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GENERAL ASSEMBLY

PROVISIONAL VERBATIM RECORD OF THE SIXTY-FOURTH MEETING

Held at Headquarters, New York,
on Tuesday, 11 December 1990, at 10 a.m.

President:	Mr. de MARCO	(Malta)
later:	Mr. SILOVIC (Vice-President)	(Yugoslavia)

- Law of the sea [33]

  (a) Reports of the Secretary General

  (b) Draft resolution

- Programme of work

90-64454/A 4149V (E)

The meeting was called to order at 10.20 a.m.

AGENDA ITEM 33

LAW OF THE SEA

(a) REPORTS OF THE SECRETARY-GENERAL (A/45/563, A/45/712, A/45/721)

(b) DRAFT RESOLUTION (A/45/L.29)

The PRESIDENT: I should like to propose that the list of speakers in the debate on this item be closed today at 12 noon.

It was so decided.

The PRESIDENT: I therefore request those representatives wishing to participate in the debate to inscribe their names on the list of speakers as soon as possible.

I call on the representative of Cape Verde, who, in his capacity as Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, wishes to introduce the draft resolution in the course of his statement.

Mr. JESUS (Cape Verde), Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea: In this era of renewed interest in global issues and increasing public awareness of the need to find collective and consensual answers, the law of the sea seems to be one of these global issues that deserve our attention.

Some of us would probably argue that the law of the sea has had its day as an issue. It is a fact that for many years it galvanized the world's attention and mobilized a vast diplomatic effort by the community of nations in one of the most comprehensive negotiating processes ever held.

The Law of the Sea Convention that emerged from those negotiations was the first serious attempt to find agreed principles, rules and norms applicable to one global issues - in this case the use of the oceans and their resources.

(Mr. Jesus, Chairman, Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea)

Although the adoption of the Convention seems to have ended an important, if not the most important, chapter in the search for universal agreement on global issues, lingering problems inherited from the Third United Nations Conference on the Law of the Sea have ever since been a destabilizing factor in the process of full and universal acceptance of the Convention. Hence there is a need once again to redirect our attention to the law of the sea, in order to preserve the historical achievements embodied in the Convention. Nowhere else is this need more felt than in the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea.

These lingering problems have tremendously affected the the work of the Preparatory Commission and to a certain extent have delayed the successful conclusion of its work, for they lie at the heart of the Commission's mandate. As I have mentioned elsewhere,

> "the successful implementation of the Commission's mandate can only be possible if we are able to find a solution for the existing problems of the Convention's sea-bed régime."

I am encouraged, however, by the fact that the Preparatory Commission has provided us with a forum where participating States can meet and exchange views and develop creative ideas that might in the end assist in the solution of all existing problems.

The history of the negotiations in the Preparatory Commission has produced encouraging results that illustrate its flexible approach in dealing with its difficult agenda. I am sure that if allowed to run its own course, and if properly assisted, the Commission will be able to address all outstanding issues with a view

(Mr. Jesus, Chairman, Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea)

to finding a solution aimed at universal participation in the Convention. Any help in this respect can only reinforce the Commission's potential. In this context, the Secretary-General's ongoing efforts to assist in the promotion of dialogue towards universal participation in the Convention can be seen as a positive development if, and only if - as one might expect from the nature of the role of the Secretary-General - such assistance is to strengthen the Commission in carrying out its mandate. As Chairman of the Commission, I certainly would not welcome any assistance whose end result, deliberately or not, would be to weaken, or amount to a replacement of, the Commission's legitimate mandate. It is against this background that I have associated myself with those efforts.

(Mr. Jesus, Chairman, Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea)

I believe that once we are able to concentrate our efforts in a united approach - a goal that I hope we shall be able to reach - we will find ways that will lead to a final solution to the outstanding issues. The painstaking efforts of the Preparatory Commission to overcome difficulties as it tries to implement its mandate, and the emergence of creative ideas in the attempt to address outstanding problems, augur well for a successful outcome. We should therefore seize this opportunity and take the necessary steps to that end.

I now have the honour to introduce draft resolution A/45/L.29 on behalf of its original sponsors: Australia, Austria, Barbados, the Byelorussian Soviet Socialist Republic, Cameroon, Canada, Chile, China, Denmark, Fiji, Finland, Indonesia, Ireland, Jamaica, Kenya, Malta, Mauritania, Mexico, Myanmar, the Netherlands, New Zealand, Nigeria, Norway, Oman, the Philippines, Portugal, Senegal, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Sweden, Thailand, Togo, Trinidad and Tobago, the Ukrainian Soviet Socialist Republic, the United Republic of Tanzania, Uruguay, Zambia and my own country, Cape Verde. The following countries have also become sponsors: Bahamas, Cyprus, Iceland, Paraguay, Samoa and Papua New Guinea.

As in the case of draft resolutions under this agenda item in the past, the draft resolution is the end product of comprehensive consultations among interested delegations and its text is an effort to reflect all the views expressed during those consultations. The six-page draft resolution bears testimony to this fact. Members are familiar with the majority of its paragraphs since year after year they have been part of the resolutions on the law of the sea adopted by the Assembly. I shall therefore save the Assembly's time by refraining from stating what members well know and merely emphasize the new additions that have been introduced into the

(Mr. Jesus, Chairman, Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea)

draft resolution this year. Apart from the usual technical update, there are the following new provisions, to which I should like to draw the Assembly's attention.

In the eleventh preambular paragraph the Assembly would take note of the submission to the Preparatory Commission of an application by the Government of China on behalf of the China Ocean Mineral Resources Research and Development Association for registration as a pioneer investor under resolution II. I understand that the Group of Experts is now meeting to consider the application, and it is our hope that we shall be able to register China as the fifth registered pioneer investor at the next meeting of the Preparatory Commission.

In the sixteenth preambular paragraph the Assembly would note with appreciation the initiative of the Secretary-General to promote dialogue aimed at achieving universal participation in the Convention.

In the twentieth preambular paragraph it would recall that States have a duty to take, or co-operate with other States in taking, such measures for their nationals as may be necessary for the conservation of the living resources of the high seas.

In operative paragraph 8 the Assembly would note with satisfaction the Understanding, adopted by the Preparatory Commission on 30 August 1990, on the fulfilment of obligations by the registered pioneer investors and their certifying States.

In paragraph 11 it would welcome regional efforts by developing countries to integrate the ocean sector in national development plans and programmes through the process of international co-operation and assistance, in particular the recent initiatives mentioned in the report of the Secretary-General.

(Mr. Jesus, Chairman, Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea)

Paragraph 14 has been redrafted by adding, after the phrase "requests the competent international organizations" the expression "including the United Nations Development Programme, the World Bank and other multilateral funding agencies".

Paragraph 15 has also been redrafted, and in it the Assembly would welcome the report of the Secretary-General submitted pursuant to paragraph 13 of last year's resolution and request the Secretary-General to transmit that report to all Member States and competent international organizations for their review and comment.

On behalf of the sponsors, I submit draft resolution A/45/L.29 to members for consideration and, I hope, the support of the Assembly.

Mr. HATANO (Japan): First, I should like to express my delegation's sincere gratitude to the Secretary-General and his Special Representative for the Law of the Sea, Mr. Satya Nandan, for their efforts in producing valuable bulletins, studies and reports in accordance with relevant United Nations resolutions.

I am also pleased to have this opportunity to pay a special tribute to the Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, Ambassador Jose Luis Jesus, for his outstanding leadership in guiding the work of the Commission.

Significant progress was made this year at the summer session of the Preparatory Commission. I should like to mention two areas in particular in which progress was achieved.

First, the Commission reached an Understanding on the problem of fulfilment of the obligations of pioneer investors. This is important as a first step towards ensuring that the deep-sea-bed mining régime is adjusting to changing

(Mr. Hatano, Japan)

circumstances. The Understanding was achieved thanks largely to the dedicated efforts of Mr. Jesus and Mr. Nandan and to the spirit of co-operation and compromise demonstrated by the countries concerned.

Secondly, the Preparatory Commission received an application, submitted by the People's Republic of China on behalf of the China Ocean Mineral Resources Research and Development Association, for registration as a pioneer investor under resolution II. The Group of Experts will examine this application in accordance with the agreed procedures and report on it at the spring session next year of the Preparatory Commission. Japan, itself a registered pioneer investor, welcomes this application from the viewpoint of enhancing the universality of the sea-bed-mining régime of the Convention on the Law of the Sea.

The progress in these areas is indeed encouraging and I am confident that it will contribute to revitalizing the Preparatory Commission.

(Mr. Hatano, Japan)

Japan welcomes the Secretary-General's initiative to ensure the universality of the Convention on the Law of the Sea. I expect that the dialogue, as initiated by the Secretary-General, will result in further progress towards the goal of universality. In this respect, my delegation appreciates the statement made by the Chairman of the Group of 77 during the summer session of the Preparatory Commission last year. Japan is of the view that efforts should begin as soon as possible to identify any problems relating to part XI of the Convention.

For its part, Japan is ready to contribute to these efforts to the best of its ability. We hope that each of the countries concerned will maintain its laudable spirit of co-operation and compromise, and likewise endeavour to promote this dialogue.

Mr. ELTCHENKO (Ukrainian Soviet Socialist Republic) (interpretation from Russian): The work of the forty-fifth session of the United Nations General Assembly comes at the close of a year marked by the end of an epoch of confrontation and the opening of a new wave towards the future. Perestroika in the Soviet Union and in the Ukraine, the epoch-making events taking place in Eastern Europe and the reunification of Germany have not only put an end to the post-war division of the European continent but have also done away with the cold war and allowed mankind peacefully to turn a page in the book of world history and open up a new chapter which, we hope, will become a time of stability and prosperity.

Although in certain regions there are still some embers of tension, mankind, with increased confidence now, is looking towards the twenty-first century. These positive changes, objectively and quickly, are turning the United Nations into a centre for concerted joint action by States playing a decisive role in the maintenance of international security, the peaceful settlement of disputes, and the development of peaceful co-operation.

(Mr. Eltchenko, Ukrainian SSR)

A key role in the maintenance of peace and rule of law in the world's oceans is still played by the United Nations Convention on the Law of the Sea. In the present favourable international conditions, it is becoming an even more effective way for ensuring a stable and sound use and development of the oceans and their resources and for co-operation among States in the study, protection and maintenance of the marine environment.

As we see from the Secretary-General's report (A/45/721), entitled "Law of the Sea",

> "There has been an unprecedented focus in discussions in many intergovernmental bodies and elsewhere (para. 4) ... in improving the role and effectiveness of international environmental law (para. 3) ..., particularly in preparations for the 1992 United Nations Conference on Environment and Development (para. 4) ...", to be held in Brasilia.

In this connection the following conclusion, contained in paragraph 5 of the report, is important:

> "Its [the Convention's] environmental provisions establish a framework of general principles and rules within which the relevant global and regional instruments should be viewed."

However, not only those provisions of the Convention are important for the upcoming Conference. The Preparatory Committee - the first session of which was held in Nairobi in August this year - talked about the need for recommendations for action in areas such as

> "The effectiveness of existing international institutions, the effectiveness and status of implementation of existing legal instruments and the identification within appropriate forums of gaps in existing mechanisms for the protection, rational use and development of living marine resources,

(Mr. Eltchenko, Ukrainian SSR)

including the living resources of the high seas, taking into account the results of the ... Third United Nations Conference on the Law of the Sea". (A/45/46, p. 37)

This shows that the upcoming Conference will concentrate not only on the state of the ecology of the world's oceans and strategies for protecting the marine environment but also on the broad spectrum of activities in the use of coastal areas and marine zones, as well as on many other questions governed by the Convention on the Law of the Sea. In order to meet all these needs, it would be a good idea to use the existing knowledge, experience and information base available to the Secretary-General, through Mr. Nandan of the United Nations Office for Ocean Affairs and the Law of the Sea, as mentioned by the Committee. There is a need to evaluate the proposals regarding the further development of scientific, technical and financial co-operation in order to protect the marine environment from any pollution from land-based sources. The report produced by that Office on the protection and preservation of the marine environment is being actively used by the Committee in its work.

Having mentioned the problem of protection of the marine environment from pollution from land-based sources, we must note the reluctance shown by many States when attempting to develop any binding international norms and standards, to prevent that kind of pollution. This most often occurs in working out international legislation relating to certain regions. In this connection, I should like to stress that article 192 of the United Nations Convention on the Law of the Sea establishes that States have the obligation to protect and preserve the marine environment, and article 194 deals with measures to prevent, reduce and control pollution of the marine environment from any source.

(Mr. Eltchenko, Ukrainian SSR)

We think that during the preparation for and at the holding of the Conference on Environment and Development, it should be made clear that there is a need to establish priorities here, and also to fill any lacunae that exist between the general juridical norm and the specific measure to implement it.

The acute awareness in our Republic of environmental problems was obviously brought about by the Chernobyl tragedy.

At the beginning of my statement I mentioned the cardinal changes that have taken place in Eastern Europe this year. The date 16 July of this year was particularly important for the Ukraine. On that day the Parliament of our Republic adopted a Declaration of State Sovereignty of the Ukraine. In that document, which is historic for the Ukrainian people, there is a special chapter on ecological security. The Republic is determined to take practical measures to protect our environment. This will relate to rivers flowing into the Black Sea, the Black Sea coast, and also the work of enterprises which threaten ecological safety. In accordance with the Declaration of State Sovereignty of the Ukraine:

> "The land and its resources, the air space, the marine and other natural resources which are within the territory of the Ukrainian SSR, the natural resources of its continental shelf, and the exclusive economic zone, are the property of its people and the material basis of the sovereignty of the Republic, and shall be used in order to ensure the material and spiritual needs of the citizens."

To put these provisions into practice, the Ukraine intends to work out an appropriate legal régime for its economic zone and the continental shelf, and to delimit marine space with neighbouring States. The state of the ecology of the Black Sea basin requires decisive measures by all coastal States, and also by States through which the Danube passes, one of the most important rivers of Europe.

(Mr. Klitchenko, Ukrainian SSR)

In realising its sovereignty, the Ukraine intends to take a fresh look at the international legal acts to which it is a party. It will base itself on the principle contained in the Declaration on Sovereignty according to which the Republic shall recognize priority of universal human values over class values, and priority of international law over norms of domestic law.

The United Nations Convention on the Law of the Sea was and remains for us one of the most important treaties of our age, a charter of the seas, without which any stability in modern-day international relations would be unthinkable. In gaining its new statehood, the Ukraine will work more energetically to enjoy the possibilities contained in that document, including sea-bed mining. A significant portion of the marine technology used by the all-union unit Yushmorgeologia in its work on the USSR's site in the Pacific Ocean was developed and is still being worked on by scientists and specialists from the Ukrainian cities of Dnepropetrovsk, Donetsk and Nikolaev, for example. In the Ukraine there is also the necessary potential and technology for processing poly-metallic nodules. The Ukraine has a good potential in the field of oceanography, marine geology, and geophysics. The scientific institutions in our Republic are carrying out specialized research on a whole series of questions relating to the oceans and their resources and to meteorology, as well as on current problems concerning the interaction of oceans and the atmosphere, climatic changes, and so on.

(Mr. Eltchenko, Ukrainian SSR)

Therefore we share the conclusion contained in the Secretary-General's report (A/45/563) on marine scientific research, in particular the conclusion that the international community is now facing a growing challenge of better husbanding the oceans and their resources, and that this requires the universal strengthening of marine scientific research in all its fields. Since the problems and features of oceans are basically interlinked and there are no national borders, we believe that these problems should be resolved by joint efforts by States and appropriate international organizations.

In the Secretary-General's report there is a very informative review of the progress made in scientific work connected with the marine environment and the research instruments used in that work. We share the view that marine scientific research is of key importance in working out solutions to problems of protecting the marine environment and ecology in general.

As has been noted in other statements, the Office for Ocean Affairs and the Law of the Sea prepared not one report on this agenda item, as in the past, but four reports, which shows that there is enormous potential here, as well as a high degree of professionalism in the Office. It is ready to make a concrete and very valuable contribution towards ensuring uniform use of the Convention and informing the international community about the urgent tasks connected with the marine environment.

The reports shed light on the work of the entire United Nations system on questions of developing the world's oceans. In particular we note the report (A/45/712) on the needs of States in regard to development and management of ocean resources. This indicates nearly all the basic lines on which the work of the United Nations should develop in carrying out the programme of co-operation set out in the Convention to provide assistance to the developing countries. Having become

(Mr. Eltchenko, Ukrainian SSR)

aware of the general needs of these countries, the Organization should direct its efforts towards more concrete measures to enable these needs to be met, by combining the efforts of individual States.

The Ukrainian SSR is taking an active part in the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. We note with satisfaction that this year there was an extensive and constructive exchange of views in the Commission on a whole range of problems connected with the establishment of a practical basis for the future international system for developing sea-bed mineral resources. Thanks to the joint efforts of the participants in the talks, an agreement was finally reached according to which the registered investors and their certifying States would meet their obligations. The solution of this problem should enable members of the Commission to make greater efforts to reach a compromise on other questions on its agenda.

During the discussion on the law of the sea at the last session of the General Assembly, many delegations, including the delegation of the Ukrainian Soviet Socialist Republic, supported the idea of holding informal consultations on securing universal accession to the Convention. On the initiative of the Secretary-General, this idea was put into practice, and this year there have been two rounds of consultations. The Ukrainian SSR believes these consultations to be very useful, for the following reasons. The process of ratification of the Convention is continuing. Only 15 ratifications are still needed for it to enter into force. Already 45 documents of ratification have been deposited. If the Convention entered into force without universal accession, this would inevitably lead to a variety of interpretations of the provisions by individual countries, groups of countries and, possibly, whole regions. Differences in national laws and arbitrary interpretations of the Convention's norms could lead to an erosion of the

(Mr. Eltchenko, Ukrainian SSR)

international law and order established by the Convention. Thus, the many years of effort by the international community to work out the Convention would be wasted.

The delegation of the Ukrainian SSR would like to draw the attention of participants in the consultations to the following. There is in the Convention a whole set of quantitative and percentage indicators which, only six years after the document was signed, seem to be obsolete, or do not take into account new economic realities. This problem can hardly be eliminated simply by replacing one set of figures by another. Quite probably, in a few years' time, the latter would also be out of date. We think it would be better to envisage some kind of legal mechanism that would correct the economic and financial provisions of the Convention in accordance with changes in the trends of development of the world economy, prices on the metals market, and so on. This would make possible a balance of interests and would encourage potential miners of marine minerals to carry out active work in this area. The inclusion of such a mechanism would make the Convention a more dynamic instrument for the development of international co-operation.

We express the hope that at the next stage of the consultations there will be adequate representation of Eastern European States.

The Ukrainian SSR is a sponsor of the draft resolution before the Assembly. The new elements in it will assist in the establishment of co-operation in implementing the provisions of the Convention. We are in favour of the draft resolution being adopted by consensus.

Mr. HAJNOCZI (Austria): The Austrian delegation is pleased to have the opportunity once again to make a modest contribution to the debate on the highly important question of the law of the sea. First of all, I wish to express our gratitude to the Office for Ocean Affairs and the Law of the Sea, and in particualr to the Special Representative of the Secretary-General for the Law of the Sea, Under-Secretary-General Satya Nandan.

(Mr. Hajnoczi, Austria)

As usual, the reports now before us are impressive in their thoroughness. For Austria, as a land-locked country, these substantial documents constitute not only a necessary source of comprehensive information but also a highly valuable contribution to the ongoing discussions in general, as well as to the present deliberations.

The 1982 United Nations Convention on the Law of the Sea has over the past eight years already proved its great value. This is illustrated by the fact that a number of its rules may already be considered to have become part of customary international law.

In the framework of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, great efforts have been made to resolve the problems relating to pioneer investors. Austria very much welcomes China's declared intention to register as a pioneer investor. My delegation is also pleased to note the Understanding between the four pioneer investors and the Group of 77, of August this year, concerning the obligations of pioneer investors. Austria is convinced that approval of this Understanding constitutes a great step forward in the Preparatory Commission's negotiations. It might also contribute towards resolving still open questions relating to part XI of the Convention. The resolution of these problems seems to be an essential pre-condition of a universal acceptance of the Convention.

As already stated by this delegation last year, Austria notes with great concern that national legislation does not always conform to the United Nations Convention on the Law of the Sea. This may disturb the delicate equilibrium which has been established by the various provisions of the Convention and which has served as a basis for its widespread acceptance, including acceptance by land-locked and geographically disadvantaged States.

(Mr. Hajnoczi, Austria)

The fact that some States, while benefiting from the achievements of the Convention, do not seem to be sufficiently prepared also to accept the duties deriving from it with regard to both marine pollution and protection of the marine environment is certainly deplorable.

(Mr. Hajnoczi, Austria)

Austria therefore holds the view that, once the Convention has entered into force, there will be a need not only for resort to dispute-settlement mechanisms already provided for therein, but also for the further development of general rules of international law relating to liability. We also believe that further studies should be made on the potentially disadvantageous consequences, for the marine environment, of the exploitation of marine resources.

Our effort must be directed towards ensuring a feasible, universally acceptable system of deep-sea-bed mining which would truly put into practice the principle of the common heritage of mankind by providing benefits for all members of the international community and, in particular, for the least developed and land-locked among the developing countries.

The Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, in having resolved many difficult issues, has established a solid basis for further developments in this direction. The Austrian delegation therefore wishes to thank the Chairman of the Commission, Ambassador José Jesús, for his continued outstanding contributions to the Commission's work.

In conclusion, I wish to assure you, Sir, that Austria is ready to contribute substantially to the full realization of a just and equitable, as well as universally accepted, legal order of the seas.

Mr. WISNUMURTI (Indonesia): At the outset, let me express my delegation's deep appreciation to the Special Representative of the Secretary-General, Under-Secretary-General Satya N. Nandan, for the preparation of the lucid and comprehensive reports before us in documents A/45/503, concerning marine scientific research, and A/45/721, concerning the law of the sea. These reports constitute an invaluable source of information and provide us with a firm basis for our important deliberations at this session.

(Mr. Wisnumurti, Indonesia)

As an archipelagic State, Indonesia attaches great importance to the 1982 Convention on the Law of the Sea. The Convention constitutes a milestone in the human endeavour to create a new order of the ocean which would take into account different interests in the use of the sea, whether strategic, political or economic. Enshrined in its preamble was a recognition of the need to establish a legal order for the oceans and seas to facilitate international communications, promote peaceful uses of the oceans and seas, ensure equitable utilization and conservation of its resources and protection and preservation of the marine environment. The Convention stands out as one of the major accomplishments of the efforts of the international community towards the codification and progressive development of international law. It provides a comprehensive global framework of ocean management by updating existing laws and formulating new and innovative concepts governing the rights and duties of States relating to different uses of the sea.

Pursuant to General Assembly resolution 44/26 of 20 November 1989, the Secretary-General prepared a report based on a study on marine scientific research. It clearly reflects the widespread concerns of the global community, especially in the light of the many marine activities that may adversely affect the Earth's environment. In view of the increase in the demand for marine-related products, we consider it essential that urgent attention be paid to the future utilization of marine resources and its impact on the environment. In this regard, my delegation welcomes those recommendations in the report that stress the need to ensure concerted action by States and international co-ordination among organizations concerned in environmental issues, including the conservation of all living and non-living resources.

(Mr. Wisnumurti, Indonesia)

The increased realization of the potential of the oceans for economic benefit encourages both developing and developed countries to focus and strengthen their national research and survey capabilities. Developed countries can assist in technical training and advice on the infrastructure and co-operative research programmes. If benefits are to be derived from the oceans, it is important that they be carried out within the global legal framework set forth in the 1982 Convention on the Law of the Sea. In this connection, urgent priority must be given to its implementation to provide a uniform basis for national, regional and global agreements concerning scientific investigations of ocean resources.

In order to ensure universal adherence to the 1982 Convention on the Law of the Sea, we just join in a common endeavour to search for flexible and pragmatic solutions to those difficulties that impede universal acceptance of this landmark instrument, while, at the same time, we continue to respect, preserve and protect the integrity of the Convention. Draft resolution A/49/L.29 now before us represents a positive step forward. We hope that the improved political climate will be conducive to a reassessment of divisive issues and thereby forge closer bonds of mutual understanding between developed and developing countries to provide an orderly management of ocean resources. Towards this end, we welcome the Secretary-General's proposal for the holding of informal talks with a view to achieving the participation of all States.

Instrumental in the preparation for the implementation of the 1982 Convention on the Law of the Sea is the valuable work done by the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea and the progress made by it. For the past eight years, the Preparatory Commission has worked tirelessly to carry out its mandate by drafting rules and regulations for the proper implementation of the régime established by the Convention. Important progress was made by the Preparatory Commission at its

(Mr. Wisnumurti, Indonesia)

summer meeting last year when the Commission adopted the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their Certifying States as a part of the implementation of resolution II of the Third United Nations Conference on the Law of the Sea. Progress has also been made in regard to other parts of the Preparatory Commission's mandate, including the preparation of draft agreements, rules, regulations and procedures for the International Sea-Bed Authority and the preparation of studies and recommendations to the Authority on the problems that would be encountered by developing land-based producer States from deep sea-bed mineral production.

Allow me in this regard to commend the Chairman of the Preparatory Commission, Ambassador Jesús of Cape Verde, for his contribution to the work of the Commission. Our common goal is that real dialogue, co-operation and interaction between all interested parties will ultimately hasten the effective entry into force of new international legislation for the uses of the sea and its resources.

Equally important is the need for States to introduce the provisions of the Convention into their respective national legislations in order to ensure uniformity and safeguard its character. According to the Secretary-General's report, even before its entry into force the Convention has achieved a remarkable degree of conformity with State practice, particularly in respect of the exercise of sovereignty over the territorial sea and sovereign rights in the 200-nautical-mile exclusive economic zone. Efforts to harmonize national laws in Indonesia were well under way even before our Government ratified the Convention on 31 December 1985. We have successfully concluded maritime boundary agreements with our neighbouring countries. Aside from establishing new laws, there has been a steady revision of existing laws and regulations to bring them into conformity with the new international law.

(Mr. Wisnumurti, Indonesia)

We note the many activities pursued by the Office for Ocean Affairs and the Law of the Sea, as mentioned in the Secretary-General's report on the law of the sea. Its programmes of advice and assistance to Governments and intergovernmental organizations in connection with the overall development of national legislation of Member States in the marine field within the framework of the Convention are to be commended. Furthermore, its provision to individual member countries of assistance by way of a detailed analysis of the implications of ratifying the Convention, taking into account their domestic laws, is particularly important to this process.

In this context, we welcome the substantial contribution made by the Office in preparing documentation and undertaking studies for meetings of governmental, non-governmental and intergovernmental bodies, even those outside the United Nations, such as the Information Workshop of the Indian Ocean Marine Affairs Co-operation (IOMAC) and the fourth Meeting of IOMAC Legal Experts, held recently in Jakarta. These workshops, seminars and training and fellowship programmes and publications provide us with a wealth of useful information to promote co-operation in areas of common interest and to help us adopt a uniform approach. The Office has also continued to lend advice in clarifying the various rights and duties of nations as they relate to the Convention.

Finally, I should like to mention that Indonesia takes great pleasure in co-sponsoring the draft resolution contained in document A/45/L.29 on the law of the sea. This draft resolution, which is the result of our concerted efforts and intensive negotiations, reflects the continued commitment of Member States to the ideals and principles embodied in the 1982 Convention on the Law of the Sea, now ratified by 45 nations. It is now more imperative than ever before that we urge Member States that have not done so to ratify the Convention and allow it to enter into force, so that the goal the drafters had in mind can be attained - that is, a comprehensive legal régime strengthening the rule of law on the seas and oceans.

Mr. PENNANEACH (Togo) (interpretation from French): The adoption of the United Nations Convention on the Law of the Sea was a response to the need perceived by the international community to put an end to the growing disorder in the exploitation of the oceans. That exploitation has been made possible by, in particular, the development of transport and communications technology, and necessary by the ever-greater need to use marine resources to meet humanity's needs.

By signing and ratifying the Convention very early on, my country expressed its conviction that this text, prepared during 15 years of intensive negotiations by the international community as a whole, under the auspices of the United Nations, is a global legal instrument that takes into account the diverse interests of all States in the use and exploitation of ocean resources. The interest shown by States in the Convention, even before its entry into force, confirms that conviction.

To date, in fact, the United Nations Convention on the Law of the Sea has received 159 signatures, and 44 instruments of ratification have been deposited out of the 60 necessary for its entry into force; 126 States have already adopted national legislation on territorial waters in accordance with its provisions; and 79 States have established a 200-mile economic zone and another 16 claim a 200-mile fishing zone.

In my delegation's view, because of its positive influence on State practice the Convention is already an essential factor in the maintenance of legal order on the seas and oceans. But it goes without saying that the Convention can meet the real aspiration that inspired it - to establish an equitable and fair legal basis for the use of the oceans by all the members of the international community for the benefit of mankind - only if it becomes a mandatory and universally binding instrument in its entirety.

(Mr. Pennaneach, Togo)

The Atlantic Ocean is one of the seas that nourishes my country. It will thus be understood why we fervently hope that the United Nations Convention on the Law of the Sea will enter into force in the not-too-distant future for all the States of the international community. As drafted, it truly takes into account the interests of States in their diverse geographical situations, economic and social structures and levels of development.

In that respect, the very useful contributions of the Office for Ocean Affairs and the Law of the Sea of the United Nations Secretariat and of the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea deserve special mention.

In his annual reports on the law of the sea, the Secretary-General of the United Nations gives us wise and increasingly precise indications as to how the Convention should be implemented in its entirety. Having read with great interest all this year's reports, issued as documents A/45/563, A/45/712 and A/45/721, my delegation has noted that the Office for Ocean Affairs has pursued its activities and even extended them to all spheres of ocean affairs.

The Togolese authorities, which are in the process of bringing our national legislation and regulations into line with the provisions of the Convention, are particularly interested in the publications dealing with State practice and in the periodical bulletins, as well as in the meetings organized for the Experts from the States of the Zone of Peace and Co-operation of the South Atlantic. I should like once again, on behalf of my Government, to express my deepest gratitude to the Office for Ocean Affairs and the Law of the Sea, and especially to the Special Representative of the Secretary-General for the law of the sea, for preparing these reports and meetings.

(Mr. Pennaneach, Togo)

Some delegations claim that in the general context of the law of sea the extraction of minerals from the sea-bed sub-soil is of somewhat minor importance. They even consider as illusory the ideas put forward during the negotiations on the Convention to the effect that sea-bed mining could begin soon and could be commercially profitable. These delegations further recall that, if a considerable number of States are not signatories to the Convention, it is because some of the provisions in part XI of the Convention were drafted 10 years ago and, as a result, are inappropriate to current global economic conditions and therefore obstruct economically appropriate exploitation of the mineral resources of the sea-bed. Clearly it is not the intention of my delegation to reject these positions, whose purpose is not to call into question the established principle that the resources of the zone are the common heritage of mankind but, rather, to highlight the real problems that lie in the way of exploitation of the zone and of universal participation in the Convention.

But can it be argued that these are insoluble problems that would doom this Convention to the status of a beautiful but unfinished endeavour? Should we run the risk of allowing in the oceans once again the disorder that characterized the law of the sea and led to the convening of the Third United Nations Conference on the Law of the Sea and the drafting of this Convention in the form of a "package" text composed of compromises accepted by consensus?

On the contrary, my delegation reaffirms that the Convention, as drafted, constitutes a useful, complete and irreplaceable instrument to deal with all problems related to the sea. This is demonstrated by the fact that over the first eight years of its existence the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea has amply proved that it is possible to interpret the Convention intelligently and to

(Mr. Pennaneach, Togo)

alleviate its shortcomings. To its credit, the Preparatory Commission has fulfilled both of its formal mandates -- on the one hand, by implementing resolution II on preparatory investments; on the other hand, by preparing draft rules, regulations and studies that are necessary for the establishment and functioning of the Authority and its Enterprise and, thereby, achieving concrete results. All this demonstrates that it is able to work in a spirit of pragmatism, taking into account the political, legal and economic interests of its members.

It must be acknowledged that it has already resolved most of the difficult problems that have arisen and has thus laid a solid foundation for a legal régime for exploitation of the sea-bed.

It is true that, in many respects, certain interests and facts concerning sea-bed mining seem to be beyond the Commission's capacity for interpretation. However, this does not in any way detract from the Commission as the privileged framework for dialogue on existing problems. In support of this assertion, we need only recall that delegations, when they signed the Convention, made statements in the framework of article 310. By these statements, delegations gave the Preparatory Commission a mandate to interpret, and even to modify, existing provisions in order that it might be possible to arrive at an agreement on the modalities for the implementation of a régime acceptable to all.*

My delegation has not forgotten that we are working here in the framework of active co-operation. This means that we must appeal to all to show good will for dialogue aimed at finding ways and means of securing universal acceptance of this Convention, which concerns an area so important to our shared future.

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* Mr. Silovic (Yugoslavia), Vice-President, took the Chair.

(Mr. Pennaneach, Togo)

In this regard, it is disturbing to note that some members of our community stick to their position that the sea-bed régime contains lacunae so great that it is beyond the competence of the Preparatory Commission to reform it.

Need we recall that the primary objective continues to be the achievement of universality for the Convention by resolving outstanding problems through dialogue? This fact was recalled by the Chairman of the Group of 77 in August 1989 at the closure of the summer session of the Preparatory Commission.

This is why my delegation does not reject the possibility of resorting to a complementary procedure with a view to resolving the difficult outstanding questions. It is also why Togo is one of the sponsors of draft resolution A/45/L.29, which,

> "Noting with appreciation the initiative of the Secretary-General to promote dialogue aimed at achieving universal participation in the Convention, ...
>
> "Calls upon the Secretary-General to continue to assist States in the implementation of the Convention and in the development of a consistent and uniform approach to the legal régime thereunder".

Since the noble objectives of the Convention are to find a just and equitable legal basis for exploitation of the oceans for the benefit of mankind, the analysis of problems related to the law of the sea cannot be confined to economic terms. This analysis would gain from focusing on all aspects of human activity related to the sea. In our opinion, the problems can be solved in the current favourable international context, in which there is an increasing tendency towards solidarity that transcends mere economic interests and presupposes respect for the human person, fundamental rights, freedom and dignity. It is respect for these imperatives of ethics and justice - imperatives of our times - that can help us to secure universal implementation of the Convention on the Law of the Sea.

(Mr. Pennaneach, Togo)

My delegation, which has spoken for the first time on this item, cannot conclude without congratulating Ambassador José Luis Jésus, Chairman of the Preparatory Commission, on the diplomatic and technical skill with which he is directing the work of the Commission. Without his know-how, we should undoubtedly have fallen short of the results that we now have before us.

Mr. BYKOV (Union of Soviet Socialist Republics) (interpretation from Russian): The item on the law of the sea has been on the agenda of the United Nations for many years. That fact reflects the enormous continuing importance that the community of States attaches to questions relating to the legal régime governing activities in the seas and oceans and, at the same time, clearly proves that the formulation of a truly global, universally recognized international legal régime for the world's oceans is a very complex process. Nowadays, when mankind is becoming increasingly aware of the links between the many different phenomena typical of life on Earth, it is realizing that today, more than ever before, a legal régime is needed to govern the various types of economic, scientific and other activities and that, therefore, global, comprehensive international agreements must be concluded. The United Nations Convention on the Law of the Sea, concluded in 1982, will become one of those agreements.

The importance of the Convention on the Law of the Sea has been referred to many times from this rostrum by, among others, the delegation of the Soviet Union, which has been a consistent advocate of this major international treaty. Clearly, there is no need to repeat the points made, but there is one aspect to which I wish to draw attention.

As is known, the 1982 Convention has yet to enter into force, and there are still certain well-known problems connected with transforming it into a universal, international legal instrument. Nevertheless, as practice has shown - and this is clearly borne out in the report of the Secretary-General submitted to this session for members' consideration - the Convention has already become an integral part of the life of the international community, even though it is not a truly operative agreement. Moreover, to a significant extent, it defines not only the nature of the legislation of coastal States on marine issues, but also the thrust of treaties that have recently been formulated and the practice concerning the implementation

(Mr. Bykov, USSR)

of existing multilateral treaties relating to the regulation in law of activity on the seas and oceans.

However, the delay in the entry into force of the 1982 Convention has regrettably led to increasing attempts to depart from its provisions, to act out of narrow national interests and to disregard the interests of the international community. This negative tendency has also been described in the Secretary-General's report. The first signs of these attempts have created unnecessary tension in inter-State relations. Our delegation, which has always advocated strict, unswerving compliance by all States with the provisions of the Convention on the Law of the Sea, takes this opportunity to appeal to all States not to adopt national legislation at variance with the provisions of the 1982 Convention. In this connection, we deem it important substantially to enhance the role of the United Nations Office for Ocean Affairs and the Law of the Sea in the Secretariat, by asking it to monitor countries' compliance with and uniform application of the provisions of the Convention.

The points I have just made confirm the importance of the entry into force of the 1982 Convention with universal participation by all States. In this connection, the Soviet delegation welcomes the Secretary-General's initiative in convening informal consultations with a view to eliminating the disagreement that still obtains on part XI of the Convention, relating to the régime for using the resources of the international sea-bed area. Our delegation is satisfied with the results of the first stage of these consultations, and is prepared to give the Secretary-General and his representatives all possible assistance in order that these consultations may be brought to a successful conclusion.

We are firmly convinced that, given good will by all interested parties, mutually acceptable decisions can be found; indeed, they must be found, since the

(Mr. Bykov, USSR)

establishment of a universal legal régime for the seas and oceans is in the interest of all States and of mankind as a whole. We appeal to all sides to make a contribution to the constructive development of the dialogue that has begun, and to find mutually acceptable practical solutions under part XI of the Convention.

The Union of Soviet Socialist Republics is in favour of strict compliance with the Convention and has consistently been guided by its provisions in resolving questions that arise in its bilateral relations. During the meeting between the President of the Union of Soviet Socialist Republics, Mr. Gorbachev, and the President of the United States of America, Mr. Bush, in June this year, two agreements on marine affairs were concluded. One of them has to do with the delimitation of the marine spaces between the two countries and is a result of talks that began in 1981.

The other Soviet-United States agreement relates to co-operation in ocean research. The parties will make joint efforts to study important and mutually agreed problems of scientific research. They are determined to carry out joint work in such fields as physical, chemical and biological oceanography; geological, geophysical and geochemical research; biological productivity and the functioning of biological communities in the world's oceans; and marine meteorology.

The question of marine scientific research is inseparable from a topic which quite rightly is being dealt with in a major way in the work of the United Nations. I am referring to problems related to the legal régime that will govern international protection of the environment, particularly the marine environment. The 1982 Convention on the Law of the Sea contains certain provisions in this regard.

(Mr. Bykov, USSR)

We feel that the further development of legal norms for protection of the marine environment should be based on and should take into account these provisions. It must be recognized that the Convention contains only general principles in this area. Further detailed clarification will be necessary and this will require a meticulous all-round approach based on thorough research and the acquisition of the necessary information. In the absence of this information, hasty drafting of specific norms relating to the problem of the marine environment and linked to specific types of activity conducted therein could have unfortunate consequences. This relates primarily to activities connected with the mining of iron and manganese nodules in the deep sea-bed. At the present time, since we do not have the information that would enable us to determine with a significant degree of reliability the conditions in which activities could be conducted without harmful effects on the marine environment, the importance of comprehensive research that would guarantee the availability of the necessary information is clear. It is also clear that if research on such a large scale is to be effective it will be necessary to take advantage of the latest achievements of science and technology, which will doubtless involve considerable material cost. In these conditions, the Soviet delegation favours broad-based development of practical co-operation among States in studying deep-water regions of the oceans and the sea-bed.

The preparation of an international ecological research programme would make it possible to avoid duplication and would enable us to make the best use, for the common good, of the scientific and technical potential that several countries already have. We feel that discussion of these problems is of great importance also in preparing for that important forum, the Conference on Environment and Development, which is to be held in 1992.

It is the responsibility of the Preparatory Commission for the International

(Mr. Bykov, USSR)

Sea-Bed Authority and for the International Tribunal for the Law of the Sea to take the necessary steps to ensure compliance with the provisions of a number of important chapters of the Convention on the Law of the Sea. In the eight years of its existence the Commission has done some signficant work. In a number of areas its work has entered its final phase, while in other areas, such as those relating to the legal régime, for example, and the deep-sea-bed mining code, a good deal more time will be needed to find generally acceptable solutions.

The past year has been marked by a number of new and important events, prominent among which was the approval of the document defining a procedure for compliance by registered pioneer investors and their certifying States with their obligations. Indeed, the Commission has defined a clear programme for activities in the near future in specific sites in deep-water regions of the sea bed. On this question, as in a number of earlier questions, the Commission has demonstrated its ability to resolve complex and politically delicate issues. We welcome the success of the work of the Commission in this respect, and in particular the valuable contribution to the attainment of this agreement made by the Chairman of the Commission, Mr. Jesús, and the Under-Secretary-General Mr. Nandan. In this connection we hope that the Commission will now be able to concentrate on other questions relating to the development of sea-bed resources.

As members know, following the applications of India, the USSR, France and Japan, which were registered in 1987, the Commission will be considering the application made by China this year. We hope that the Group of Experts, which started its work this week in New York, will make a positive recommendation in this connection.

As at previous sessions of the General Assembly, at this session too the Soviet delegation has played an active part in the consultations on the wording of

(Mr. Bykov, USSR)

the draft resolution on the law of the sea. Given the need to secure universal accession by States to the Convention on the Law of the Sea, we feel that this draft resolution too should be generally acceptable, it should be a consensus text. Therefore, sensible compromises are inevitable so that the draft resolution that we shall be adopting is in the interest of all States, of the entire international community.

Mr. MAYORGA CORTES (Nicaragua) (interpretation from Spanish): Following a decade of inactivity, it is now up to the new Government of Nicaragua to incorporate the country into the process of renewal that the law of the sea constitutes. With the achievement of internal peace, the period of our understandable non-involvement has come to an end. As a democratic nation whose history is closely related to the sea, we are once again making active use of the opportunities given to us by the new law of the sea in order to meet our responsibilities steadily and effectively.

The political upheaval that afflicted our homeland the last 15 years caused considerable institutional setbacks. Statistics relating to our seas are either non-existent or extremely fragmentary. We are now making special efforts to reconstruct these data, and for this purpose we request the support of those members of the international community which in recent years have accumulated knowledge of the physical structure and resources of our ocean spaces.

We have had the opportunity to study the four reports (A/45/721, A/45/712, A/45/563 and A/45/663) on the law of the sea and some of its specific issues submitted at this session by the Secretary-General. They show the broad range of activities of a commercial and scientific nature to which the seas of our world are being increasingly subjected. The reports outline the risks that this human activity poses for our seas and illustrate the urgent need to take prudent measures

(Mr. Mayorga Cortes, Nicaragua)

to prevent the pollution that has affected our rivers and lakes from affecting our marine spaces as well.

It is hoped that the second part of the study in document A/45/712, which is promised for the next regular session, will be particularly specific and concrete. In our view, the Secretariat should make an effort to have it published and distributed early in 1991 and to see that it contains the views of technical bodies of the Secretariat and other independent organizations on existing institutional experience and the degree to which it can be used in the significant efforts that the countries of the developing world will have to make to adjust their national systems to the demands of the modern law of the sea.

(Mr. Mayorga Cortes, Nicaragua)

I want to emphasize the firmness with which the international community has promoted the entry into force of the 1982 United Nations Convention on the Law of the Sea and the Secretariat's intensive diplomatic work in that respect. According to the Secretary-General's report, 44 of the 60 instruments of ratification needed for the Convention to enter into force have already been deposited. Ten of those 44 instruments of ratification are from Latin America and the Caribbean. We are pleased that the programme for the next budgetary period includes financial provisions to deal with the growth and greater specialization that will be required of the Secretariat because of the Convention's entry into force.

The Government of Nicaragua supports the Secretary-General's initiative of promoting informal consultations aimed at achieving universal participation in the Convention, and we are pleased that account is being taken of the new international situation to focus more objectively on the problems posed by some aspects of the Convention that have not facilitated universal participation. The Government of Nicaragua is convinced that adaptations must indeed be made, but that we must take care not to broaden existing differences between developed and developing countries. Universality must not be achieved at the price of a new kind of injustice.

The Government of Nicaragua states its interest in beginning the process of ratifying the Convention on the Law of the Sea. However important that step is, we know it is only the first in a series of actions to develop our institutions dealing with the exploitation and exploration of our marine resources. International co-operation is required for those actions to be implemented fully and in a timely manner.

(Mr. Mayorga Cortes, Nicaragua)

We States of Central America have large and rich seas. To make proper use of them we must not lose sight of the Central American nature of our maritime spaces. In our view, that is a basic premise if our countries are to take advantage of the potential for utilization afforded them by the new law of the sea.

The size and geographical specifics of our seas make them particularly appropriate for international co-operation. The gulfs of Honduras and Fonseca, the San Juan and Coco river basins and the shared continental shelves all constitute opportunities that nature has given our States to share these geographical areas and their resources and to accept the challenge of co-operative development of those resources by converting potential disputes into perfect occasions for promoting and strengthening international co-operation for development.

The Government of Nicaragua welcomes and firmly and resolutely supports the work of the Secretary-General and his Office for Ocean Affairs and the Law of the Sea in preparing studies and advising intergovernmental, governmental and non-governmental meetings. It is my Government's view that this work should be broadened and strengthened. The Secretary-General and the Office must be given the necessary financial and technical resources for that purpose.

In that context, we would suggest that a technical meeting be held in Central America to study and prepare guidelines for the protection, improvement and sustained utilization of the Central American seas. The region is especially vulnerable to pollution because of the virtually closed nature of these seas, the prevailing winds and currents and the growing industrial activity in, and the traditional uses of, the western Caribbean. The geographical location of Nicaragua's coasts and the living resources of that region's continental shelf demand that our country give high priority to the environmental aspect of the new law of the sea.

(Mr. Mayorga Cortes, Nicaragua)

Similarly, the imminent beginning of large-scale ocean mining in the Pacific Ocean region could pose environmental risks to the economic zones and coastal regions of our country and other countries of Central America. The coastal States must anticipate those risks and prepare the institutional personnel and resources necessary for the adoption of the relevant corrective measures.

The technical meeting we are suggesting should be held immediately after the United Nations Conference on Environment and Development, scheduled for 1992, and could be attended by representatives of the Governments of coastal States and other, invited, States. It should also have assistance and support from international organizations with technical and financial capacities and from other public and private entities interested in the subject.

The meeting should have two basic starting-points: first, that sustainable development of resources is the most effective way of using those resources without destroying the source of development; secondly, that the use of technologies like aquaculture and other new technologies such as genetic engineering could help reduce the pressure to make use of the marine environment - an environment characterized by slow natural evolution - exerted by population growth and by the economic expectations of businesses.

To take full advantage of the meeting we are suggesting, account should be taken of the efforts of the Central American States, the Group of Three, the European Community and other interested Governments to promote in the Central American region democratic institutions able to generate effective economic and social development. Those efforts should be channeled towards new frontiers of economic and political activity that can create for our countries a promising beginning for the next century. Moreover, the appropriateness of that meeting and the possibility of convening it are related to the abundance of our marine resources and to the fact that all the countries that might be involved have

(Mr. Mayorga Cortes, Nicaragua)

appreciable potential in the areas of finance, technology and resources and are capable of exemplary international co-operation to meet our aspirations concerning the use of these resources.

If the normal process of consultations on this idea yields positive results, the Nicaraguan Government will express its wish to serve as host of the technical meeting. We have the proper facilities for this kind of meeting, and we believe that with international assitance, especially from the United Nations and its specialized offices and agencies, we shall be able to provide participants with the facilities they need for a successful meeting.

We have taken note of the objective information in the report of the Secretary-General concerning Nicaragua's application to intervene in the border dispute between El Salvador and Honduras, which is being heard by a chamber of the International Court of Justice. The fact that the chamber has allowed Nicaragua to intervene proves that Nicaragua's interests within and beyond the Gulf of Fonseca are affected by the claims of our fraternal countries. It is not our intention today to advance arguments or opinions that are irrelevant to the agenda item before the Assembly. What the Government of Nicaragua wants to stress is that the Gulf of Fonseca is the core of a geographical zone belonging, without any dispute by third parties, to the three coastal States, each of which possesses its own geographical area of jurisdiction. Human activity throughout the area has polluted the environment, which poses a growing threat to the resources of the basin. In our view, the three coastal States have a shared interest in restoring the balance of nature and promoting the sustained development of the Gulf's resources. Using the Gulf as an opportunity for co-operation on joint projects does not contradict the practical need to define the areas of jurisdiction of each of the coastal States.

(Mr. Mayorga Cortes, Nicaragua)

This is the spirit that inspires Nicaragua. We wish to reach regional agreements of mutual benefit. We believe that all the seas of the Central American region, both of the Caribbean and the Pacific, should be used for the benefit of the Central American peoples. Ratifying the 1982 Convention would give us a common legal framework, which would be just the beginning of a painstaking endeavour, the start on which has been long delayed.

The reports of the Secretary-General rightly point out that the Convention gives us rights and opportunities to make use of the resources of new, internationally guaranteed, national areas. We must create the institutions to use them effectively for the benefit of our peoples. In view of our geography, it is likely that our common benefits and the joint carrying out of these responsibilities will make it possible for us to accomplish this at less cost and with greater efficiency. In other words, an integrated approach to the Central American seas, their conservation, protection and utilization, is the most reasonable approach for the Central American States.

All of these statements are in keeping with the spirit and letter of the 1982 Convention. Furthermore, the Convention provides a series of norms for a positive international approach to development. As is rightly reflected in the Secretary-General's reports, if we are to seize the opportunities given us by the Convention, and to be able to shoulder the responsibilities it imposes on us, we must substantially reform our educational and technical training systems, in addition to starting an unprecedented development of institutions. This justifies our intention to ratify the Convention, our desire to participate actively in the work of the Preparatory Commission, of which we are a member, and our conviction that ratification will make possible important advances of various kinds in the Central American region.

(Mr. Mayorga Cortes, Nicaragua)

For all those reasons, the Government of Nicaragua hopes that draft resolution A/45/L.29 will receive the unanimous support of the General Assembly.

Mr. PERERA (Sri Lanka): Sri Lanka, as a developing country, takes satisfaction in noting that the Convention on the Law of the Sea has now been ratified by 44 States and that the ratification process is moving. We are also pleased to note that the Secretary-General has taken an initiative to establish a dialogue to bring about universal acceptance of the Convention. He has appropriately taken into account the fact that, while ratifications of the Convention keep coming in, some industrialized countries have difficulties with the Convention, in particular, with part XI. The Secretary-General's initiative is timely, and we would urge that those who have had problems with the Convention - here I refer to part XI - review their own situation and make known their concerns. As far as the Group of 77 is concerned, as long ago as 1989 it expressed its readiness to enter into a dialogue.

As a developing coastal State, we would draw attention to the fact that for several years we have brought to the attention of the General Assembly and other international forums the importance we attach to securing the benefits of the new ocean régime and to achieving its potential for complementing national development goals. For our part, the developing countries of the region have taken an initiative to establish co-operation for resource development and rational utilization of the oceans.

We welcome the report (A/45/712) of the Secretary-General on the needs of States in regard to the development and management of ocean resources. We are pleased to note the wide-ranging inputs from Governments and other sources that have been used as a basis for this report. It contains a wealth of information, and it reflects a broad spectrum of concerns of developing States. The concerns of

(Mr. Perera, Sri Lanka)

my Government are also substantially incorporated in it. We believe that it is vital that the follow-up to this report be thorough and detailed, and that it fully address the international response that is needed to secure the objectives of the Convention and to give practical satisfaction to the aspirations of developing countries.

I have great pleasure in drawing the attention of the international community and of Member States to the fact that the Second Ministerial Conference on Indian Ocean Marine Affairs Co-operation (IOMAC) adopted on 7 September, in Arusha, United Republic of Tanzania, an agreement on the co-operation framework for economic, scientific and technical co-operation between the States of the Indian Ocean, African and Asian States, in the context of the new legal régime. The initiative taken by Sri Lanka in 1981 has grown over the years and has become an effective mechanism for co-operation, for sharing views, for establishing co-operative ventures and for harmonizing practices. This co-operation is not only between States of these regions, but is also with other industrialized States that are active in the region. The draft resolution (A/45/L.29) before us refers to these co-operative efforts, as does the report of the Secretary-General (A/45/721) in paragraphs 16-19.

The Secretary-General's report outlines IOMAC's achievements. Such an achievement, involving the participation of over 35 countries from two continents is pioneering, and is recognition of the importance of co-operation in the context of an ocean basin. Many of the States bordering the Indian Ocean are among the least developed countries, and look to the harvesting of the Oceans' potential as an unexplored and untapped reserve which can and must be fully exploited for the benefit of their masses.

(Mr. Perera, Sri Lanka)

The United Nations and its agencies have an important role to play in supporting such regional co-operation. The funding agencies, such as the World Bank and the United Nations Development Programme should address the needs in this connection. We would draw attention to the draft resolution, which in its preambular paragraphs records the needs and aspirations of developing countries and recognizes their achievements. The operative paragraphs call on the international community, particularly the funding agencies and developed States, to assist further in this process.

We are grateful to the Special Representative of the Secretary-General and the Office for Ocean Affairs and the Law of the Sea for the assistance provided to developing countries. The Office has published a series of important analytical studies and reviews of State practice. It provides us with timely information bulletins, and the technical publications, which are handbooks for the application of specialized provisions of the Convention, are most useful. The Office has contributed significantly in assisting international and regional efforts to further the implementation of the ocean régime, and we would hope that it will continue in this direction, with special emphasis on the needs of developing countries in the rational management of their ocean areas.

(Mr. Perera, Sri Lanka)

We call upon the Office for Ocean Affairs and the Law of the Sea and the Special Representative to co-operate and co-ordinate with the agencies of the United Nations system

"to intensify financial, technological, organizational and managerial assistance to the developing countries in their efforts to realize the benefits of the comprehensive legal régime established by the Convention and to strengthen co-operation among themselves and with donor States in the provision of such assistance". (A/45/L.29, para. 14)

My own country has been a sponsor of the draft resolutions on the law of the sea ever since the item first came before the General Assembly, and we are pleased to be a sponsor of the current draft resolution.

Mr. TREVES (Italy): I have the honour to speak on behalf of the European Community and its 12 member States. Continuing the practice inaugurated at the forty-fourth session of the General Assembly of making a common statement on the law of the sea, the European Community and its 12 member States would like to underline the importance they attribute to the law of the sea and to the creation of conditions for ensuring that the numerous and ever-expanding uses of the seas are regulated by a universally acceptable international instrument.

As Mr. Gianni De Michelis, Minister for Foreign Affairs of Italy, stated in a written text distributed with the text of his statement in the general debate on 25 September on behalf of the Community and its 12 member States, we are convinced of the "great importance" of the 1982 United Nations Convention on the Law of the Sea "for the upholding of a juridical order on the seas and oceans" and "it is essential that the Convention should receive universal support".

(Mr. Treves, Italy)

We remain equally convinced that, as he also remarked,

"it is necessary to resolve the problems posed by the Convention in the domain of mining the deep-sea-bed, as those problems are an obstacle to the ratification of the Convention by several States".

Last year, in its capacity as the State holding the presidency of the European Community, France stated the following:

"In order to achieve universal acceptance of the Convention and compensate for its shortcomings with regard to the régime governing the sea-bed, which should be exploited for the benefit of mankind, the régime dealt with in part XI of the Convention, the members of the European Community consider it essential that a new dialogue begin." (A/44/PV.62, p. 31)

This year we note with satisfaction that important steps have been taken towards dialogue, which is rightly praised in this year's draft resolution.

Many countries have become fully convinced of the importance of the Convention for keeping peace and order on the seas and of the need to overcome the obstacles which lie in the way of the universal acceptability of the part dealing with deep-sea-bed mining. Moreover, this year it has become widely acknowledged that the reasons why this part of the Convention makes it difficult for a considerable number of States to accede to the Convention are not simply political in nature. They do not depend only on different conceptions as regards co-operation in the exploitation of resources beyond the limits of national jurisdiction. It is now clear that they depend too on the fact that many circumstances have changed since the 1970s and the beginning of the 1980s, when part XI of the law of the sea Convention was conceived, negotiated and adopted.

These changed circumstances were underlined by the Secretary-General, Mr. Javier Perez de Cuellar, on 19 July, when he convened a group of delegations for informal consultations on the universalization of the Convention. The Twelve

(Mr. Treves, Italy)

wish to say immediately that they consider this initiative by the Secretary-General to be the most important and promising event of 1990 as far as the law of the sea is concerned. The Twelve see in it the beginning of, or at least the necessary opening steps, for the dialogue without pre-conditions which should permit removal of the obstacles to universal acceptance of the Convention on the Law of the Sea. They are convinced that the informal consultations have started in the right way. This is true not only because of the co-operative spirit prevailing at the meetings but also, and especially, because no dissent emerged as to the need for what the Secretary-General called "a concerted effort to ensure the future of the Convention" and because no dissent was registered or as regards his description of the changes that have taken place since the Convention was opened for signature.

As the Secretary-General emphasized, some of these changes affect the sea-bed mining part of the Convention, while others concern international relations in general. The changes are the following: first, the prospects for commercial deep-sea-bed mining have receded into the next century; secondly, the approach for resolving outstanding problems of regional or global concern has evolved from tension and confrontation towards co-operation; thirdly, there has been a change in the approach to national and international economic issues; and fourthly, the work of the Preparatory Commission has brought a more detailed understanding of the practical aspects of deep-sea-bed mining.

The road from the very auspicious beginning to a felicitous conclusion of the dialogue is still long and fraught with obstacles. While all States seem to agree on the necessity of changes, they seem to have different ideas as to how deep these changes should be, as to the ways and means for introducing them, and as to their timing.

(Mr. Treves, Italy)

The Twelve are convinced that, by continuing and deepening the process just started, a better understanding between delegations will permit a narrowing of the differences. They are ready fully to support all efforts to achieve this aim.

It is obviously too soon to give precise indications on substance. The Twelve would like to say, however, that the changes in circumstances identified by the Secretary-General appear to be the most suitable starting-point for discussion. We are confident that the Preparatory Commission will bear in mind these new circumstances when working or the mining code and other regulations, and that in general the Preparatory Commission will take into account the progress of the dialogue.

A new approach is needed in order to create the conditions for universal acceptance of the Convention. Such universal acceptance would be the best way to strengthen the Convention, to ensure its consistent and uniform application and to prevent the law of the sea from reverting to the very uncertainty and instability that the Convention was designed to remove.

While expressing our appreciation of the Secretary-General's initiative, we should also like to express our satisfaction as regards some positive developments that occurred in 1990 in the framework of the Preparatory Commission.

First, an Understanding has been reached on the fulfilment of the obligations of the registered pioneer investors. The Twelve wish to pay a tribute to the Chairman of the Preparatory Commission, Ambassador Jose Luis Jesus of Cape Verde, for the patience and skill he deployed in guiding the long and difficult negotiations which led to the Understanding. The Understanding shows that a realistic approach to sea-bed-mining issues is possible. Obligations incompatible with present-day industrial prospects have been waved or modified, while the interests of all the groups concerned have been protected. The Twelve were

(Mr. Treves, Italy)

particularly pleased to observe that the Understanding, in its paragraph 1[3], envisages the possibility of recommending to the International Sea-Bed Authority that it waive "for a relevant period" the payment of the fixed fee payable under annex III, article 13, of the Convention, should the prospects for deep-sea-bed mining, in the opinion of a group of experts, not be favourable at the time the sixtieth instrument of ratification is deposited. This paragraph of the Understanding confirms that the Preparatory Commission is willing to take a realistic look at the future.

(Mr. Treves, Italy)

Secondly, in 1990 the Preparatory Commission discussed, in Special Commission 3, the environmental aspects of sea-bed mining. The importance given nowadays to this aspect is a new element in the discussion on deep-sea-bed mining and will undoubtedly influence future developments. The Twelve have participated actively in the discussion. Their common aim is that of ensuring "compatibility of economic and environmental aspects in a workable legal and administrative framework", as the Italian presidency said in intervening on behalf of the Twelve on 20 August 1990.

Lastly as regards the Preparatory Commission, the Twelve are pleased to take note of another clear indication of realism, namely the background paper (LOS/PCN/WP.51) on the administrative arrangements, structure and financial implications of the International Sea-bed Authority, of 10 August 1990, prepared by the Secretariat. While this is obviously not the time or place to discuss this document in detail, the Twelve would like to commend it for starting from realistic and reasonable assumptions on the requisite functions of the Authority, in particular as regards the functions in the early period of the Authority's life, when no deep-sea-bed mining would take place. These assumptions might become a starting-point for discussing the necessity and role of an Authority within the dialogue aiming at obtaining the universality of the Convention.

Of course, the law of the sea is much wider than deep-sea-bed mining. The Twelve remain convinced that the aspects of the law of the sea which concern the traditional uses of the sea, and also those linked to more modern concerns, such as the protection of the marine environment and the development of marine science, are of paramount importance. This emerges clearly if one examines the excellent yearly report on the law of the sea by the Secretary-General, which conveys to the reader the true proportions of the deep-sea-bed mining and other marine activities.

(Mr. Treves, Italy)

To conclude, the European Community and its 12 member States would like to express once again their appreciation of the work done by the Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya Nandan, and by the very competent and enthusiastic staff working under his guidance.

This year the Office for Ocean Affairs and the Law of the Sea deserves warm appreciation for having prepared, apart from the annual report on the law of the sea mentioned above, three other valuable reports: on marine scientific research (A/45/563), on the needs of States in regard to development and management of ocean resources (A/45/712) and on large-scale pelagic driftnet fishing (A/45/663).

Similar appreciation is due for the remaining work of the Office, which ranges from assistance to developing countries, to servicing the Preparatory Commission and the preparation of publications. This year we would like, in particular, to note with satisfaction the beginning of a new publication, the Annual Review of Marine Affairs, and the success, as shown by the high number of well-qualified applicants, of the Hamilton Shirly Amerasinghe Fellowship on the Law of the Sea. This initiative seemed to have all the characteristics of implementation of the United Nations Decade of International Law even before the Decade began.

Speaking now on behalf of Italy, I would like to add a few remarks on subjects not considered in the statement on behalf of the European Community and its member States.

Italy is pleased to see registered in paragraphs 12 and 13 of the report (A/45/721) the positions taken by it and the other members of the European Community on paragraph 11 of article 17 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 1988. This position is relevant as regards the wider problem of the limits to the power of coastal States and of the rights of other States in the exclusive economic zone.

(Mr. Treves, Italy)

Italy is also pleased to see that, in paragraph 61 of the report, note is taken of the section on the environment in the fourth Lomé Convention between 68 African, Caribbean and Pacific States and the European Community and its 12 member States. It must be regretted, however, that the provisions on fisheries of that very important Convention have not been analysed. In particular, it should be recalled that title III of part II, entitled the "Development of fisheries" is based on the principle, stated in the second paragraph of article 58, paragraph 2, that co-operation in the field of fisheries

"shall promote the optimum utilization of the fishery resources of ACP States, while recognizing the rights of landlocked States to participate in the exploitation of sea fisheries and the right of coastal States to exercise jurisdiction over the living marine resources of their exclusive economic zones in conformity with current international law and notably the conclusions of the Third United Nations Conference on the Law of the Sea".

The report notes that:

"The Convention, even before its entry into force, has assured a remarkable degree of conformity in State practice with respect to the extent and exercise of national sovereignty and jurisdiction." (A/45/721, para. 8)

Italy notes with satisfaction that in 1990 Albania, one of its neighbours, has given evidence of the truth of this assessment by rolling back the width of its territorial sea from 15 to 12 miles. A further contribution to the consolidation of the same principle has been made by the European Community in annex LXVI of the Lomé IV Convention when recalling, for the purposes of the Protocol on the extent of territorial waters,

(Mr. Treves, Italy)

"that the relevant acknowledged principles of international law restrict the maximum extent of territorial waters to 12 nautical miles ...".

Apart from these observations on the annual report on the law of the sea, we would like to add a few remarks on the three other reports already mentioned, which the Secretariat has prepared with the usual timeliness and diligence.

The report (A/45/563) on marine scientific research parallels the very important report presented last year on the preservation and protection of the marine environment. It contains a useful summary of the new régime for marine scientific research contained in the Convention on the Law of the Sea, and, more interestingly, an overview of the major progress achieved by marine science and of the principal issues facing it. It emerges from the report that the need for truly multidisciplinary research is paramount in tackling such new and environment-related subjects as the role of oceans in climate change.

The report on the realization of benefits under the Convention on the Law of the Sea, of which part I (A/45/712), on the needs of States in regard to development and management of ocean resources, has been released, is an interesting attempt to assess, on the basis of replies by States to a questionnaire, the informational and other assistance needed, especially by developing countries, in order to formulate marine policies and legislation in such a way as to take full advantage of the possibilities opened by the new international régime of the seas. Italy would like to express its agreement with the points made in paragraph 20, in particular as regards the need to correct the situation current in the attitude of many States as regards the extension of national jurisdiction in coastal sea areas in which it is easy to see a

"tendency to secure and exercise the rights but to relegate the fulfilment of obligations to a place of secondary importance". (A/45/712, para. 20)

(Mr. Treves, Italy)

In conclusion, the report on large-scale pelagic drift-net fishing and its impact on the living marine resources of the world's oceans and seas has been discussed in the Second Committee, where the Commission of the European Community expressed the Community's views. Today we should like only to commend this report as a solid contribution to a very sensitive and important problem of the law of the sea and to say that the Secretariat deserves high praise for it.

Mr. NYAKYI (United Republic of Tanzania): The seas account for over 70 per cent of the earth's mass. The management and use of such a large part of the planet Earth must therefore be a matter of great interest to all its inhabitants. It has a bearing on their peace and security as well as on their aspirations to economic and social development. If the seas could be utilized to enhance co-operation between nations, world peace and security would be significantly improved. As humanity's material needs increase in the face of the Earth's finite resources, increasing attention is being paid to the unexploited resources of the seas and oceans of our planet. The land resources of the planet are largely controlled by, and used for the benefit of, a tiny but powerful minority of humanity. This inequity largely accounts for the gap between the rich North and the poor South. The danger this unhealthy state of affairs poses to world peace and security is too obvious to need elaboration. We must avoid transplanting this inequity to the management and control of the resources of the sea.

But the seas and their resources cannot serve humanity well, at any rate not for long, if humanity does not take care of them. The protection and preservation of the marine environment must therefore form an integral part of humanity's efforts to develop and use marine resources.

(Mr. Nyakyi, United Republic of Tanzania)

The uses of the ocean space are interrelated. So are the problems pertaining to it. That is why the Convention on the Law of the Sea is multifaceted and interdisciplinary in nature, providing for a comprehensive régime that embraces all areas. Every part of the Convention must be seen in relation to the whole. No part of it stands alone. In dealing with it, therefore, States must safeguard its unified character. The Convention will lose its purpose if States are allowed to implement only those provisions they like because they are beneficial to them and ignore those they feel impose unacceptable obligations on them.

In this connection, we in the third world are concerned over the selective implementation of the Law of the Sea Convention by a number of industrialized countries. We note the popularity of the provisions relating to territorial waters and the exclusive economic zone. It should be stated that some of our countries were not particularly happy with some of these provisions. We accepted them simply because they were part of a package that contained other things of particular interest to us. In the case of territorial waters, for example, Tanzania's limit before the Convention was 50 nautical miles. We accepted the limit of 12 nautical miles imposed by the Convention and changed our laws accordingly because we wanted to be with the majority. A number of countries, including non-signatories of the Convention, have taken similar steps to conform with its provisions.

The Convention is the most comprehensive modern attempt to bring all aspects of management of the resources of the sea and the sea-bed under one law in a unified manner. At the time of the Convention's conclusion in 1982 there was great hope that all States, and especially participating States, would become parties to it. Unfortunately, this was not to be. Today, eight years after the conclusion of

(Mr. Nyakyi, United Republic of Tanzania)

the Convention, a few important industrialized countries still feel unable to join with the majority in acceding to or ratifying it. This is a matter of great regret to us.

We regret also that this inability to join with the majority has had an inhibiting influence on a number of other industrialized countries, which have otherwise been ready to join with the majority in bringing the Convention into force. We very much hope that they will soon be able to overcome their difficulties so as to enable the Convention to enter into force. The Tanzania delegation stands ready to make its contribution to the efforts to address their difficulties. In this connection, we welcome the initiative of the Secretary-General in conducting informal consultations in an effort to address these problems in order to attain universality of participation in the Convention on the Law of the Sea.

It is true that since the signing of the Convention prospects for deep-sea mining have not been very good. It is also true that a number of important changes in the world political and economic situation cannot be ignored in the search for a solution to the difficulties that have prevented some countries from participating in the Convention. On the other hand, there is no doubt that immense pressure has been exerted to slow down movement towards accession and ratification in order to force a radical review of part XI. It is therefore arguable that this kind of pressure is as responsible for the lack of progress in deep-sea mining as are the difficulties experienced by a number of countries.

It should also be noted that the lessons of the recent changes in the world political and economic situation, especially in Eastern Europe, are not one-sided. They are as much a rejection of unwarranted State control as they are a powerful expression of the yearning for democracy throughout the world. If democracy is

(Mr. Nyakyi, United Republic of Tanzania)

good at the national level, it must be good at the international level. Part XI of the Convention is no more than an attempt to translate this ideal into practical application in order to give effect to the decision that the sea-bed is the common heritage of mankind.

Eight years of informal contacts and reflection have not made us in the Group of 77 any wiser about what specific changes are expected in part XI of the Convention. Those who say they have difficulties are still talking in generalities. Attempts to put some meat on the skeleton - such as those made at the 19 July consultations convened by the Secretary-General - have left many signatories still unclear about the real intentions of those countries that have problems with this part of the Convention. In these circumstances it is difficult for some members of the Group of 77 to avoid the conclusion that what is contemplated is perhaps a complete overhaul of part XI. Talk of "outstanding issues" at this late hour serves only to reinforce this suspicion.

It took over 14 years of painstaking negotiations to conclude the Convention. All participants, including those who subsequently felt unable to come along with everybody else, agreed that the outcome was the best that could have been achieved. In the view of my delegation, nothing that has happened since, including the dramatic changes in the world political and economic situation over the past year, justifies an overhaul of part XI of the Convention. As I have already observed, the dramatic changes that have taken place over the past year offer very powerful arguments for both sides of the debate over this part of the Convention. Furthermore, there will always be changes. While we agree that to remain relevant the Convention must accommodate the changing circumstances, we do not agree that this means that we must stop everything we are doing in order to accommodate the changes before we resume movement again.

(Mr. Nyakyi, United Republic of Tanzania)

Tanzania was privileged to chair the Second Ministerial Conference of the Indian Ocean Marine Affairs Co-operation, which was attended by the coastal and hinterland States and other maritime users of the Indian Ocean. The Conference, which was held at Arusha from 3 to 7 September 1990, was the culmination of efforts by the countries of the African and Asian region to establish a framework of co-operation among themselves and with others to enable the integration of the marine sector into national development programmes in the context of the new ocean régime of the Law of the Sea.

The Arusha meeting, which was attended by representatives of more than 30 States, ended with the conclusion of the Agreement on the Organization for Indian Ocean Marine Affairs Co-operation (IOMAC) which is now open for signature. The Agreement is intended to create and promote among its members an awareness of how the resources of the Indian Ocean can be used to contribute to the development of the States of the region and to promote co-operation among them as well as with other States and organizations beyond the region.

The Agreement also provides a forum for coastal and hinterland States of the Indian Ocean to exchange views on the uses of the Indian Ocean and its resources. In that way, there is a possibility of developing national capabilities in marine affairs so as to promote self-reliance. One unique feature of this kind of co-operation is that, unlike similar initiatives in other regions, the members undertake the activities in the region in an interdisciplinary, integrated and diversified manner. The activities cover living and non-living marine resources of the ocean, encompassing all uses and resources of the sea and all other related activities, such as marine environment, ocean law, policy and management, science and technology. For this reason, we very much hope that States, international

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organizations and non-governmental organizations will lend their support to this initiative in order to enable the countries of the region to realize the full benefits of the waters and resources of the Indian Ocean.

It should be understood that, as a result of inadequate resources and inadequate technical and scientific capabilities, the Indian Ocean has, for a long time remained largely unexplored. Consequently, the coastal and hinterland States of the region have not been able to take effective measures to realize the full benefits of the Ocean. This kind of co-operation should be encouraged, as has been done in several General Assembly resolutions. We urge those countries of the Indian Ocean that have not yet done so to sign the Agreement as soon as practicable in order to speed up the process of ratification or accession and thus make it possible for the Agreement to enter into force in the near future.

On behalf of States members of IOMAC, I should like to take this opportunity to express our gratitude and appreciation to the countries and organizations which pledged to extend technical and financial support to IOMAC at the close of its last meeting in Arusha.

I should also like to thank the Secretary-General for his report issued in response to General Assembly resolution 44/26 of 20 November 1989, in which the Assembly requested the Secretary-General, inter alia, to present reports identifying the needs of States in regard to the development and management of ocean resources and the measures taken in responding to those needs. This information will assist us in the Indian Ocean region to devise methods and mechanisms which will enable us to maximize the opportunities to realize the full benefits of the new ocean régime. We request the Secretary-General, in his second report, to provide a comprehensive and substantive review of the measures undertaken by States and competent international organizations. We would also like

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to request him, in his follow-up report, to suggest appropriate solutions necessary to respond to the needs that have been identified. We hope that the Secretary-General will give this matter priority.

Today there is a greater awareness of the fact that the oceans have a significant role to play in the preservation of the global environment. Therefore, the question of marine environmental protection, and especially of resource conservation, is vitally important. The conclusion of a number of agreements for this purpose is a very healthy development. I need not stress that to succeed, conservation and resource development must go hand in hand.

We welcome, with satisfaction, the adoption by the General Committee, on 30 August 1990, of the Understanding on the Fulfilment of Obligations by the Registered Pioneer Investors and their certifying States. The application by the People's Republic of China for registration as a pioneer investor, which is now before the group of technical experts, is another indication of the growing support for the arrangements in the Convention relationg to deep-sea mining. All this represents remarkable progress towards the implementation of an important provision of the Convention. We are confident that it will be implemented as agreed. The Understanding should now permit the early selection of the training panel since the subject of training has now been finalized.

Work on the plenary and all four special commissions should be accelerated so as to be completed by the summer of 1991. More flexibility and understanding are required if we are to resolve the outstanding issues in all the commissions.

Finally, we welcome with appreciation the activities undertaken by the Office for Ocean Affairs and the Law of the Sea. As the report of the Secretary-General

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indicates, the Office - which also serves as the secretariat of the Preparatory Commission for the International Sea-Bed Authority - has, in the last year, assisted several States in developing their national legislation and in integrating policy with developments.

Tanzania is a beneficiary of some of these activities and I wish to express our sincere appreciation for the support the Office has given for our efforts, especially in regard to advice on how to maximize the benefits of our participation in the Convention on the Law of the Sea. Its support of our preparations for the IOMAC II meeting in Arusha in September helped to ensure a successful outcome.

The Office is rendering valuable support to Member States as they strive to develop their marine resources and to integrate them into national development plans. The Special Representative of the Secretary-General and his staff deserve our support and encouragement. In particular, they deserve adequate resources to enable them to respond positively and appropriately to the needs of Member States.

Mr. PERRI (Brazil): Allow me at the outset to request the President of the Assembly to convey to Secretary-General Javier Perez de Cuellar, the appreciation of the delegation of Brazil for the timely and exhaustive report he has submitted to the General Assembly under the agenda item concerning the law of the sea.

Our appreciation also goes to the Under-Secretary-General, Mr. Satya N. Nadan, and his capable staff for their work in preparing the report, whose breadth and comprehensiveness attest to the importance attached by Member States, as well as by international and regional organizations, to the uniquely varied and complex issues relating to the study, preservation and rational management of ocean space.

(Mr. Perri, Brazil)

The past 12 months have witnessed a series of important events which, in the interim period prior to the entry into force of the Convention, have further strengthened the comprehensive legal régime embodied in the United Nations Convention on the Law of the Sea. In the first place, the number of ratifications of the Convention has risen to 44, just 16 short of the 60 ratifications required for its entry into force, which further contributes to the expectation that the interim period may soon draw to a close. Secondly, it was possible, after protracted negotiations, to arrive at an Understanding on the fulfilment of obligations by the registered pioneer investors and their certifying States at the session last summer of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. Brazil considers that a constructive spirit prevailed during the negotiations, which were ably conducted by the Chairman of the Preparatory Commission, Ambassador Jose Luis Jesus of Cape Verde, and this made possible accommodation of what at first might have seemed to be irreconcilable interests.

The Understanding on the fulfilment of obligations has come as the latest stage in the process of implementation of resolution II, adopted by the Third United Nations Conference on the Law of the Sea with a view to ensuring, in the interim period prior to the entry into force of the Convention, the proper functioning of what has come to be known as the parallel system. It is to be hoped that the Understanding, which as a compromise agreement may not be entirely satisfactory to any State or group of States, will ensure the timely and comprehensive fulfilment of the obligations that flow from the enjoyment of certain rights by those engaged in preparatory investment relating to pioneer activities in the area.

Among the relevant obligations will figure the exploration of the first mine site reserved for the future International Sea-Bed Authority, as a most significant

(Mr. Perri, Brazil)

step towards the effective fulfilment of the principle enshrined in the Convention whereby all rights in the resources of the area are vested in mankind as a whole, on whose behalf the Authority will act.

Finally, Brazil would like to welcome the application submitted by the People's Republic of China, on behalf of the China Ocean Mineral Resources Research and Development Association, for registration as a pioneer investor under resolution II. Subject to consideration of the application by the General Committee, to be convened at the forthcoming ninth session of the Preparatory Commission, the registration of China as a pioneer investor comes as further evidence of the commitment on the part of States to the régime of mutual rights and obligations provided for in the relevant provisions of the Convention.

Of the various issues tackled by the Preparatory Commission, Brazil sets special store by the ongoing negotiations concerning the draft regulations on prospecting, exploration and exploitation of polymetallic nodules in the area. In that connection, the discussions held at the eighth session of the Preparatory Commission, in Kingston and New York, on the part of the draft mining code relating to the protection and preservation of the marine environment proved to be specially stimulating, in so far as they provided an opportunity to dwell at length on complex matte-s about which there is still insufficient knowledge.

As regards the tentative conclusions to be drawn from those discussions, it is fair to say that currently available scientific data discourage any safe prognosis concerning the possible future effects of deep-sea-bed mining on pelagic and related ecosystems. This does not by any means represent an impediment to constructive work, however, and it would be useful for the Preparatory Commission to focus its efforts on devising a basic set of rules and regulations which should remain flexible enough to allow for eventual adaptation, on the understanding that the task of refining and updating those rules and regulations would be incumbent on

(Mr. Perri, Brazil)

the Authority itself at a time when the possible effects of deep-sea-bed mining on the marine environment are likely to be better known.

It should be pointed out that until such time, the scarcity of available information should serve further to strengthen the principles on which the basic framework provided by the Convention should be upheld. As stated by the Secretary-General in his report, the Convention

> "is based on a philosophy of rational use that fully conforms with the concept of environmentally sound development". (A/45/721, para. 5)

Such a philosophy ensures, in turn, that

> "Its environmental provisions establish a framework of general principles and rules within which the relevant global and regional instruments should be viewed." (ibid)

The drafting of the United Nations Convention on the Law of the Sea was an awesome undertaking. The international community embarked on that venture in the conviction that the problems of ocean space are closely interrelated and need to be considered as a whole. As stated in 1972 by the representative of Brazil in the First Committee, Ambassador Ramiro Saraivo Guerreiro, on the agenda item concerning the proposed convening of a conference on the law of the sea:

> "The consensus ideally to be reached is on precise, binding, legal texts of universal application and unlimited duration. We must think in terms of succeeding generations. This is no simple matter, unless we were to content ourselves with conventions that would suffer the fate of those of 1958, commanding the effective adherence of only one third or, at most, half of the membership of this Organization, so that they would remain res inter alios acta for all others, including perhaps entire continents." (A/C.1/PV.1905, p. 21)

(Mr. Perri, Brazil)

Those principles later found eloquent embodiment in the Convention itself. As a State which has ratified the Convention, Brazil is committed to the goal of ensuring universal participation in the legal régime it embodies. It is no less committed, however, to ensuring the unified character of the Convention. We therefore welcome the timely and opportune initiative of the Secretary-General in promoting dialogue aimed at achieving universal participation, as we are aware that circumstances may be ripe for addressing certain outstanding issues which have thus far stood in its way.

In that regard, the concerns of certain States with the provisions of the deep-sea-bed mining régime have come to the fore. Brazil is of the view that ways can be found of implementing creatively the provisions of that régime so as to safeguard the integrity and unified character of the Convention and the institutions provided for therein. It is no less certain, however, that no problems can be addressed if they are not properly defined. The parties concerned must therefore display the necessary political will to enter into a fruitful dialogue with a view to identifying specific difficulties which might eventually be redressed and interests which could some day be accommodated.

The delegation of Brazil will vote in favour of draft resolution A/45/L.29, the text of which reflects and, we believe, builds upon the efforts undertaken at the forty-fourth session of the General Assembly to accommodate the interests of certain delegations which have traditionally had difficulties with the resolution on the law of the sea. As delegations will recall, those efforts ultimately gave rise to frustration and disappointment, in so far as a genuinely conciliatory gesture did not meet with the expected response. Once again, consultatons were undertaken during the current session of the General Assembly which made it clear that a further gesture of good will might at this juncture result in a change of vote on the part of some States.

(Mr. Perri, Brazil)

The delegation of Brazil is ready to examine, without pre-conditions, any constructive proposal that could lead to broader support for the draft resolution, but it has made it abundantly clear that any conciliatory gesture must be accompanied by a firm commitment on the part of those delegations that have difficulties with the text of the draft resolution to change their positions accordingly. In the final analysis, it is patently clear that, in the context of a genuine negotiating process, the principle of legitimate accommodation will not be served by assertions that are not accompanied by the requisite political resolve.

In conclusion, allow me to sound a cautionary note. The Secretary-General's initiative, though commendable in every way, should not lead us to think that any ready-made solutions are at hand. As stated 18 years ago by the representative of Brazil,

> "Those who, inspired by a constructive spirit we fully respect, are wont to adumbrate even now the general outlines of a possible generous accord might perhaps wisely feel some discomfort from recent omens and portents". (A/C.1/PV.1905, p. 21)

The representative of Brazil went on to state that

> "This notion that difficulties will find an automatic solution at a certain fixed date is a hardy perennial that comes to light now and again under different guises, always attractive and always dangerous." (ibid., p. 22)

Though circumstances have changed over the last three decades, we believe the gist of those remarks has not.

PROGRAMME OF WORK

The PRESIDENT: I should like to inform members that action on draft resolution A/45/L.29 will be taken on Friday, 14 December, in the morning.

The meeting rose at 1.05 p.m.