taken place. In the face of the vast sums spent on R&D in deep-sea technology such statements are not very convincing.

Meanwhile, technology transfer for the peaceful uses of the sea-bed has become a burning issue; developing States demanded information on the state of the art which was crucial as a basis for their decision-making with regard to the 1982 Convention. The Office of Ocean Affairs and the Law of the Sea of the United Nations Secretariat has established a data base. Although this effort is as



yet quite modest and in need of more funding and better cooperation, it is a step in the right direction.

To harmonize the two Treaties, a technology bank which would provide information to the Parties of both the 1972 and 1982 treaties, is needed as the technology relevant to both treaties is the same.

The Law of the Sea Convention of 1982, as is well known, contains the most comprehensive and the most binding system for the peaceful settlement of disputes ever devised by the international community. The 1972 Treaty contains no provisions on dispute settlement, although at one point, the Delegation of Brazil had proposed it, in a 1969 working paper, stressing the importance of a credible system of dispute settlement for the acceptance of verification measures. The Brazilian proposal was ahead of its time. It was hardly even discussed.

To harmonize the two treaties, the settlement of any dispute that might arise under the 1972 Treaty could be entrusted to the International Tribunal for the Law of the Sea, established under the 1982 Convention. This could easily be done through a protocol added to the 1972 Treaty, at the next revision conference.

One might ask: Why all this fuss about the 1972 Treaty? There has been no trouble with it. There has been no violation of it. "Don't fix it if it ain't broke." Furthermore, the Treaty has lost interest in the public eye. It prohibits what States did not intend to do anyway; it has done nothing to prevent the nuclear arms race in the seas and oceans.

One might answer, that the Treaty might be irrelevant, were it not for one provision: It establishes an obligation to continue

negotiations concerning further measures leading to the complete exclusion of the nuclear arms race from the seas and oceans.

It is precisely this provision that has been violated during the almost two decades since the adoption of the Treaty, because no such negotiations have taken place, due to the cold war and the stubborn resistance of the United States against including naval armaments in general disarmament discussions.

Now, however, there has been a drastic change. With the propositions of Perestroika on the negotiating table, the continuation of the dialogue on the 1972 Treaty, and the widening of its geographic and functional scope, becomes mandatory.

To widen the geographic scope would mean, first of all, to extend the jurisdiction of the Treaty from the sea-bed, which is far less relevant for the installation of nuclear weapons, to the superjacent waters, where submarine and naval activities take place.

To widen the functional scope would mean to pass from the U.S. formula of 1972, limiting the Treaty to the prohibition of nuclear weapons and other weapons of mass destruction, to the USSR formula of 1972, extending it eventually to all military activities, a formula to which Perestroika has remained faithful.

#### The Denuclearization of the Oceans

The nuclearization of the oceans is incompatible with environmental security. In particular, there are three aspects that should be kept in mind:

1. At present, almost 30 percent of the world nuclear arsenal is sea-borne.<sup>9</sup> The five nuclear powers together possess more than 7,200

submarine-launched ballistic missile warheads plus 5,900 tactical nuclear weapons. About 13,100 nuclear weapons in total are earmarked for naval use, that is almost one-third of the world's stockpile of nuclear weapons. This constitutes serious danger, especially in enclosed and semi-enclosed seas where close encounters are possible.

2. nuclear testing contaminates marine flora and fauna and endangers the health of human populations over wide areas.

3. The dumping of nuclear waste in canisters whose corrosion-resistance is certainly shorter than the half-life of the material they contain, constitutes a threat to the environmental security of future generations.

(a) existing arrangements

The inhabitants of affected zones have been painfully aware of these dangers for some time, and a number of international agreements have been put into place to cope with the situation. In most cases, however, these have not yet been effectively enforced.

One should mention, in particular: The Antarctic Treaty; the Treaty of Tlatelolco; the Treaty of Rarotonga; and the United Nations Resolutions declaring the Indian Ocean a Zone of Peace.

The Antarctic Treaty (1959)<sup>10</sup> is increasingly vulnerable from other points of view, but has been the most successful in keeping a continent completely demilitarized. Article I states that "Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measures of a military nature such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapons."

Military personnel and equipment, however, may be used for scientific research or any other peaceful purpose. Article V prohibits "any nuclear explosions in Antarctica and the disposal there of radioactive waste material." It should be noted, however, that these provisions do not apply to the high seas within the area of south of 60 South Latitude which thus are neither denuclearized nor demilitarized or reserved for peaceful purposes.

The Treaty of Tlatelolco (1967)<sup>11</sup>, which also provides for an elaborate regional institutional infrastructure, stipulates in Art. 1 that "The Contracting Parties hereby undertake to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction, and to prohibit and prevent in their respective territories: (a) the testing, use, manufacture, production, or acquisition by any means whatsoever of any nuclear weapons, by the Parties themselves, directly or indirectly, on behalf of anyone else or in any other way; and (b) the receipt, storage, installation, deployment and any form of possession of any nuclear weapon directly or indirectly, by the Parties themselves, by anyone on their behalf or in any other way. The Parties also undertake not to participate in any way in the testing, use, manufacture, production, possession, or control of any nuclear weapon. The Parties consider this as a step toward general and complete disarmament under effective international control which is the final goal at a later stage. The provisions of the Treaty of Tlatelolco apply to the land territories of the States Parties as well as to their territorial seas, which, at the time of signing extended, in many cases, to 200 nautical miles from the baselines. Perhaps the time has come to review and revise this

pioneering treaty which, in the present circumstances, has not been able to prevent, for example, the nuclearization of the Caribbean.

The Treaty of Rarotonga (1985)<sup>12</sup>, like that of Tlatelolco, prohibits to States Parties the manufacture, acquisition, control, or possession of nuclear explosive devices. They may not allow the stationing or testing of such devices or the dumping of radioactive wastes within their territory. The boundaries of the Nuclear Free Zone are defined in Annex I to the Treaty. Whereas the Treaty of Tlatelolco applies basically to land territory, including the territorial sea, the Treaty of Rarotonga applies primarily to the sea. Land accounts for only 2 percent of the region's total area. The Treaty of Rarotonga has been signed by nine South Pacific states. Three Protocols, binding third States, in particular, the nuclear powers, have not been signed by France and the United States.

The Indian Ocean Resolutions, finally, are not enforceable.<sup>13</sup>

The 1982 United Nations Convention on the Law of the Sea provides a new legal framework for the denuclearization of oceanic regions. Jens Evensen (1986) stated:

"Part IX of the Convention contains certain provisions concerning enclosed or semi-enclosed seas. The main provisions contained in Article 123 indicate that 'States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention.' This suggests that such states have special rights and obligations to formulate policies with regard to the peaceful development in their enclosed or semi-enclosed seas. The establishment of zones of peace,

nuclear-weapons free zones and other peace-related activities in the area, such as safe havens for home fleets in certain maritime areas, special procedures for the commencement of naval manoeuvres and the like would be examples. Such initiatives have been proposed for the Baltic and the Caribbean. These possibilities should be further explored.

The Law of the Sea Convention does not directly address the denuclearisation of the oceans or related arms limitation issues. However, the Convention further codifies the principles which underlie the peaceful uses of ocean space. As such the Convention could serve as a legal basis for more directly addressing the issue of nuclear weapons at sea."

It is on this new legal basis that one should promote the implementation of the more recent and more specific Perestroika proposals. They draw legitimization from the Convention. At the same time they contribute to the implementation and progressive development of its provisions.

(b) Perestroika proposals

A.P. Movchan, in his paper "The Law of the Sea in Light of the New Political Thinking"<sup>14</sup> states:

The essence and central arrangement or basic and principal legal requirement of the principle of the use of the World Ocean for peaceful purposes is to exclude the use or threat of force in the maritime activities of States and, consequently, to ultimately prohibit military activities of States on the seas and

oceans and ensure in fact that they are used only for peaceful purposes. However, the practical realisation of this main requirement is possible only through specific prohibitions of military activities in certain specific expanses of the World Ocean or specific types of such activities. The 1982 Convention was drafted with this in view with regard to the principle of using the seas for peaceful purposes.

In his Vladivostok address in 1986, Gorbachev made specific proposals for the denuclearization of the Asian Pacific oceanic region.<sup>15</sup> He suggested "that there be in the foreseeable future a Pacific conference attended by all countries gravitating towards the ocean. In a statement in Delhi, the same year, he advocated a new international conference for the implementation of the U.N. Resolutions declaring the Indian Ocean as a Zone of Peace. His Murmansk statement, in 1987, contained proposals for the demilitarization of the Arctic ocean as well as international cooperation for the protection of the Arctic environment, for scientific research and economic development.<sup>16</sup> In 1988, at Belgrade, he proposed to convoke a special conference to discuss questions of limiting the activities of naval forces and of reducing them in the Mediterranean and of declaring that sea a zone of peace.

Perestroika also makes provision for the prohibition of naval activities in agreed zones of international straits and areas of intensive international navigation and fishing; for limiting the number of large-scale naval exercises in each ocean and sea theater of

military operations; and for limiting the navigation of warships carrying nuclear weapons.

Two conferences in Moscow: Pacem in Maribus XVIII (1989) and Mir na moriach (Peace to the Oceans) (1990), spelled out these proposals in great detail.<sup>17</sup>

In spite of past efforts to keep the naval arms race separate from the rest of the arms race and exclude it from general disarmament or arms control discussions, it obviously is part of it. Naval disarmament by itself cannot solve the wider arms race problem, whereas the abandonment of the arms race in general is likely to overtake the partial solutions proposed with regard to the denuclearisation of the oceans. This, however is no reason for abandoning the proposals at this point or for detracting from their long-term usefulness -- likely to last beyond the end of the arms race, and this for the reasons pointed out next.

Perestroika looks at denuclearization of the oceans in the context of comprehensive security, that is, the proposals are linked with proposals for environmental, scientific, and developmental cooperation in the denuclearized areas. This requires a progressive development of the institutional framework of the existing regional seas program. The emerging institutional framework may be one of the essential elements of the new paradigm.

#### Institutional Restructuring

With regard to institutional restructuring, the Palme Report, fully endorsed by Gorbachev, is more advanced than any of the reports preceding or following it. Palme's institutional framework for



"common security" has three major components: Changes in the political decision-making mechanism (Security Council); strengthening of the technical instruments of collective security (United Nations Peacekeeping Forces); and regional collective security arrangements.

Palme's proposals were far ahead of their time. They exemplify the kind of utopianism of yesterday that becomes the realism of today. Today, they provide the institutional framework that is absolutely essential in the light of Perestroika and the ongoing dismantling of the arms race. Disarmament, without an institutional framework for collective security (including verification) either does not happen or becomes chaotic. Palme and Gorbachev reinforce each other and must be considered together.

(a) Changes in the Decision-making mechanism

The Palme Commission suggests that the permanent members of the Security Council should solemnly agree to a kind of "political concordat" to support collective security operations, or, at least, not to vote against them, whenever disputes arise which are likely to cause, or actually result in, a breach of peace. Such a "concordat" obviously is intended to offset the paralysing effect of the veto power and to restore the collective security role originally envisaged for the U.N. The Palme report cautiously -- perhaps overcautiously -- limits this concordat, to start with, to disputes that might arise among Third-World countries. Such a limitation would not appear to be justified today. Disputes of the kind envisaged might develop anywhere, and they must be prevented from erupting and escalating into global catastrophes. They must be brought to peaceful settlement.

The Palme report itself suggest:

"The question may be asked, Why limit collective security measures to Third World disputes? In theory, there can be no objection to a global approach. Practicality, however, dictates otherwise. Disputes beyond the Third World invariably involve NATO or Warsaw Pact countries. The East-West conflict has prevented the development of international collective security in the past. It retains the potential to frustrate its evolution still."

It no longer does. Perestroika has cleared the way for a global approach to the kind of concordat proposed by the Palme Report.

(b) United Nations Peace Keeping Forces

The decisions of the Security Council should be backed up by the strengthening of the operational structure for UN standby forces as envisaged in Article 43 of the UN Charter. The Military Staff Committee should be reactivated and strengthened for this purpose. What is of special interest in the perspective of the present study is that, according to the recommendations of the Palme Report, these standby forces should include a U.N. naval unit.

The UN also must be prepared to respond to new kinds of challenges to international peace and security. For example, the emergence of extensive piracy in the areas off South East Asia might suggest the creation of a small UN naval patrol force based on the voluntary assignment of naval vessels and crews to UN duty by member states, and the consent of the littoral states.

The establishment of naval units flying the UN flag raises an interesting question relating to the provisions of the Law of the Sea Convention postulating a genuine link between the flag state and the ship. Art. 93 of the Law of the Sea Convention provides for "Ships flying the flag of the United Nations, its specialized agencies and the International Atomic Energy Agency," but what should be the genuine link and the enforcement power, is not yet quite clear.

(c) Regional collective security arrangements

Regional approaches to security are conceived as a supplement, not as an alternative, to the global collective security structure needed. They are in fact to be closely interlinked. The measures suggested include regional arrangements to promote units for peacekeeping duties on a standby basis and the establishment of regional conferences on security and cooperation.

"The [Palme] Commission recommends that the countries making up the various regions, and in some instances sub-regions, of the Third World consider the convocation of periodic or ad hoc Regional Conferences on Security and Cooperation similar to the one launched in Helsinki for Europe in 1975. Regional Conferences on Security and Cooperation could add new substance to the concept of common security..."

It is envisaged that the regional conferences could provide an overall framework for cooperation not only on matters directly relating to security, but in the economic, social, and cultural<sup>18</sup> spheres as well.

comprehensive policy for the management of their economic zones. It is on these inter-ministerial coordinating mechanisms that the regional conferences must be based. Perestroika suggests that the opinions of other entities, such as nongovernmental organizations, or even individuals representing a form of "citizens diplomacy," should be considered in decision-making. Such opinions might be articulated in advisory councils of some sort.

In The Future of the Oceans: a Report to the Club of Rome<sup>20</sup>, I proposed the establishment of regional councils composed of (a) plenipotentiary representatives of the interministerial oceans councils of all states of the region; and (b) the regional representatives of the "competent international organisations" (FAO, IMO, UNEP, UNESCO/IOC, UNIDO, ILO, IAEA) dealing with ocean affairs in the region. These regional councils would be competent to deal with ocean affairs in an integrated manner, focused on the concept of comprehensive security, including its military, economic, and environmental dimensions. These bodies would replace the conferences of States Parties to the Regional Seas Programmes. They would be neither more complex nor more costly than these well-established meetings, except that their linkages with national government would be interdepartmental rather than restricted to departments of the environment and/or foreign affairs. Group (a) in these regional councils would ensure coordination of national policies; group (b) would link regional policies with the global competent international institutions. All three levels - - national, regional, and global - - are essential for policy making in ocean affairs, and they must be

linked properly. Here, again, is an area where the emerging new order in the seas and oceans and Perestroika can reinforce, and mutually advance each other.

### **Development and Environment**

Perestroika abounds, in suggestions for new forms of scientific industrial international cooperation for co-development. The USSR and the USA, Perestroika suggests, could come up with large joint programs, pooling resources and scientific and intellectual potentials in order to solve the most diverse problems for the benefit of humankind.

With regard to cooperation in utilizing thermonuclear energy, in particular, Gorbachev states that a scientific base has been created by scientists from a number of countries working on ideas suggested by their Soviet colleagues. American scientists could join in this research. There are also such possibilities as joint exploration and use of outer space and of planets of the solar system, and research in the field of superconductivity and biotechnology.

Joint work in exploring outer space and the world ocean and the use of the knowledge obtained to the benefit of humanity would be another promising field, according to Perestroika. Scientific/industrial co-development should, of course, also be implemented Eastern Europe.

"We hope to accelerate the process of integration in the forthcoming few years. To this end, the CMEA [COMECO] should increasingly focus on two major issues:

First, it will coordinate economic policies... and promote major joint research and engineering programs and projects. In doing so it is possible and expedient to cooperate with non-socialist countries and their organizations..."

The proposal retains its validity in spite of recent developments in Eastern Europe. A couple of years ago, the Eastern European Socialist States established a joint undertaking, under the name of Interoceanmetal Inc., for the joint exploration of a mine site in the deep sea-bed and for the development of the requisite technology. Far from being overtaken by centrifugal trends, this venture is now at the point of applying to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea for Registration as the fifth Pioneer Investor. Here is another example for the convergence, and mutual reinforcement between Perestroika and the Law of the Sea.

Joint undertakings of the same type, according to Perestroika, should also be established between the USSR and its Asian Pacific neighbors as well as with "the European home." The building of the "European home" requires a material foundation... We, in the Soviet Union are prepared for this, "including the need to search for new forms of cooperation such as the launching of joint ventures, the impementation of joints projects in third countries, etc. We are raising the question of broad scientific and technological cooperation..."

The United Nations Convention on the Law of the Sea provides the most advanced framework for the realization of these principles of

broad scientific and technological cooperation.

Proposals for technology co-development in the context of Registered Pioneer Activities have been put forward at the Preparatory Commission by the delegations of Austria (1984) and Colombia (1988), and now by the Asian African Legal Consultative Committee.<sup>21</sup> An international joint undertaking in R&D in seabed-mining related high technologies would be the most efficient, if not the only, way of dealing with the environmental issues stressed so eloquently by the Soviet delegation at the Jamaica session in March 1990.

A proposal to organize the regional centers for the advancement of marine science and technology, mandated in Articles 276 and 277 of the Law of the Sea Convention, on the principle of technology co-development, was put forward by the government of Malta and elaborated in cooperation with UNIDO and UNEP. A first such center, the Mediterranean Centre for Research and Development in Marine Industrial Technology, is being established in Malta.<sup>22</sup> A feasibility study for the Caribbean, based on the Mediterranean experience but adapting it to the specific situation in the Caribbean, is in the making. Other oceanic regions will follow.

All these proposals are based on the simple concept of (a) utilizing and developing the legal framework provided by the Law of the Sea Convention: (b) filling that frame with the most advanced concepts of technology development and management as applied, e.g., in the European Community (EUREKA, etc); and (c) opening them up to participation by Eastern European as well as developing countries and industries, their participation to be financed by public granting or lending institutions such as the World Bank, UNDP, regional development banks, etc.

Thus the basic structure of the regional centers to be established under Articles 276 and 277 of the Law of the Sea Convention, and of the Joint Enterprise to be established by the Pioneer Investors under Resolution II (which would become "the Enterprise" when the Convention comes into force), would be similar, unbureaucratic, and cost-effective.<sup>23</sup> They would be small coordinating centers, administering an R&D program in marine industrial industry. Projects would be selected by a network of national coordinators (following the EUREKA pattern) and approved by a conference of ministers, in the case of the regional centers; by the Preparatory Commission in the case of the pioneer joint venture (by the Council of the International Sea-Bed Authority, when the Convention is in force). Projects would be self-financing, as the scheme would generate investments rather than "costs." Half of these investments would come from the companies which proposed the project; the other half would come from their governments. The participation of developing countries (which would have to be included in all projects) would be paid for by international (or national) development cooperation institutions. This would imply a redirection of development strategy towards science, research and development in developing countries. Such a redirection is indeed overdue.

Marine technology involves, and is dependent upon, the whole range of technologies constituting the new phase of the industrial revolution: micro-electronics and information technology, genetic engineering and bioindustrial processes, new materials, laser, and space technology. With this in mind, it may safely be assumed that a break-through in international cooperation to "technology



co-development" between North, South, East, and West might have far reaching implications for bridging gaps and enhancing confidence and economic security. Projects selected for co-development would have a strong environmental component, that is, technologies to be developed must be "environmentally safe and socially relevant." It is hard to imagine a more direct application of the more general proposals put forward in Perestroika.

### **Conclusion**

The two basic concepts "Comprehensive Security" (Perestroika) and "Common Heritage of Mankind" (Law of the Sea) are complementary. The "Common Heritage of Mankind", incorporated in the Moon Treaty (which is in force) and in the Law of the Sea Convention (soon to enter into force) is already a principle of international law. Unlike the principle of the "global commons," which assumes a free-for-all system within which resources may be exploited and depleted on a first-come-first-serve basis, the Common Heritage regime postulates a system of management in which all users share, and within which resources are rationally utilized, for the benefit of mankind as a whole. This provides the basis for "economic security" in the Perestroika concept.

"Mankind" in the common heritage concept, includes future generations which also have a right to share in the common heritage. Intra-generational equity, as the Brundtland Report puts it, must be complemented with inter-generational equity. This implies conservation of resources and environment and harmonisation between long-term and short-term policies. It provides the basis for "environment security".

The common heritage of mankind, finally, is reserved exclusively for peaceful purposes. Activities undertaken for military or strategic purposes are excluded from the area that has been declared the common heritage of mankind. This provides the basis for military security.

Together, common heritage and comprehensive security provide the basis for sustainable development," that is a development which, itself, has an economic as well as an environmental and military dimension (incompatibility with the arms race).

The emerging conceptual framework transcends the boundaries of the traditional concepts of sovereignty (porousness of the walls separating disciplines, governmental departments, and national, regional, and global levels of governance), and of ownership (the common heritage cannot be appropriated: it is a concept of non-ownership; the common heritage can be managed, but not owned). Thus it transcends the tenets both of the market and of the centrally planned systems.

Some of the institutional implications have been dealt with in these pages. There is one point that should be added in conclusion.

To be effective, the new institutions must be funded in a different way. The traditional idea of establishing a "fund" to be nourished by quotas assigned to States or by voluntary contributions is totally inadequate. It leaves these "funds" at the mercy of the few economically strongest states and exposes even the best programs to the danger of never being implemented. Development economists, (from Jan Tinbergen to Willy Brandt to the World Bank) have long advocated greater "automaticity" in funding, such as through a system

of international taxation. The conservation of the environment implies certain costs (even though in the long term it is extremely economical), and UNEP has completed studies on, for example, a system of international taxation to pay for desertification programs. Peace-keeping activities also cost money that presently is not available, and the Palme Report recommends the establishment of an appropriate funding mechanism with built-in automaticity.

"... We believe that collective security operations and, for other purposes, peacekeeping ones as well, need to be financed through an independent source of revenue."

An international levy on international arms transfers, amounting to over 30 billion dollars annually, has been suggested at various times.<sup>24</sup> This would be based on a register of weapons sales and transfers, as a first step.

"No one in the world can yet bid farewell to arms, but we can abandon, once and for all -- and we can do it now -- the practice of unconstrained and uncontrolled international weapons transfers. To that end the principles of glasnost and openness should be asserted here as well. The USSR reaffirms its willingness to participate in the establishment of a United Nations register of weapons sales and transfers, including work on parameters."<sup>25</sup>

And there are other international services which will have to be paid for.

In the emerging ocean regime, there are starting points for the development of new systems of generating international revenue. One is a system of international taxation. The other is through the type of international, public/private enterprises described in this article.

The legal basis for international taxation is given in Parts VI and XI of the United Nations Convention on the Law of the Sea. Part VI(Art.82) provides for the payment of royalties on mineral production on the continental shelf under national jurisdiction, but beyond the 200-limit of the exclusive economic zone. It should be stressed that this tax applies to resources over which the coastal State has sovereign rights. It also should be stressed that this provision (unlike Part XI) was adopted by consensus.

Part XI, and particularly Annex III, Art. 13, provides for an elaborate system of royalties and production charges to be imposed on contractors/miners. This may be workable, or may be not. The important point is that the principle of an international tax to be imposed on companies and to be paid to an international authority, has been recognized and embodied in international law. On this precedent, other systems may be now devised as necessary.

To be effective, a tax system needs (a) an institutional infrastructure, and (b) a publicly accepted purpose. During the next stage of historic evolution it is likely that both will be best defined at the regional level. The regional institutions described in this study might be best qualified for the levying of such taxes for determined regional community purposes and services. For example, the International Ocean Institute is presently

conducting a feasibility study on the establishment of a small levy on the 100-300 million tourists visiting the Mediterranean annually.<sup>26</sup> Such a levy would constitute a crucial contribution to the financing of the Mediterranean Action Plan for the conservation of the environment, and it might also pay for other determined purposes. Regional multipurpose monitoring and surveillance as well as peace-keeping services might equally be financed through schemes of regional taxation, although a tax on international arms sales would be a feasible global tax.

Economic development projects should increasingly become self-financing as they are becoming self managed, not through "privatization" which is a temporary aberration, but through new forms of public/private cooperation generating investments rather than costs. A possible institutional framework for this kind of cooperation is described in this study. It should, of course, be expanded from the research and development sector.

There is an intimate and inseparable linkage between the marine sector and the rest of the global system -- ecologically, economically, strategically, and technologically. As science and technology advance, this linkage becomes even stronger.

A striking example is the global transport system. Until World War II and the advent of high technology, sea transport and land transport constituted two fairly separate systems. Then came containerization and unitization, giving rise to a unitary multimodal system including the seas, railways, roads, rivers and airways.<sup>26</sup> This is now being perfected through satellite-borne global positioning systems and electronic charting, pinpointing and guiding vessels or

vehicles on land, sea, or in the air, and harmonizing their traffic.

If it is one system, and we change part of it (the ocean part) we obviously are changing the whole system. Perestroika is on the move. If, on the terrestrial part of the system, we are struck first of all by its unsettling, occasionally chaotic and threatening effects, then it is in the wide spaces of the oceanic part of the system -- due to historic circumstances as well as to the nature of the aquatic medium -- that we see the restructuring taking shape. The great concepts of Perestroika and the Law of the Sea mingle in institutions and processes, and reinforce each other. The rest, necessarily, will follow.

## Footnotes

1. Law of the Sea: Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index (New York: United Nations, 1983), sales no. E.83.V.5. For lists of signatories to the UN Law of the Sea Convention, see Appendix G in this volume.
2. The Report of the Brandt Commission focuses on the financing needed to narrow the development gap to acceptable dimensions. It envisages that the needed funds should come primarily from vastly increased official development aid. (Willy Brandt, et al., North-South: A Programme for Survival. The Report of the Independent Commission on International Development Issues (London: Pan Books, 1980).  
  
The Report of the Palme Commission focuses on the military aspects of security. It puts forward the concept of "common security" and proposes the most advanced institutional framework for its implementation. (Olaf Palme, et al., Common Security: A Programme for Disarmament. The Report of the Independent Commission on Disarmament and Security Issues (London: Pan Books, 1982).  
  
The Report of the Brundtland Commission focuses on environmental security. It puts forward the concept of sustainable development which is to reconcile developmental and environmental concerns. (G. H. Brundtland, et al, Our Common Future. The Report of the World Commission on Environment and Development (Oxford: Oxford University Press, 1987).

The Report of the South Commission focuses on the needed changes in the South itself. (South Commission, The Challenge to the South. The Report of the South Commission (Geneva: , 1990).

3. This and all other quotes, unless stated otherwise, are from Mikhail Gorbachev, Perestroika: New Thinking for Our Country and the World (New York: Harper and Row, 1987).
4. Eduard Shevardnadze, Foreign Policy and Perestroika (Moscow: Novosti Agency Publishing House, 1989).
5. Editors' note.-- For more on this subject, see the articles in the "Living Resources" section of this volume.
6. Editors' note.-- For more information on this subject, see Peter M. Haas, "Save the Seas: UNEP's Regional Seas Programme and the Coordination of Regional pollution Control," and Appendix G, "UNEP's Regional Seas Programmes" in this volume.
7. Editors' note.-- See article by Stanley D. Brunn and Gerald L. Ingalls, "Voting Patterns in the UN General Assembly on Uses of the Seas," Ocean Yearbook 7, ed. Elisabeth Mann Borgese, Norton Ginsburg, and Joseph R. Morgan (Chicago: University of Chicago Press, 1988), pp. 42 - 64.
8. Elisabeth Mann Borgese, "The Sea-Bed Treaty and the Law of the Sea: Prospects for Harmonisation," in R.B. Byers, The Denuclearisation of the Oceans (London: Croom Helm, 1986).
9. Editors' note.-- For more information on this subject, see the "Military Activities" section in this volume.



10. Antarctic Treaty, signed 1 December 1959. The text of the Treaty is found as an appendix to an article by Kesteven, "The Southern Ocean, Ocean Yearbook 1, ed. Elisabeth Mann Borgese and Norton Ginsburg (Chicago: University of Chicago Press, 1978), pp. 467 - 99, at pp. 493 - 99. See also, article in this volume by Francis Auburn, "Conservation and the Antarctic Minerals Regime".
11. The Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco), signed 14 February, 1967, by 21 Latin American states.
12. South Pacific Nuclear Free Zone Treaty (Treaty of Rarotonga), signed 6 August 1985. It was signed by eight South Pacific states, but endorsed earlier the same day by all 13 member states of the South Pacific Forum. The Treaty and its appendices and protocols are republished in Appendix B, Ocean Yearbook 6, ed. Elisabeth Mann Borgese and Norton Ginsburg (Chicago: University of Chicago Press, 1986), pp. 594 - 605.
13. Editors' note.-- See Brunn and Ingalls (n. 7 above).
14. A. P. Movchan, "The Law of the Sea in the Light of the New Political Thinking," in Perestroika and International Law, ed. William E. Butler (Dordrecht: Martinus Nijhoff Publishers, 1990).
15. For the Pacific, Gorbachev made the following suggestions, from Time for Action, Time for Practical Work (Moscow: Novosti Press Publishing House, September, 1988):

First: Aware of the Asian and Pacific countries' concern, the Soviet Union will not increase the amount of any nuclear weapons in the region; it has already been practising this for some time -- and is calling upon the United States and other nuclear powers

not to deploy them additionally in the region.

Second: The Soviet Union is inviting the main naval powers of the region to hold consultations on not increasing naval forces in the region.

Third: The USSR suggests that the question of lowering military confrontation in the areas where the coasts of the USSR, the PRC, Japan, the DPRK and South Korea converge be discussed on a multilateral basis with a view to freezing and commensurately lowering the levels of naval and air forces and limiting their activity.

Fourth: If the United States agrees to eliminate military bases in the Philippines, the Soviet Union will be ready, in agreement with the government of the Socialist Republic of Vietnam, to give up the fleet's material and technical supply station in Camranh Bay.

Fifth: In the interests of the safety of sea lanes and communications in the region, the USSR suggests that measures be jointly elaborated to prevent incidents in the open sea and air space over it. The experience of the already existing bilateral Soviet-American and Soviet-British accords as well as the USA, USSR-Japan trilateral accord could be used in the elaboration of these measures.

16. For the Arctic, from The Speech in Murmansk (Moscow: Novosti Press Agency Publishing House, 1987):

Firstly, a nuclear-free zone in Northern Europe. If such a decision were adopted, the Soviet Union, as has already been declared, would be prepared to act as a guarantor.

Secondly, we welcome the initiative of Finland's President Mauno Koivisto on restricting naval activity in the seas washing the shores of Northern Europe. For its part, the Soviet Union proposes consultations between the Warsaw Treaty Organization and NATO on restricting military activity and scaling down naval and air force activities in the Baltic, Northern, Norwegian and Greenland Seas, and on the extension of confidence-building measures to these areas.

Thirdly, the Soviet Union attaches much importance to peaceful cooperation in developing the resources of the North, the Arctic. Here an exchange of experience and knowledge is extremely important. Through joint efforts it could be possible to work out an overall concept of rational developments of northern areas. We propose, for instance, reaching agreement on drafting an integral energy programme for the north of Europe. According to existing data, the reserves there of such energy sources as oil and gas are truly boundless. But their extraction entails immense difficulties and the need to create unique technical installations capable of withstanding the Polar elements. It would be more reasonable to pool efforts in this endeavour, which would cut both material and other outlays. We have an interest in inviting, for instance, Canada and Norway to form mixed firms and enterprises for developing oil and gas deposits of the shelf of our northern seas. We are prepared for relevant talks with other states as well.

Fourthly, the scientific exploration of the Arctic is of immense importance for the whole of mankind. We have a wealth of

experience here and are prepared to share it. In turn, we are interested in the studies conducted in other sub-Arctic and northern countries. We already have a programme of scientific exchanges with Canada.

Fifthly, we attach special importance to the cooperation of the northern countries in environmental protection. The urgency of this is obvious. It would be well to extend joint measures for protecting the marine environment of the Baltic, now being carried out by a commission of seven maritime states, to the entire oceanic and sea surface of the globe's North.

Sixthly, the shortest sea route from Europe to the Far East and the Pacific Ocean passes through the Arctic. I think that depending on progress in the normalization of international relations we could open the North Sea Route to foreign ships, with ourselves providing the services of ice-breakers.

17. In its Declaration, Pacem in Maribus XVII noted, "The new order for the seas and oceans emerging from the 1982 United Nations Convention on the Law of the Sea should be considered as a first step in international Perestroika: a restructuring, a fundamental change in an area covering over two thirds of the surface of the Earth."

The conference urged "the inclusion of the naval arms race in ongoing negotiations on arms control and disarmament and the establishment of nuclear weapons free zones in the Baltic, the Sea of Japan, and the East China Sea, as well as zones of peace in the Indian Ocean and in the South Atlantic, in implementation of the Declarations by the United Nations General Assembly. It

also urged the establishment of such zones in the South Pacific, the Mediterranean, and the Arctic.

The recommendations of Pacem in Maribus XVII were based on the concept of comprehensive security, including military, economic and environmental security, in accordance with Perestroika.

18. Comprehensive security, according to Perestroika, has a cultural dimension as well: "Pooling efforts in the sphere of culture, medicine and humanitarian rights is yet another integral part of the system of comprehensive security" (Gorbachev, Realities and Guarantees for a Secure World (Moscow: Novosti Press Agency Publishing House, 1987).
19. Editors' note.-- For more information, Haas (n. 6 above).
20. Elisabeth Mann Borgese, The Future of the Oceans: A Report to the Club of Rome ( 1986).
21. United Nations, JEFERAD, three working papers submitted by the Delegation of Austria to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the sea, 1984 and 1985; United Nations, The International Enterprise, three working papers submitted by the delegation of Colombia to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, 1987 and 1988; and International Ocean Institute and Asian African Legal consultative committee, Alternative Cost-effective Models for Pioneer Cooperation in Exploration, Technology Development, and Training (Malta: IOI, 1990). Editors' note.-- See earlier articles in Ocean Yearbook by Professor Borgese on the Preparatory Commission, for example,

"Implementing the Convention: Developments in the Preparatory Commission," Ocean Yearbook 7, pp. 1 - 7. For a summary of the Colombian proposal, see "The International Venture: Study Submitted by the Republic of Colombia to the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, Special Commission 2, Fifth Session, Kingston, Jamaica, 30 March - 16 April 1987, also in Ocean Yearbook 7, pp. 469 - 79.

22. International Ocean Institute, The Mediterranean Centre for Research and Development in Marine Industrial Technology. Proposal and Feasibility Study (Valletta, Malta: International Ocean Institute, 1988).
23. Editors' note.-- For more information, earlier Ocean Yearbook articles and reports on the Preparatory Commission, Pioneer Investors, and Resolution II, see n. 21 above.
24. For example, by the Delegation of Malta in the Disarmament Committee, 1967.
25. Gorbachev, Perestroika (n. 3 above).
26. International Ocean Institute, Alternative Ways of Financing the Mediterranean trust Fund (Valletta, Malta: International Ocean Institute, 1990).

"short"  
version for  
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## **Perestroika and the Law of the Sea**

*Perestroika, we all know, is a complex matter, with its internal and external dimensions, and the unbreakable linkages between them.*

*As an observer from outside the Soviet Union, however, one can identify a substantial package of concrete proposals, put before the international community and, in particular, before the United Nations and its organs, in the context of Perestroika and its goal of advancing peace, development and the conservation of the environment.*

*The International community owes a response to these proposals which, thus far, has not been forthcoming, at least not in any systematic manner.*

*The Law of the Sea and ocean development constitute a perfect testing ground for the new concepts put forward by Perestroika. Issues which remain hidden on land, hedged by hoary custom, are blatant and open at sea, where concepts like "national," "international," "nonnational," blend in a continuum, "boundaries" become porous, "environment" and "resource" are identical, and thus it is far more difficult than on land, if not impossible, to "externalise" the cost of environmental degradation in the process of resource development. Ocean uses and ocean parts and ocean problems are indeed closely inter-related and need to be considered as a whole, as stated in the Preamble to the United Nations Convention on the Law of the Sea.*

*It is this close inter-relationship of the problems of ocean space that induced the Third United Nations Conference on the Law of the Sea to adopt a "package deal" approach to problem solving, i.e., no final decision was to be taken on any issue until all issues had been examined in their interrelation and the whole "package" could be adopted. Thus the Conference*

-- as early as 1973! -- really had no choice but to deal with Development of resources and Environment conservation in one "package," and it is one of the historic merits of the Convention that it is the first international instrument to create the kind of synthesis between Environment and Development which the international community is to elaborate in Brazil 92, and which is at the core of Perestroika.

It is not surprising, in this context, that the very concept of "sustainable development," eluding economists and environmentalist on land, has a familiar ring, and a clear meaning for those involved in ocean management. "Maximum" or "Optimum" "Sustainable Yield" has been the goal of the fishing industry for over half a century, and the complex models developed by fishery economics, quantifying and factoring biological and population-dynamic, hydrological, meteorological and chemical, together with social, economic and monetary elements into their equations, are indeed at the vanguard of economic theory -- if one can still call it "economic," because, like most issues facing our contemporary society, "economics" is rapidly becoming a broadly interdisciplinary science.

Although not yet fully developed and still restricted to the deep sea-bed, the central concept of the United Nations Convention on the Law of the Sea is that of the Common Heritage of Mankind. Resources which are the Common Heritage of Mankind, must be **developed** equitably, for the benefit of mankind as a whole; they must be **conserved** for future generations (a part of mankind as a whole!); and they are **reserved for peaceful purposes**. This concept, with its developmental, environmental, and peace-enhancing connotations, contains the seeds of a new economic theory and of a new philosophical approach to the relationship among humans and between humans and nature which is basic to "sustainable development." The elaboration of such an approach poses an equal challenge to the centrally planned and the market economies and forces both to transcend themselves toward a point of possible convergence. Needless to add that this dialectics is not



*restricted to the "East" and the "West" but embraces the "South" which, presently, is equally locked in the stalemates resulting from obsolete economic theories.*

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*Quite a series of proposals have been put forward in the context of Perestroika and the New Political Thinking: ranging from confidence building, arms control and disarmament measures to the establishment of nuclear-weapons free zones and zones of peace on a regional level and to the strengthening of the United Nations system of collective security.*

*To obtain the maximum of synergetic effect, one could conceive action at three levels, taking into account also certain other constructive instruments or proposals, such as the 1971 Treaty Banning Nuclear Weapons and Other Weapons of Mass Destruction from the Seabed, or the Report of the Palme Commission.*

*A harmonization of the 1971 Seabed Treaty and the 1982 United Nations Convention on the Law of the Sea will become mandatory as soon as the latter enters into force which is likely to happen in a couple of years. One could single out five areas in which harmonization is necessary: geographic scope; functional scope; the problem of verification, the considerations of technology, and dispute settlement.*

*The spatial organisation of the world ocean in the 1982 Convention is different from the one in the 1971 Treaty: the 12 mile Territorial Sea, the Exclusive Economic Zone, the High Seas, the Continental Shelf, Archipelagic Waters, and the International Sea-bed Area each now call for different treatment.*

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***Verification**, in the 1972 Treaty, is entirely the responsibility of the States Parties, even though a number of Delegations wanted to go much further and establish some form of international verification mechanism. In the 1982 Convention, verification with regard to sea-bed activities is entrusted to the International Sea-bed Authority which has to establish and direct an Inspectorate for this purpose. "Activities in the Area," however, are to be construed as activities directly related to the exploration and exploitation of manganese nodules. Military activities are not in the purview of this provision as it now stands.*

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*In the area of strengthening collective security arrangements at the U.N. level, Perestroika should be read in the context of the Palme Report. Palme and Gorbachev complement each other.*

*The Palme Report suggests certain changes in the decision-making process of the Security Council, which were far ahead of their time, but become realistic in the context of Perestroika. In particular, Palme suggested a kind of "political concordat" to support collective security operations, or, at least, not to vote against them, whenever disputes arise which are likely to cause, or actually result in, a breach of peace. Secondly, the Palme Report suggests the strengthening of United Nations Peace Keeping Forces. The Military Staff Committee should be reactivated and strengthened for this purpose. Standby forces should include a U.N. naval unit.*

*Thirdly, the Palme Report suggests effective regional collective security arrangement, possibly through the establishment of Regional Conferences on Security and Cooperation, providing an over-all framework for cooperation not only on matters directly relating to security but in the economic, social, and cultural spheres as well. This is where the Palme Report comes closest to Perestroika's concept of comprehensive security.*

*In fact, it provides an institutional framework for its implementation and should be read in conjunction with Perestroika's proposals for denuclearization and cooperation in the Arctic, the Indian Ocean, the Pacific, the Mediterranean, the Baltic, etc. It might well be that comprehensive security could best be implemented at the regional level, provided there are the proper linkages, backward, as it were, to the national, and forward, to the global level. In eleven oceanic regions, one could use the existing **Regional Seas** framework for the implementation of this concept. Regional Conferences, of States Parties to the Regional Seas Conventions; secretariats; and networks of intergovernmental and nongovernmental organisations are already in place. Their mandate would have to be enlarged to cover all three dimensions of comprehensive security, a challenge put forward also by the Brundtland Commission which will have to be taken up seriously by Brazil 92. One might suggest two pilot experiments: In the **Mediterranean**, where the Regional Seas Programme is most advanced in institutional infrastructure, and in the **Arctic**, where regional cooperation is yet to be established, and it might be established in accordance with the new comprehensive principles as developed by the Palme Report, the Brundtland Report and Perestroika, rather than clinging to the old, sectoral principles of Stockholm 1972.*

*With regard to economic **Development**, finally, Perestroika abounds in suggestions for new forms of scientific industrial international cooperation for the joint development, or co-development, of technology. These might take the form of joint ventures and include Governments as well as the private sector and scientific institutions.*

*The United Nations Convention on the Law of the Sea offers the most advanced framework for the development of such joint undertakings, both at the global and at the regional level.*

*At the global level, the Convention provides for joint ventures*

*between States or private companies and the Enterprise of the International Sea-bed Authority. More immediately, and with regard to the present situation, Resolution II, adopted by the Third U.N. Conference on the Law of the Sea together with the Convention, imposes on the Registered Pioneer Investors (France, India, Japan, USSR, and, now, China) the obligation of exploring a mine site, training personnel, and securing technology transfer for the future Enterprise, so that this Enterprise can be fully operative and "keep pace" with the Pioneer Investors, in ocean mining, as soon as the Convention comes into force. This provision has necessitated lengthy negotiations during which it became clear that, to fulfil these obligations in a cost-effective manner, the Pioneers must fulfil them jointly. They have, in fact, now made a joint undertaking, with a detailed exploration plan and a joint training programme. The agreement also refers to research and development of technology, which is an essential part of any commercial undertaking in exploration and manpower development, but this aspect of technology development is not yet adequately developed. I want to point out that here is a perfect opportunity to develop the kind of joint undertaking for technology development suggested by Perestroika. Costs should be shared between the private sector, participating Governments, and international funding institutions like UNDP, the World Bank, regional Banks, etc., according to the simple formula developed in Western Europe for the organization and financing of R&D in high technology (EUREKA, EUROMAR, ESPRIT, etc.) from which, however, thus far developing countries as well as socialist countries are excluded. A detailed proposal to build on the Pioneer agreement and develop it into the kind of framework for joint technology development Perestroika suggests, was elaborated by the International Ocean Institute in cooperation with the Asian African Legal Consultative Committee last year and presented to Prep.Com. Delegates in a seminar in August, 1990.*

*At the regional level the Convention prescribes the establishment of Regional Centres for the advancement of marine science and technology.*

*These, too, could be envisaged as frameworks, based on the same EUREKA principle, for joint technology development financed jointly by the private sector, Governments and international funding agencies. A proposal for a pilot project was put forward by the International Ocean Institute and the Government of Malta, with the support of UNEP and UNIDO. Intergovernmental discussions are now under way to establish such a Centre in the Mediterranean. To begin with, it will deal with the development of sea-water desalination technologies, aquaculture technologies, and pollution abating technologies.*

*A feasibility study for the establishment of such a Centre in the Caribbean is planned for next year.*

*These pages are a brief summary of a lengthy and detailed case study on Perestroika and the Law of the Sea. The study (in English) is available on request.*

*In conclusion the study stresses the interdependence between ocean system and terrestrial system under the common roof of Outer Space. This interdependence implies that if part of the global system is changed, the whole will necessarily change. Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its unsettling, occasionally chaotic and threatening effects, it is in the wide spaces of the oceanic part of the system that we see the restructuring taking shape, in institutions and processes where the great concepts of Perestroika and the Law of the Sea mingle to reinforce each other,.*

*Mikhail Gorbachev once defined "the new thinking" that underlies Perestroika as "a bridge between word and deed." We hope that, with a case study bringing it into a ready-made scenario poised for action, we may have made a tiny contribution towards moving to the forward end of the bridge.*



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*Two conferences in Moscow, Pacem in Maribus XVIII (1989) and Mir na moriach (Peace to the Oceans, 1990) spelled out these proposals in great detail.*

*In the area of strengthening collective security arrangements at the U.N. level, Perestroika should be read in the context of the Palme Report. Palme and Gorbachev complement each other.*

*The Palme Report suggests certain changes in the decision-making process of the Security Council, which were far ahead of their time, but become realistic in the context of Perestroika. In particular, Palme suggested a kind of "political concordat" to support collective security operations, or, at least, not to vote against them, whenever disputes arise which are likely to cause, or actually result in, a breach of peace. Secondly, the Palme Report suggests the strengthening of United Nations Peace Keeping Forces. The Military Staff Committee should be reactivated and strengthened for this purpose. Standby forces should include a U.N. naval unit.*

Thirdly, the *Palme Report* suggests effective regional collective security arrangement, possibly through the establishment of *Regional Conferences on Security and Cooperation*, providing an over-all framework for cooperation not only on matters directly relating to security but in the economic, social, and cultural spheres as well. This is where the *Palme Report* comes closest to *Perestroika's* concept of comprehensive security. In fact, it provides an institutional framework for its implementation and should be read in conjunction with *Perestroika's* proposals for denuclearization and cooperation in the Arctic, the Indian Ocean, the Pacific, the Mediterranean, the Baltic, etc. It might well be that comprehensive security could best be implemented at the regional level, provided there are the proper linkages, backward, as it were, to the national, and forward, to the global level. In eleven oceanic regions, one could use the existing **Regional Seas** framework for the implementation of this concept. *Regional Conferences*, of *States Parties to the Regional Seas Conventions*; *secretariats*; and *networks of intergovernmental and nongovernmental organisations* are already in place. Their mandate would have to be enlarged to cover all three dimensions of comprehensive security, a challenge put forward also by the *Brundtland Commission* which will have to be taken up seriously by *Brazil 92*. One might suggest two pilot experiments: In the **Mediterranean**, where the *Regional Seas Programme* is most advanced in institutional infrastructure, and in the **Arctic**, where regional cooperation is yet to be established, and it might be established in accordance with the new comprehensive principles as developed by the *Palme Report*, the *Brundtland Report* and *Perestroika*, rather than clinging to the old, sectoral principles of *Stockholm 1972*.

With regard to economic **Development**, finally, *Perestroika* abounds in suggestions for new forms of scientific industrial international cooperation for the joint development, or co-development, of technology.



*These might take the form of joint ventures and include Governments as well as the private sector and scientific institutions.*

*The United Nations Convention on the Law of the Sea offers the most advanced framework for the development of such joint undertakings, both at the global and at the regional level.*

*At the global level, the Convention provides for joint ventures between States or private companies and the Enterprise of the International Sea-bed Authority. More immediately, and with regard to the present situation, Resolution II, adopted by the Third U.N. Conference on the Law of the Sea together with the Convention, imposes on the Registered Pioneer Investors (France, India, Japan, USSR, and, now, China) the obligation of exploring a mine site, training personnel, and securing technology transfer for the future Enterprise, so that this Enterprise can be fully operative and "keep pace" with the Pioneer Investors, in ocean mining, as soon as the Convention comes into force. This provision has necessitated lengthy negotiations during which it became clear that, to fulfil these obligations in a cost-effective manner, the Pioneers must fulfil them jointly. They have, in fact, now made a joint undertaking, with a detailed exploration plan and a joint training programme. The agreement also refers to research and development of technology, which is an essential part of any commercial undertaking in exploration and manpower development, but this aspect of technology development is not yet adequately developed. I want to point out that here is a perfect opportunity to develop the kind of joint undertaking for technology development suggested by Perestroika. Costs should be shared between the private sector, participating Governments, and international funding institutions like UNDP, the World Bank, regional Banks, etc., according to the simple formula developed in Western Europe for the organization and financing of R&D in high technology (EUREKA, EUROMAR, ESPRIT, etc.) from which, however, thus far developing countries*

*as well as socialist countries are excluded. A detailed proposal to build on the Pioneer agreement and develop it into the kind of framework for joint technology development Perestroika suggests, was elaborated by the International Ocean Institute in cooperation with the Asian African Legal Consultative Committee last year and presented to Prep.Com. Delegates in a seminar in August, 1990.*

*At the regional level the Convention prescribes the establishment of Regional Centres for the advancement of marine science and technology. These, too, could be envisaged as frameworks, based on the same EUREKA principle, for joint technology development financed jointly by the private sector, Governments and international funding agencies. A proposal for a pilot project was put forward by the International Ocean Institute and the Government of Malta, with the support of UNEP and UNIDO. Intergovernmental discussions are now under way to establish such a Centre in the Mediterranean. To begin with, it will deal with the development of sea-water desalination technologies, aquaculture technologies, and pollution abating technologies.*

*A feasibility study for the establishment of such a Centre in the Caribbean is planned for next year.*

*These pages are a brief summary of a lengthy and detailed case study on Perestroika and the Law of the Sea. The study (in English) is available on request.*

*In conclusion the study stresses the interdependence between ocean system and terrestrial system under the common roof of Outer Space. This interdependence implies that if part of the global system is changed, the whole will necessarily change. Perestroika is on the move. But if, on the terrestrial part of the system, we are struck, first of all, by its*

*unsettling, occasionally chaotic and threatening effects, it is in the wide spaces of the oceanic part of the system that we see the restructuring taking shape, in institutions and processes where the great concepts of Perestroika and the Law of the Sea mingle to reinforce each other.,*

*Mikhail Gorbachev once defined "the new thinking" that underlies Perestroika as "a bridge between word and deed." We hope that, with a case study bringing it into a ready-made scenario poised for action, we may have made a tiny contribution towards moving to the forward end of the bridge.*

*Elizabeth Mary Hoegs*