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Chairman: Mr. Andrés AGUILAR M. (Venezuela).

AGENDA ITEM 25

(a) Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *(continued)* (A/8021, A/C.1/L.536 and 542);

(b) Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General *(continued)* (A/7924, A/C.1/L.536);

(c) Views of Member States on the desirability of convening at an early date a conference on the law of the sea: report of the Secretary-General *(continued)* (A/7925 and Add.1-3, A/C.1/L.536 and 539);

(d) Question of the breadth of the territorial sea and related matters *(continued)* (A/8047 and Add.1, Add.2/Rev.1, Add.3 and 4, A/C.1/L.536)

1. Mr. KAPLAN (Canada): This is the fourth session of the General Assembly to deal with the sea-bed item since it was first introduced by the representative of Malta, Dr. Pardo. The subject is a complex one and it is not surprising that in spite of three years of study and discussions we have not yet been able to lay the foundation for a legal régime for the area beyond national jurisdiction. We have made steady progress in analysing the issues, searching out the positions of States, and focusing attention upon those problems requiring urgent attention. It is our view, however, that the time has now come to go a step further and to reach agreement during the present session of the United Nations upon the principles for the proposed régime. Three years of discussions should be enough, and the time has arrived to concretize those areas of agreement which can now be discerned.

2. I would like, at this point, to pay tribute to Ambassador Amerasinghe and his colleague Mr. Pinto of the Ceylonese delegation for the extraordinary skill, perseverance and patience they have displayed in conducting bilateral consultations to bring about agreement on a declaration of principles governing the sea-bed on the basis of the so-called "anonymous draft" produced in Geneva. That tribute also extends to all those who collaborated in this difficult undertaking. They have done everything possible to seek out, by a process of discussion and give and take between proponents of opposing or differing points of view, aiming always at the general interest of the international community, the political and juridical basis for general agreement on a declaration of principles which might be adopted by this assembly as a firm foundation for an international régime, in the interests of mankind, with regard to the sea-bed and ocean floor beyond the limits of national jurisdiction. We congratulate them and we express our appreciation to them for their excellent work. May I take this opportunity of congratulating also the Chairmen of the Legal Sub-Committee and the Scientific and Technical Sub-Committee for their skilful manner of directing the work of their Sub-Committees.

3. The Canadian delegation is aware that the draft declaration of principles *[A/C.1/L.542]* presented to this assembly is not entirely satisfactory to many delegations here, if any. That, of course, stems from the essential nature of any compromise; compromises which are generally acceptable are seldom entirely acceptable to anyone. Certainly the Canadian delegation has reservations about this draft which I intend to express in a few minutes. Nevertheless, we are prepared to accept, as a compromise, the principles formulated in the draft, on the understanding that there is general agreement on these principles.

4. Turning to the substantive provisions of the draft declaration, I should like to comment briefly on those provisions which the Canadian delegation considers to be less than satisfactory and on which we have reservations of one degree or another.

5. With regard to the existence of the area of the sea-bed beyond national jurisdiction, the draft declaration is obviously based on the fundamental premise that there is such an area. It clearly implies that this fact in itself also represents a legal principle. The Canadian delegation would have preferred such a fundamental principle to be incorporated in appropriate terms in the operative part of the draft declaration, but we are aware that for some delegations, while this is a state of affairs which must be recognized, it does not constitute a legal principle. We consider, therefore, that the treatment given to this question in the draft as it stands should be generally acceptable to all points of view.

6. With regard to the legal status of the sea-bed area and its resources beyond the limits of national jurisdiction, the Canadian delegation is in complete agreement with the principle that the area shall not be subject to appropriation by any means, by States or persons, and that no State shall exercise sovereignty or sovereign rights over any part of it. The acceptance of this far-reaching principle ranks in importance, in our view, with the agreement on the applicability of a similar principle to outer space and celestial bodies. It represents a bold new approach towards a developing world order and a turning away from traditional land-oriented concepts of jurisdiction and sovereignty. Most significantly it puts the general interest of the world community ahead of the special interests of any State or group of States. It is a concept holding great promise for the future. We agree also that the resources of the area should be considered to be the common heritage of mankind, although at this stage we view this not so much as a legal principle but rather as a concept to which the international community can give specific legal meaning and upon which it can construct the machinery and the rules of international law which will together comprise the legal régime for the area of the sea-bed beyond national jurisdiction. We have difficulties with the statement that the area itself is the common heritage of mankind. This statement tends to imply that all uses of and all activities on the sea-bed beyond the limits of national jurisdiction should be regulated by the international régime to be set up for the exploration and exploitation of the resources of the sea-bed beyond national jurisdiction. The same implication arises from the present formulation of various other principles in the draft declaration.

7. While Canada does not necessarily reject this idea or this objective, we reserve our position on the matter because we consider that the primary purpose of the proposed international régime should be to promote the exploration and exploitation of the resources of the sea-bed beyond national jurisdiction for the benefit of mankind and particularly of the developing countries. We cannot conceive of this occurring if the régime does not have certain connected regulatory powers such as, for example, those necessary to enable it to guard against pollution of the sea arising out of sea-bed activities. Canada's preference, however, would be to confine the scope of the régime to those functions necessary to ensure an orderly, efficient and equitable system of exploration and exploitation of sea-bed resources.

8. With regard to the possibility of a broader régime covering all uses of and activities on the sea-bed beyond national jurisdiction, we would counsel caution not only because we are aware of the complex and far-reaching problems involved in attempting to regulate all other uses and activities, but also because we fear that the establishment of a régime for resource exploration and exploitation may otherwise be delayed indefinitely.

9. Our concern as to the scope of the régime is heightened by the fact that the draft declaration contains certain ambiguities and inconsistencies in this connexion. Thus, operative paragraph 4 states that all activities regarding the exploration and exploitation of the area and other related activities shall be governed by the international régime to be established. The phrase "and other related activities" is sufficiently ambiguous that it could give rise to serious difficulties of interpretation. This ambiguity is not clarified by the provisions of operative paragraph 9. The difficulty is increased by the fact that some paragraphs refer only to "activities in the area" or to "any activities in the area" while others refer to "activities in the area, including those relating to its resources" or simply to "activities relating to the exploration of the area and the exploitation of its resources". We of the Canadian delegation would have much preferred greater clarity and precision in the drafting of provisions bearing upon such an important matter as the scope of the régime, and Canada will seek to ensure that a more consistent approach to this matter is adopted in the elaboration of the actual régime for the sea-bed beyond national jurisdiction.

10. With regard to the rights and interests of coastal States which may be affected by activities in the area beyond national jurisdiction, Canada considers that the obligation to consult with the coastal State concerned, at least upon the request of that State, should apply to any activity that might infringe its rights and interests, and not only to those activities relating to the exploration of the area beyond national jurisdiction and the exploitation of its resources. Canada accordingly reserves all its rights in this connexion and will seek to have appropriate provision made for such rights in the future international régime.

11. Canada attaches great importance to the rights of coastal States to take measures to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution resulting from any activities in the area beyond national jurisdiction. However, we have a certain difficulty with the formulation relating to this principle in the draft declaration. From a strictly legal point of view it is somewhat anomalous to provide with respect only to this principle that nothing in the draft declaration shall affect the rights of coastal or any other States, since the declaration itself can have no binding legal effect with respect to any principle. Moreover, Canada has serious reservations about the advisability of the provision in operative paragraph 13 of the draft declaration which singles out only this paragraph as being "subject to the international régime to be established". The entire declaration of principles, in Canada's opinion, must be subject to the international régime to be established, in the sense that the régime will be a further elaboration, in law-making form, of the declaration of principles. We consider it undesirable that this provision should be made to appear as being applicable to one paragraph of the declaration only.

12. With regard to the responsibility of States to ensure that activities in the sea-bed beyond national jurisdiction,

whether undertaken by them or by entities or persons under their jurisdiction or acting on their behalf, shall be carried out in conformity with the international régime to be established, the Canadian delegation considers this provision to be both appropriate and necessary. With respect to this principle, the Canadian delegation wishes only to point out that nowhere in the draft is the concept of State responsibility clearly spelled out.

13. A final difficulty we see in the draft declaration of principles relates to the sixth preambular paragraph, or more specifically to the second clause of that paragraph, with regard to minimizing any adverse economic effects caused by fluctuations of prices of raw materials resulting from exploitation of the resources of the sea-bed beyond national jurisdiction. This provision could be interpreted in such a way as to frustrate the exploitation of sea-bed resources. Moreover it embraces a problem which can be effectively attacked only in a much wider context, namely, the rationalization of international trade. While the Canadian delegation agrees that it is desirable to guard against the disruption of world markets, we do not consider that this objective should be permitted to override the paramount need to develop resources for the benefit of mankind and of the developing countries in particular.

14. These comments on what the Canadian delegation considers to be the deficiencies of the draft declaration of principles in no way detract from Canada's commitment to secure agreement by the General Assembly, if possible, on the adoption of the declaration as it stands. We believe that the draft is acceptable as a general compromise. It is balanced and comprehensive enough to serve as the foundation and framework for an international régime for the sea-bed beyond national jurisdiction, without attempting to go so far as to substitute either for the régime itself or the international agreement which must give it force and effect. The time to remedy what may be considered the deficiencies of the draft from one point of view or another will be in the elaboration of the agreement on the international régime. It is becoming increasingly urgent that all of us commit ourselves to the early establishment of that régime, and it is the hope of the Canadian delegation that all of us can so commit ourselves on the basis of the draft declaration before us. The possible consequences of our failing to do so should be carefully considered.

15. I should like to turn now to some of the other important issues concerning the sea-bed beyond national jurisdiction. As has been pointed out on a number of occasions by the Canadian and other delegations in the sea-bed Committee, there is a close relation and interpenetration between the principles applicable to the sea-bed beyond national jurisdiction and the kinds of international institutions or machinery required to ensure the effective implementation of the régime to be based on those principles. It is a measure of the progress achieved in the work of the sea-bed Committee that there is now widespread and almost general acceptance of the need for some form of international machinery. A second question on which a majority view appears to be developing, if not yet a complete consensus, is that the proposed machinery must have a juridical personality with capacity, for example, to sue and be sued. A third question, on which there does not yet appear to be general agreement, is whether the machinery should consist merely of a resource authority or an authority of broader scope including within its mandate all sea-bed activities.

16. I have already touched briefly on this issue in my comments on the scope of the international régime as reflected in the draft declaration of principles. As I have indicated, the Canadian preference would be to confine the scope of the régime, and hence the mandate of the machinery, to those purposes and functions which would be essential to an efficient and equitable system of exploration and exploitation of resources and to proceed somewhat cautiously with regard to other broad powers. Quite apart from other concerns, Canada would be anxious to ensure that the proposed machinery should not become so vast and cumbersome that its operating costs would eat up the profits of sea-bed resource exploitation, particularly in the early stages of its existence.

17. The Canadian delegation in the sea-bed Committee has previously made the suggestion—which I should like to repeat here—that there might be some advantage in practical terms in attempting to devise a system of machinery which would have all the essential elements provided for from the outset but which would begin with a skeletal structure, to be flashed out as progress permitted. If a functional and organic approach were adopted, perhaps a two-phase development of international machinery could be envisaged which would be intended to provide for a system of registration, notification and, if possible, control of exploration, and which would be effective immediately, while providing also for the gradual assumption of further, more specific functions and powers as the need arose during a second phase of actual exploration and development. What we might envisage along those lines would not be an international régime but a comprehensive régime with interim machinery.

18. A major advantage of such an approach is that it would be geared to immediate, rather than prospective, needs and that it could be brought into play without undue expense relatively soon with respect to areas clearly beyond national jurisdiction under any sensible reading of the law. Thus it would be more responsive to the financial, economic and technical realities of sea-bed resource development than would a more doctrinal approach which could block, rather than encourage, progress towards generally agreed goals.

19. Another question on which the sea-bed Committee appears to be approaching relatively general agreement is that the proposed machinery, by virtue of the very nature of the task to be performed, should be a wholly new institution rather than one developed out of existing organs and agencies within the United Nations family. On the actual structure of the machinery, there seems to be developing a consensus that it should comprise a governing body, a plenary body of some sort, a secretariat, and some form of dispute-settlement tribunal. There is already disagreement, however, as to whether the "one State-one vote" principle should apply throughout or whether some other decision-making system should be devised. Little consideration has been given so far to the question whether it may ultimately prove necessary to establish some kind of

inspection authority, a point to which we think serious consideration should be given.

20. I turn now to another issue, namely, whether the proposed machinery might have the legal and administrative capacity actually to exploit the resources of the sea-bed beyond national jurisdiction. While no consensus has yet developed on this point, there seems to be general agreement that in any event it must have the power to register and license such activities by others. There seems to be general agreement also that mere registration would not suffice and that some form of licensing system must be established, although differences of opinion exist as to whether or not licenses should be confined to States only.

21. With regard to the system of licensing to be devised, the Canadian delegation in the sea-bed Committee has stressed that the single most important factor in promoting resource exploitation in the area beyond national jurisdiction will be the adoption of a resource management system designed to encourage and maintain investment–from whatever sources–on a continuing and orderly basis. Only in that way will it be possible to ensure fulfilment of the basic purpose of benefiting mankind in general and the developing countries in particular.

22. The Canadian delegation is gratified that the Canadian Offshore Resource Management System has been the subject of some discussion in the sea-bed Committee as a possible model for the proposed régime and that a number of elements of that system have been incorporated in the working papers submitted to the August session of the sea-bed Committee by the delegations of the United States, the United Kingdom and France *[A/8021, annexes V, VI and VII]*. While it is obvious that no single national system can be considered as wholly fulfilling the requirements necessary for an appropriate international régime, it is worth noting that the Canadian system of management of offshore resources is specifically designed to encourage exploration and exploitation and may, therefore, be of particular relevance.

23. I should like now to turn to the question which ultimately underlies all our discussions of the proposed régime for the sea-bed beyond the limits of national jurisdiction, namely, the definition of that area, which, in turn, involves a more precise definition of the outer limits of the continental shelf. We must begin, of course, with existing international law in any discussion of this matter, and specifically with the 1958 Convention on the Continental Shelf.[1] That Convention defines the juridicial continental shelf as extending beyond the outer limit of the territorial sea to a water-depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits the exploitation of the natural resources of the area. There is general agreement that that definition of the continental shelf–a definition that is elastic in both horizontal and vertical terms–will have to be given greater precision. Other aspects of the Convention on the Continental Shelf have also been criticized but, weaknesses notwithstanding, it indisputably represents existing international law and embodies a large number of rules which will have to be retained as an integral part of whatever new law is developed.

1 United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.

24. Domestic constitutional considerations delayed Canada's ratification of the Convention on the Continental Shelf until this year, but that ratification in no way represented a change in policy by the Canadian Government. It was, rather, the formal act confirming Canada's long-standing position dating back well before the drafting of the Convention's definition of the continental shelf. I should emphasize that Canada stands ready and willing to participate in international efforts to define the outer limit of the continental shelf more precisely.

25. From the outset of our discussions we have stated our view that there is an organic and complex interrelationship between the ultimate definition of the limits of national jurisdiction and the nature of the régime to be developed for the area beyond. We recognize that it is because of this interrelationship that many Governments have hesitated to take definite positions on one question or the other. Until the question of limits is settled, States will be uncertain as to the sort of régime they wish to see established for the area beyond national jurisdiction; equally so, until the question of the régime is settled, States will be uncertain as to the limits they wish to see precisely fixed. In Canada's view, the only solution to this dilemma is to ensure, by our decisions at this session of the General Assembly, that final settlement of both questions is reached at the same conference, at the same time.

26. We are aware, of course, that the question of limits gives rise to a difficult issue with regard to the mandate of the sea-bed Committee. It has been suggested that the Committee should deal with this issue with a view to preparing draft articles on a definition of the area beyond national jurisdiction for submission to an international conference. Canada does not accept that suggestion, since it is obvious that the definition of the area of the sea-bed beyond national jurisdiction necessarily involves the definition of the area within national jurisdiction, that is, of the continental shelf.

27. The mandate of the sea-bed Committee, on the other hand, is specifically restricted to the sea-bed beyond national jurisdiction. The Canadian delegation has emphasized at previous sessions of the General Assembly that it is beyond the powers of the sea-bed Committee, or even the General Assembly, to exercise judicial or quasi-judicial powers to determine the jurisdiction of any given State or group of States. Canada is aware, however, that almost any conceivable proposal for the international régime to be established for the area of the sea-bed beyond national jurisdiction must inevitably link the question of the limits with the question of the régime. It is for that reason that I suggested a moment ago that it will be necessary to come to grips with both issues at the same time and at the same conference.

28. The Canadian delegation is keenly aware of the relevance and importance of the question of the elaboration of an international sea-bed régime for the benefit of mankind and the developing countries, in particular for the consideration and determination of the limits. It is no exaggeration to say that the determination of this question will decide whether the common heritage of mankind is to be a storehouse of mineral wealth to be used for the benefit of all, or whether it is to be simply a submarine desert

incapable of exploitation for many years to come, if ever. In approaching this matter, which involves such complex problems and such widely varying interests, Canada considers that the principle of equity should be applied not only to the sharing in the benefits of the common heritage but also to the spatial aspects of the issue in determining the contributions to be made to that common heritage. It was for this reason that Canada suggested at the twenty-fourth session of the General Assembly that we consider accepting the principle that every ocean basin and every sea-bed of the world should have similar percentages of its underwater acreage reserved for the benefit of mankind. I should like to repeat that suggestion at the present time. If such an approach were adopted we would be applying the fundamental concept of the benefit of mankind to the law we are developing for the definition of the area beyond national jurisdiction as well as for the régime to be applicable there; we would be abandoning the outmoded notions which find their way into every distance-depth or other formula for the definition of the continental shelf. In speaking on this suggestion last year I asked why, in principle, it should make any difference whether a shelf is shallow or deep or why we should be concerned with distance from shore. I have not yet had satisfactory answers to those questions. Accordingly, I would again suggest that delegations consider whether we could not begin from the centre of every sea and ocean in the world and, proceeding landward, reserve out of each some considerable percentage, be it 50 per cent or even 80 per cent, of the underwater acreage for dedication to the interests of humanity as a whole. There is no reason why shallow basins would be exempted from such an approach whether or not coastal States have divided up such areas, albeit in good faith, by a process of unilateralism, bilateralism or as parties to the Convention on the Continental Shelf. Thus it could encompass areas already appropriated by such action unilaterally in the sense of not reflecting the interests of mankind as a whole. To put it differently, it is the Canadian position that if the Convention represents existing international law, and we consider that it does unless and until new international law is developed to replace it, then it cannot be read selectively with the 200-metre isobath being accepted to the exclusion of the exploitability concept. The approach we are suggesting would be infinitely more effective than any other now being considered in terms of providing immediate and substantial benefits for the developing and land-locked nations. It would encompass areas in smaller and shallower seas which are already being exploited for the exclusive benefit of the coastal States concerned. It would bring under the international régime still other areas where exploitability is imminent and which would otherwise remain under the exclusive jurisdiction of the adjacent coastal States under all other formulae being discussed for the delimitation of the continental shelf.

29. I make this suggestion in a constructive spirit. It has become increasingly evident that the fundamental issue of the definition of the area beyond national jurisdiction requires a new departure which will reserve a truly significant area of the sea-bed as the common heritage of mankind while at the same time reflecting the interests of all States equally in the determination of the area concerned. It is only by agreeing to a bold new concept that we can find the solution to this seemingly intractable problem. As matters now stand, we may be in danger of opening Pandora's box without considering the outcome.

30. Before concluding, I should be remiss if I failed to congratulate the delegation of the United States on the far-reaching and imaginative proposal for an international sea-bed convention which its Government submitted to the summer session of the sea-bed Committee this year. Similarly, I would wish to pay tribute to the Governments of France and the United Kingdom for the great service they rendered to the sea-bed Committee by submitting very useful working papers on the proposed sea-bed régime in August. I do not wish to comment substantively on any of these papers at present, except to say that they will prove of invaluable assistance in our future endeavours and that they are concrete evidence that we are rapidly approaching the time when important and difficult decisions will have to be made. Canada, for its part, looks forward to that time with confidence in the will and ability of the international community to give real and practical form to the concept that the resources of the sea-bed beyond national jurisdiction are the common heritage of mankind.

31. My delegation will be speaking later in the week on the issues arising out of the answers by States to the questions put by the Secretary-General concerning the possibility of a third conference on the law of the sea *[A/7925 and Add.1-3]*.

32. Mr. LA GUARDIA (Argentina) *(interpretation from Spanish)*: The item before us is, without doubt, of great importance for the peoples of the world. On a just and equitable solution to these questions will depend the access of all States to the wealth of the sea-bed and ocean floor and the subsoil thereof which modern technology has placed within our reach. My delegation considers that, for the attainment of such an objective, we must concentrate our efforts on the establishment of a régime for the peaceful use of the sea-bed and ocean floor beyond the limits of national jurisdiction which would ensure the participation of all States by an adequate international machinery, to which we should give priority. This task must precede the definition of the area. The basis for such an affirmation resides in the need to protect the interests of those countries which are not able to explore and exploit the sea-bed and ocean floor with their own means.

33. As we see it, in this delicate question it is our compelling duty to prevent a further widening of the consequences of the technological gap which has occurred in other fields, and therefore, in the absence of any international norm to regulate the activities of States, to set the limits of the area without previously determining a régime will only benefit a limited number of countries, to the detriment of the majority. Hence my delegation attaches the utmost importance to our abiding by this priority, since it constitutes the only feasible course which will enable us to arrive at an international conference to define the area. We consider likewise that in this last stage we should take into account the criteria established by international law, as well as the aspirations of those coastal countries which have no continental shelf.

34. Before referring to the draft declaration of principles *[see A/C.1/L.542]*, I should like to express our apprecia-

tion to the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Mr. Amerasinghe, for his skilful guidance of the Committee and for the efforts he has made to prepare a draft declaration of principles. We also wish to express our gratitude to the Chairman of the Legal Sub-Committee, Mr. Galindo Pohl.

35. After two long years of arduous work in the sea-bed Committee, my delegation feels that, in the draft declaration of principles annexed to document A/C.1/L.542, we have before us a text acceptable to all States. Indeed, that text constitutes the formula which, in the words of the Chairman, Mr. Amerasinghe, "reflects the highest degree of agreement attainable at the present time".

36. As other delegations have pointed out, the document does not entirely reflect the aspirations of every single State. In this connexion I should like to mention that, from the point of view of my own delegation, we have noted the omission of some valuable suggestions which we would have preferred to see included in the draft declaration. Nevertheless, my delegation, aware of the need and the urgency to adopt a declaration of principles which will regulate the sea-bed and the ocean floor beyond the limits of national jurisdiction, is prepared to support the document, because it is a compromise which reflects the highest degree of agreement attainable, as I mentioned earlier. In this connexion we have observed with great satisfaction that an identical spirit of co-operation impels a great number of countries here represented.

37. We believe that the draft declaration of principles which has been submitted to us for consideration adequately provides for the interests of all States, whether coastal or land-locked, by laying the basis for the use of the sea-bed and the ocean floor beyond the limits of national jurisdiction and preventing dangers which might occur from an immoderate use thereof. Along these lines my delegation deems it necessary to stress that this document in no way affects the moratorium on exploitation contained in resolution 2574 D (XXIV), which was adopted by the General Assembly at its previous session.

38. In the light of the negotiations in the sea-bed Committee and of the results achieved, we are convinced that the time has come to adopt the draft declaration of principles which has been submitted to us. That is why my delegation would like to appeal to all States to agree to accept the document in its present wording and to refrain from submitting amendments which might affect the delicate balance that has been achieved in the draft text. In this connexion we cannot but express our concern at the views expressed by the representatives of some countries which, apparently, are not yet prepared to make any concessions for the benefit of international co-operation. The inexorable reality of the technological advance which is taking place in these matters puts us squarely before the choice of either adopting a compromise which will ensure for all members of the international community a share of the riches which the marine environment offers man, or forsaking that benefit to the fortuitous factor of having the requisite means of exploiting them.

39. As regards the consultations which the Secretary-General is requested to hold with Member States, in General Assembly resolution 2574 A (XXIV), on the desirability of convening in the near future a conference on the law of the sea, the position of my Government was stated in its reply of 11 June 1970, which is contained in document A/7925. That reply states that Argentina is in favour in principle of convening this new conference; that its agenda should cover all the topics included in paragraph 1 of General Assembly resolution 2574 A (XXIV), that is, a review of the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, and that one of its aims should be to arrive at a clear, precise and internationally accepted definition of the sea-bed and ocean floor beyond the limits of national jurisdiction.

40. Considering the wording of the draft resolution, in particular its eighth preambular paragraph, which notes that the establishment of an equitable international régime for this area would facilitate the task of determining its limits, and its paragraph 1, which conditions the definition of the area "in the light of the international régime to be established for that area", it is my Government's firm position, as we said, at the outset, that the régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction must be determined before the area is defined. The first will be the result of the work of the sea-bed Committee; and the second—that is to say, the definition of the area—should be the task of the future conference. That is the only admissible priority which is considered in the documents which govern our work. Other issues are to be dealt with on an equal footing without arbitrary priorities which would only serve specific interests.

41. Indeed, the unity which must prevail in the consideration of the sea items has already been recognized by our Organization in resolutions 798 (VIII) and 1105 (XI), which preceded the important but incomplete United Nations Conference on the Law of the Sea held at Geneva in 1958.

42. The second preambular paragraph of the first of those resolutions states:

> "*Having regard* to the fact that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters are closely linked together juridically as well as physically",

which is repeated in the second preambular paragraph of the second resolution (1105 (XI)); while its fourth preambular paragraph recalls that the report of the International Law Commission itself stated that ". . . the various sections of the law of the sea hold together, and are so closely interdependent that it would be extremely difficult to deal with only one part and leave the others aside".

43. Thus, my delegation is not in a position to support proposals which would set a predetermined order of items for the future conference; in other words, any proposals that would assign an order of priorities. That agenda and that order must be the result of the work of the preparatory organ or organs of the conference.

44. So I believe that it is unnecessary to emphasize the conviction of my Government—and this is stated in our

reply to the Secretary-General—to the effect that the conference must have the most adequate preparation possible, both from the technical and from the legal point of view, so as to guarantee the minimum degree of agreement necessary for it to be practicable, and so that it will not be precipitated into failure as was the case in 1960.

45. In the opinion of my delegation this preparation requires a dual approach, given the subject and taking into account the time factor. As for the subject, the preparatory task must be entrusted to a body with a mandate to establish an agenda, a programme and procedures. We also believe that, once those points are agreed to, that committee should be authorized to prepare some documents or drafts which will be indispensable for the proper functioning of the conference.

46. As for the time factor, we believe that it is premature and undesirable to set an early date now which will later be revealed to be inconsistent with reality. But we do believe that not too much time should elapse, and so we would not be against setting either a date for the first meeting of the preparatory committee to be established, or a tentative time-limit for the convening of the conference itself. But the intermediate stages must flow from the work itself; at the fulfilment of each stage the desirability and timeliness of the next will appear.

47. Then there is the question of deciding whether it would be preferable to set up a new preparatory body for the conference which would function parallel with the Committee on the sea-bed, as is proposed in drafts which have already been submitted to us, or whether, in accordance with other ideas that are circulating, that Committee, with its proven efficiency, would be the ideal organ to which we could entrust the entire *magnum opus;* but to that end, no doubt its composition and structure would have to be revised. The advantages of co-ordination which the latter method offers seem to be preferable, in principle, but my delegation wishes to reserve its right to pronounce itself on this and other points in a later statement when we shall refer specifically to the draft resolutions.

48. Mr. RABETAFIKA (Madagascar) *(interpretation from French):* In view of the geographic and economic position of my country, of the urgency that we attach to the speediest possible solution of some questions relating to the sea-bed, and of our conviction that there is a close interdependence between the sea-bed and ocean floor, their subsoil and the superjacent waters, my delegation in this statement will speak mainly about the three following aspects of item 25 of our agenda: first, preparing a declaration of principles governing the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction; secondly, defining the breadth of the territorial sea and related matters; thirdly, the convening at an early date of a conference on the law of the sea.

49. We are for many reasons concerned with the question of marine pollution, but we consider that in the present state of affairs that question will be better studied at the forthcoming United Nations Conference on the Human Environment to be held at Stockholm in 1972 as well as by the Inter-Governmental Maritime Consultative Organization. It would also be risky to speak about the conclusions and recommendations of the Economic and Technical Sub-Committee of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction as long as a decisive position has not been taken concerning the principles which must govern the international area of the sea-bed.

50. Through resolution 2574 B (XXIV), the General Assembly asked the sea-bed Committee to prepare a comprehensive and balanced statement of principles and to submit a draft declaration at the present session. We are seized of the following documents:

51. First of all, the synthesis—which we sometimes forget—to be found at the end of the report of the Legal Sub-Committee contained in the report of the sea-bed Committee to the twenty-fourth session;[2] document A/AC.138/SC.1/L.2, presented by 15 countries, including Madagascar *[see A/8021, annex I, appendix I]*, the draft convention presented by the United States in document A/AC.138/25 *[ibid., annex V]*; finally the draft declaration of principles *[A/C.1/L.542]*, which the Chairman of the Committee, Mr. Amerasinghe, presented to this Committee on 24 November last.

52. On the positive side of the ledger there are the various consultations held quite recently in New York and Geneva; on the passive side there is, unfortunately, the absence of a decisive consensus on the statement of principles. My delegation would at this stage like to pay a deserved tribute to Mr. Amerasinghe, to Mr. Galindo Pohl and to Mr. Badawi, the Rapporteur of the Legal Sub-Committee, without whom we certainly would not have been able to reach the compromise which is now presented to the Committee.

53. We willingly agree to the idea that a statement of principles must not at this stage unduly insist on what all of us mean by "international machinery". We shall have sufficient time, we think, once we reach a compromise agreement on principles, to see what would be the most adequate machinery. In this connexion, I must stress that there was a time when we thought, like others, that a "package deal" was necessary, a global understanding on the principles, the régime and the machinery. But recent developments in the situation lead us to believe that it would be wiser, even if we had to abandon some of our positions, to work in an orderly and logical fashion and to grant priority to a statement of principles on which the whole edifice will have to be founded. That declaration of principles, according to us, is a framework in which we shall stress that which is essential to reaching a definition of the régime. Only when the régime has been universally accepted and drafted shall we be able to tackle the question of the machinery.

54. We shall, certainly, have reservations on the principle of the use of the sea-bed for exclusively peaceful purposes if it did not lead specifically and non-controversially to the concept of the demilitarization of the sea-bed and if it made us dependent upon the results of international negotiations the machinery of which is well known to us

2 *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22.*

but in which, by the very nature of things, we are compelled to recognize certain advantages.

55. We will also have some reservations on the application of the existing international law, whilst it is obvious that the legal status of the open seas at present contains no substantive rules which would make it possible to regulate the exploration of the zone and the exploitation of its resources. We also understand that the methodical exploitation of the resources should not necessarily imply that the machinery will be entrusted with functions of exploitation. We are somewhat diffident in accepting the principle contained in paragraph 5 within the context of a moratorium; that is why we were not able to vote in favour of a similar text last year. Finally we understand that in paragraph 14 the word "responsibility" must be interpreted in different ways, according to whether it is responsibility stemming from the régime itself or a financial responsibility or liability flowing from damages. This will certainly have to be drafted better, at least in the French text.

56. We shall have an opportunity to expand upon these reservations, substantial as they may be, when we speak on the régime at the conference on the law of the sea or in the Committee on the sea-bed. For the time being we need a statement of principles which will make it possible more confidently to deal with the next stage, that of the elaboration of an international régime.

57. We can accept the idea that a statement of principles formulated along the lines indicated in document A/C.1/L.542 would be not only a document of reference or a mere catalogue but above all a reaffirmation of indispensable ideas which would serve as the basis of our future discussions on the various elements of a régime which must necessarily be complete and balanced.

58. Moreover, we concede that this document represents the maximum understanding or semi-understanding we shall be able to reach. Despite our reservations we are convinced that this document is clearly of interest and deserves to be adopted. It is obvious that we could have proposed amendments by adhering strictly to the wording of document A/AC.138/SC.1/L.2 or to our own national interests, but that would be tantamount to opening up new debates and therefore delaying the establishment of the régime. This document does not fully satisfy us but the spirit of compromise and co-operation requires that we accept it as it stands if we do not wish to prejudice the success which we are entitled to expect from a new conference on the law of the sea.

59. I should now like to speak of the problem of territorial waters and related matters. My Government approves the initiative taken by the socialist States in this matter *[A/8047 and Add.1-4]*. We would even have hoped that as early as this session the General Assembly could study this question in a sufficiently concrete manner so that we might be able to determine and decide upon a standard limit for the territorial waters of all States, or at least that such a delimitation be the result of an international agreement which would be clearly defined and not leave itself open to interpretation.

60. In the present state of international law the delimitation of territorial waters is left to the legislation of each coastal State. The United Nations Conferences on the Law of the Sea held at Geneva in February-April 1958 and March-April 1960 were not able to reach agreement on this point. Thus, while some countries limit their territorial waters to three miles and others to 12, still others claim that their sovereignty reaches much farther, going as far as 200 nautical miles. Such discrepancies in national legislation relating to an international field must have an adverse effect, in the final analysis, on trade, shipping and, therefore, on both the interests of all peoples and goodwill among nations.

61. In order to facilitate the task of the next conference we would have wished at this session to have had the opportunity of considering this problem in its various aspects so that guidelines could be worked out on the question of the opportunity of maintaining the concept of the continguous zone and that of the definition of the continental shelf, taking into account the development of techniques.

62. I must now state the position of my Government, which is that we consider it preferable to separate the question of territorial waters from that of preferential fishing rights in the "contiguous" zone. My Government thinks that the problem of fishing rights, before being the subject of another international instrument, should first be studied in all its aspects by an appropriate organ of the United Nations which would report to the General Assembly within a specified time limit.

63. I should also like to stress the high priority that my Government gives to the question of delimiting territorial waters within the framework of sub-item *(d)* of agenda item 25. Indeed, we are of the view that international co-operation is not served by unilateral initiatives. We strive to understand the interests of each nation but we refuse to give pride of place to some national interests which risk going against our common goal, that is to say, to preserve marine areas from any attempt which would bring to mind the obsolete operations of an obsolete century, over the interests of the international community.

64. I reserve the right of my delegation to come back to this question during the present debate.

65. I now come to my third point, the question of convening a conference on the law of the sea at an early date.

66. My Government thinks that we must study as soon as possible the framing of conventions governing the principles and legal norms of the exploration and exploitation of the sea-bed. We consider that once these conventions are adopted, their provisions could be utilized to determine the breadth of the territorial sea and the continental shelf.

67. Article 2 of the Convention on the Continental Shelf signed at Geneva in 1958[3] provides that the coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources. On the other hand, enforcement of the criterion of exploitability contained in that Convention will result, as

3 United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.

technology progresses, in reducing the area of the sea-bed beyond the limits of national jurisdiction to the benefit of all those who have the means to exploit them. It would be hazardous to project what will happen in coming years in the matter of the evolution of the technique of extraction on the basis of progress achieved in the last 10 years. Leaps and bounds are quite possible in this field and it seems appropriate to convene a conference on the law of the sea in order to lead, amongst other things, to a clear and precise definition of the sea-beds and oceans beyond the limits of national jurisdiction. That should enable us to preserve in a positive manner the idea of a common heritage of mankind.

68. I have already had occasion to say that in view of the close links between the sea-bed, the ocean floor and the subsoil thereof, and the superjacent waters, possible changes in the régime of the continental shelf would have repercussions on the régime of the high seas, territorial waters, fishing, and conservation of biological resources of the high seas. These problems are most complex and the interests are different and often opposed. It is useful, therefore, in our view, before convening the conference itself, to carry out preliminary and substantive studies at the international level on questions to be included in the agenda. That would avoid undue delays at the conference itself.

69. We share the view that the proposed conference of the sea should be carefully prepared, that there must be a minimum of understanding at the very outset, and we must clearly define the fields in which we expect to meet with difficulties.

70. Consequently, five principles should guide us: first, we should take into account the technological progress which might soon outstrip the Conventions adopted at the 1958 Conference; secondly, we must dedicate ourselves to the progressive development of the law of the sea; thirdly, success of the proposed conference depends upon its methodical preparation; fourthly, the problems are closely related and must be studied from a global standpoint but with a clearly defined order of priorities; fifthly, hope of reaching an agreement is not essential in starting to prepare for the conference because that would reduce the scope of the conference.

71. In view of these considerations and of what I said about priorities, my delegation can accept the first part of document A/C.1/L.536 presented by the United States, concerning the items on the agenda, it being understood that the conference itself would decide on the final order in which these items should be considered, after consultations and after ascertaining the views of Governments.

72. However, we shall insist that there be no question of a régime as long as the area to which it would apply is not determined. The concession that we can make is that the two questions be studied simultaneously and that, to borrow from the language of mathematics, the régime be a parameter of the definition of the zone as the definition of the zone must be a parameter of the establishment of the régime.

73. The importance we attach to the various problems of the sea justifies, in our opinion, the attempt to establish a time-table. The merit of the United States proposal is to have foreseen that fact, for we do not wish this conference, for any reason, to be unduly long.

74. However, we note that, according to the United States time-table, the Committee on the sea-bed from the very beginning of 1971 is to prepare a draft treaty on the principles, the régime, the machinery and related matters. We very much doubt, in spite of existing or foreseeable agreements, that such a time-table could be adhered to. On the contents of paragraph 2 of section II of document A/C.1/L.536, we agree in principle with the idea of the creation of a separate committee. In the part of this statement dealing with the breadth of territorial waters, I mentioned the wish of my Government to have separate consideration for the question of preferential fishing rights within an appropriate organ of the United Nations or even the General Assembly. For our delegations there will be material difficulties, not to mention the need to have continuity and constant co-ordination among the various bodies concerned in preparing the conference. We should not underestimate those factors, and we wonder whether it would not be preferable, for reasons of economy and efficiency, to expand the present Committee on the sea-bed, changing its title and terms of reference, and possibly to create a sub-committee especially entrusted with the task of studying the question of the territorial sea and the prevention of pollution. I must state, however, that on this point my delegation remains open to any suggestion and that we shall be guided by the degree of efficiency that can be expected to result from the adoption of any such formula.

75. Finally, we are in favour of a preparatory session of the conference, but the following points must be borne in mind. First, there must be a preliminary agreement on the agenda of the conference; secondly, these points must have been studied previously through consultations or within the preparatory committees; and, thirdly, the recommendations made by the preparatory committees should not be final, and there must be reconsideration of those recommendations if it appears that deep divergences remain before the preparatory session.

76. We believe it is necessary to provide for contacts as frequent as possible between the committees and the States, so that the preparatory session may be able to lead to tangible results to be adopted by the conference itself.

77. My delegation would like to express the wish that these elements be taken into account by the United States delegation. Our objective is the same: to have a conference on the law of the sea as soon as possible, according to a well-defined time-table. However, we think that within this time-table changes are possible so as to make for more flexibility and to protect the right of States not to be placed at the mercy of the decisions of the committees, whatever their importance or usefulness, especially if they are not members of committees, since this is an extremely important and decisive undertaking.

78. Mr. VINCI (Italy): The Italian delegation attaches special importance to item 25 of the agenda, now under discussion, for at least three good reasons. The first is the traditional deep concern of our country for maritime

problems, mainly due to the geographical form and position of the Italian peninsula. The second is that, in our opinion, no subject could represent a more positive challenge for the United Nations than the envisaged regulation of the sea-bed and ocean floor beyond the limits of national jurisdiction. We are faced indeed with a new opportunity for progressing along the road of economic international co-operation on an equal footing, in particular for the benefit of developing countries, as well as with the new possibility of putting a large area, the largest area of our planet, under the direct legal control of the international community. The third is that we are in favour of further developments of the international law of the sea, in so far as they can put an end to the existing situation of uncertainty and even anarchy on some basic issues, which, if unchecked, can lead to a growing and very dangerous affirmation of short-sighted, national egoisms.

79. Turning now to sub-item *(a)* of item 25, I will clarify the position of my delegation in regard to the draft declaration of principles transmitted to you, Mr. Chairman, by the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, in the annex to his letter of 24 November 1970 *[A/C.1/L.542]*. Let me say that, quite apart from our evaluation of the various aspects of the text submitted for our consideration, the Italian delegation is glad to welcome the new step that has been taken towards a favourable conclusion of the long and complex preparatory work done by the Committee. I fully share the expressions of appreciation and gratitude already conveyed by other representatives to the Chairman of the sea-bed Committee, Mr. Amerasinghe, for his skilful, untiring and patient efforts to reach a compromise solution approaching the common goal of an acceptable declaration of principles. I should like to pay the same tribute of admiration and respect to the Chairman of the Legal Sub-Committee, Mr. Galindo Pohl.

80. That declaration, even if it will not have the effect of introducing legal rules or modifying the existing ones, is nevertheless a very remarkable document, from which fundamental indications will be drawn by our Governments in outlining their approach to the sea-bed problems.

81. In particular, the Italian delegation welcomes the basic principle of the exploration of the international area concerned and of the exploitation of its resources for the benefit of mankind as a whole, together with the provision, which is strictly related thereto, concerning the establishment of appropriate international machinery in order to give effect to the principles of the declaration.

82. We do not believe that such a machinery would profit the developed, rather than the developing, countries as has been suggested by some previous speakers; nor are we inclined to mistrust international organizations or to consider them as pure fiction, covering the interests and designs of the most powerful States. On the contrary, experience demonstrates, we think, that through international organizations the voice of the smaller States is amplified, the urgency and the importance of their needs are called to the attention of the world, the possibility of strong political pressure based on common action arises, while the big Powers are compelled to assume obligations and responsibilities they could escape should international organizations cease to exist.

83. The principle of priority of the national interests of developing countries has also been stressed here, but, apart from the danger of contradiction between such a doctrine and the very principle of international co-operation, allow me to say that national claims are not only to be asserted but also to be accompanied by action, implying recourse to such concrete means as the envisaged action may require. States possessing more powerful instruments of action cannot but prevail in any conflict of national claims unless regulations are agreed upon in the interest of the international community as a whole.

84. Our basic agreement on the substance of the draft declaration does not prevent the Italian delegation from believing that suggestions and proposals likely to improve the draft declaration before us ought to be considered carefully before putting it to the vote. In saying this, I am well aware of the opinion expressed by some representatives according to whom the delicate balance of the text contained in document A/C.1/L.542 should not be upset. I still believe, however, that to reconsider a limited number of points, with the sole aim of avoiding some regrettable obscurities, ambiguities, imprecisions and contradictions, is a task of common interest for all of us. Our attitude is solely inspired by the earnest desire to make the draft declaration even more clear, more explicit and more precise than it appears now. In other words, while we concur with the prevailing view that amendments of substance should be avoided, we feel that some slight changes in the wording could be of greater benefit to all and provide us with a more satisfactory document.

85. On the various specific points that in our view ought to be reconsidered, I reserve the right of my delegation to intervene again at an appropriate stage in our proceedings. What I think we need to do now is to call the attention of this Committee to a fundamental issue whose correct solution seems to us a prerequisite for any legal régime to be established for the sea-bed and ocean floor. I refer to the question of the limits of national jurisdiction. It is indisputable that only through a determination of such limits can the extent of the area under international control be established and that only when the borders of this area are defined will the legal régime envisaged for the international area be applicable. But how, when and by whom will the limits of the national jurisdiction on the sea-bed and the ocean floor be defined? My delegation has constantly affirmed, and I wish to state it again very clearly, that no determination through unilateral action should be admissible or logically conceivable, or–last but not least–advisable for any country. In fact, it would appear as an act of flagrant inconsistency with the Charter of the United Nations for any Member State to subtract part of the international area by unilateral appropriation. Instead of harmonizing our actions, as we have agreed to do in subscribing to the Charter, we would leave each State free to assert its national jurisdiction to the extent which it deems to be more convenient. The result would be to restrict the area of international co-operation, instead of widening it in a spirit adjusted and up to date with our times; the result would be to weaken rather than strengthen the international community represented by the United

Nations. And again it would be quite inconsistent to declare the principle of the exclusively peaceful destination of the said area, while admitting that under the cover of national sovereignty every State could even assign to non-peaceful aims any portion of the sea-bed between its coasts, to a point to be chosen at the discretion of the Government concerned itself. More than that, how can we imagine an international machinery whose limits of competence would be subject at any time to the changeable and discretionary decisions of any single State? In this connexion, my delegation wishes to refer also to the wording of paragraph 8 of the draft declaration, which might in the future raise some controversy on the interpretation of article II of the draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof.[4]

86. To all this it can be added that even the so-called moratorium, provided for in General Assembly resolution 2574 D (XXIV), would be easily eluded and stripped of any practical meaning should any State be allowed to expand its jurisdiction by unilateral decision over a very broad area of sea and sea-bed. In fact, if we recognize such decisions as lawful and valid, States would be induced by the existence of the moratorium provisions–which obviously apply only to the area of the sea-bed and the ocean floor beyond national jurisdiction–to protect their own interests by enlarging to the maximum possible extent the area under national jurisdiction. The moratorium provisions could therefore have the surprising effect of hastening, instead of impeding, the appropriation of large portions of the sea-bed and the ocean floor from the highly industrialized countries which would of course concentrate their financial and technical means for the exploitation of their own areas.

87. I have the greatest respect, of course, for the arguments put forward by several countries with which Italy enjoys the closest and most friendly relations, but my delegation is afraid that these arguments may turn, in the long run, against the very interests of those countries. We reject first of all a Manichaean vision of a world permanently divided between developed and developing countries, between rich and poor. Secondly, we believe that the gap between the two can be more effectively and rapidly bridged by close co-operation under an effective, equitable international régime which could eventually make some allowance for the vital fishing interests of certain countries.

88. I should like to remind the Committee that the political dangers of a race for the appropriation of large portions of the sea-bed–a race in which the strongest States would of course be the winners–have already been underlined at the beginning of our debate by the Secretary-General in his important introductory statement. U Thant said:

> "In the legal field, also, there are problems of adjusting the international interest to national interests, so that the rule of law and not of expediency nor of the stronger over the weaker may prevail". *[1773rd meeting, para. 5.]*

89. For all these reasons I strongly hope that the objective which was put in clear evidence by resolution 2574 A (XXIV) of the General Assembly, operative paragraph 1, namely, to consider as a main task of the prospective conference on the law of the sea: "to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction", will be recognized by all delegations as a goal having high priority.

90. With this in mind, and on the basis of my previous remarks, I trust that the second preambular paragraph of the draft declaration before us, stating that the precise limits of the international area "yet to be determined", means that these limits are to be agreed upon internationally. Needless to say, on such an essential problem the declaration would be better explicit than implicit. This is exactly one of the possible improvements of the text we have in mind, following a wise old French saying which in English would run: "if it goes without saying, it is even better to say it".

91. Let me now comment on sub-items *(c)* and *(d)* of the item under discussion, and in particular on the convening of a conference on the law of the sea.

92. In its reply to the Secretary-General's query pursuant to resolution 2574 A (XXIV) *[see A/7925/Add.1]*, the Italian Government indicated the reasons why it did not believe that it would be useful or necessary to convene a new conference on the law of the sea and on the whole range of subjects listed in that resolution. The Italian Government stated that in its opinion the scope of a new conference should be precisely defined and that it should be prepared with all possible care in order to produce the positive results not attained in previous codification conferences. In the Italian opinion one of the subjects which are undoubtedly ripe for review is that of the definition of the continental shelf.

93. Now we have noted that a number of Member States have expressed a different opinion. We find that certain Governments are willing to discuss at a conference everything from A to Z, not only the régime for the sea-bed, but also the contiguous zone, the questions of pollution, fisheries and so on. We are willing to listen further to the arguments advanced in support of such an approach but we continue to believe that the problems before us are of such complexity as to require further study in depth. This position of caution is not inconsistent with the sense of urgency which we share with most delegations here; on the contrary, it would appear that to decide to convene a comprehensive conference before analytical studies and hard decisions have been made in an appropriate forum would not be consistent with the very reasons that prompt our sense of urgency. Indeed, no worse fate could befall a conference than its failure to reach generally acceptable conclusions because of the lack of substantive agreement, at least in principle, on the implications of the subjects to be brought up for codification or revision.

94. For instance, if broad agreement is not reached beforehand on the need for defining at the same time the limits of the international area of the sea-bed and the régime to be established for this area, I am afraid that no conference, comprehensive or not, could have a successful outcome. And this is one of the reasons why we expressed

4 *Official Records of the Disarmament Commission, Supplement for 1970*, document DC/233, annex A.

our concern previously that we should arrive at a clear, precise and internationally acceptable definition of the area.

95. In the light of what I have stated and of the debate that has taken place so far, we shall consider the possibility of discussing the question of the extension to 12 nautical miles of the breadth of the territorial sea, provided proposals to that effect are not accompanied by riders which would raise more difficulties for Member States than they would solve and which would not be conducive to co-operation among States.

96. We have always been very firm, and so we remain, in our conviction that no decision involving a reduction of the size of that oldest among the common properties of mankind–the high seas–could be affected by unilateral actions. The international community must therefore build upon the existing régime for the territorial sea, by reaching an agreement, if the need is generally felt, on new and generally acceptable limits. It must be stressed, at the same time, that it would be impossible, and certainly unacceptable to us, to change the existing régime in areas which have been traditionally within national jurisdiction.

97. These considerations seem to confirm the need for caution in deciding upon the convening of a conference on the law of the sea with or without a broad mandate.

98. In concluding, I can assure you and fellow representatives that my delegation will consider the proposals before the Committee with an open mind and, in the light of the views I have put forward, it will favour any procedure consistent: *(a)* with the need for accurate preparation of the proposed conference, *(b)* with the advisability of bringing within the scope of such a conference those subjects which are undeniably ripe for general acceptance, and *(c)* with the necessity not to upset the basic rules of the law of the sea as presently recognized–either in principle or in practice–by the vast majority of States in their day-to-day relations.

99. Mr. MATSEIKO (Ukrainian Soviet Socialist Republic) *(translated from Russian)*: In contrast to previous years, the agenda of the First Committee includes three other items in addition to the report of the Committee on the sea-bed; these are marine pollution arising from the exploration and exploitation of the sea-bed, the convening of a conference on the law of the sea, and the breadth of the territorial sea. Although all these questions are combined in a single agenda item, they differ in nature. Each of them covers a wide range of important problems, and merits independent consideration.

100. In our view a successful solution to these problems will not be achieved by an approach which lumps them all together in a kind of conglomerate, especially if the solution of any one of them is made dependent on the solution of the others.

101. The most practical approach would be to find a positive solution to these problems, giving priority to those matters which are already ripe for a solution and can be settled without delay.

102. After these preliminary remarks, the delegation of the Ukrainian SSR would like first of all to go into more detail on the question of the breadth of the territorial sea and related matters. There can be no doubt that this is one of those important problems which require immediate settlement through the conclusion of an international agreement. At the United Nations Conference on the Law of the Sea held at Geneva in 1958 excellent results were achieved in the drafting of Conventions governing the international legal régime for ocean space, and these Conventions have stood the test of time. However, both that Conference and the subsequent one in 1960 were unsuccessful in determining the outer limits of the territorial sea and the limits of the jurisdiction of coastal States in respect of fisheries.

103. The fact that the outer limits of the territorial sea are not defined by a convention represents a serious gap in international law, and leads to claims and counter-claims, disputes and disagreements in relations among States.

104. In order to avoid such disputes and disagreements in future, to prevent the possibility of unilateral actions and to strengthen the international legal régime of the sea and the ocean, it is vital to find a reasonable solution to the problem of the breadth of the territorial sea, taking into account the indisputable rights of coastal States arising out of their need to control the waters adjacent to them in order to ensure their security and economic interests, as well as the rights of all States, both coastal and land-locked, relating to the use of the high seas.

105. The delegation of the Ukrainian SSR accordingly considers that the question of the breadth of the territorial sea and related matters are of primary importance and require immediate settlement. In the final analysis, unless these urgent problems are solved we can hardly expect success in settling other problems and in developing international co-operation with regard to ocean space.

106. Turning now to the question of the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction, the delegation of the Ukrainian SSR would like to note the productive and important work done by the Committee on the sea-bed, whose report is contained in document A/8021.

107. As can be seen from its report, the Committee has given considerable attention to the elaboration of legal principles and norms which might promote international co-operation in the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, and to studying ways and means of promoting the exploitation and use of the resources of this area, measures designed to prevent marine pollution, the question of the reservation of the sea-bed and the ocean floor exclusively for peaceful purposes, and the establishment in due course of appropriate international machinery.

108. In the view of our delegation, the Committee and its Legal Sub-Committee have acted quite rightly in giving serious attention to the preparation of a declaration of legal principles governing the activities of States on the sea-bed and the ocean floor beyond the limits of national jurisdiction. The preparation of a declaration of legal principles

which would in broad outline regulate the activities of States on the sea-bed beyond the limits of national jurisdiction, and would thereby promote broad international co-operation in that area, is unquestionably one of the most urgent tasks facing us. Such a declaration could serve as a basis for the international legal régime which must in future be established under an international agreement of a universal nature.

109. The Committee has, of course, achieved some positive results in the past in the drafting of such principles. This can be seen from the conclusion to the report of the Legal Sub-Committee for 1969, under the heading "Synthesis".[5] Unfortunately, the Sub-Committee's report for 1970 gives no indication of the concrete results of its work. The report itself merely summarizes the proposals made by various delegations, describes the procedure of holding both formal and informal meetings and so on. From some of the information given it would appear that a certain amount of progress was achieved in the course of informal consultations. If that is so, it is regrettable that such progress was not reflected in the Sub-Committee's report.

110. Now the First Committee has before it a new document containing a draft declaration of principles *[A/C.1/L.542]*, a draft which was not formally discussed by the Committee on the sea-bed, but was prepared on the basis of informal consultations with various States.

111. Ambassador Amerasinghe's letter of 24 November transmitting the draft states that it does not represent a consensus of all the members of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

112. The manner in which this document has been submitted appears to us to be extremely dubious. As for its substance, which is more important, we are convinced that the document fails to take into account a number of extremely important proposals advanced by certain delegations. On the other hand, it contains details which are unnecessary at the present stage, but which should be considered during the drafting of an international agreement establishing an international legal régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction.

113. We should like first of all to note that the text before us reflects extremely inadequately—and then only in the preamble—such an important question as that of establishing the limits of the sea-bed and the ocean floor beyond the limits of national jurisdiction. Yet the present vague attitude to this question may prove a serious obstacle to the drafting of legal norms governing the activities of States on the sea-bed and the ocean floor. Without a clear definition of the area, we can scarcely speak seriously of working out a régime, let alone implementing a régime which still has to be worked out.

114. The formulation relating to the reservation of the sea-bed and the ocean floor exclusively for peaceful purposes is inadequate. It does not include, even as a future prospect, a complete prohibition of the use of this area for military purposes. The unsatisfactory nature of the provisions in the draft before us is all the more apparent in the light of the approval by the First Committee of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, under article V of which the Parties to the Treaty undertake to continue negotiations in good faith concerning further measures in the field of disarmament for the prevention of an arms race on the sea-bed, the ocean floor and the subsoil thereof.

115. Our delegation must also draw attention to the fact that the draft declaration before the Committee completely omits the important principles of freedom of scientific research, confining itself to the statement in paragraph 10 that "States shall promote international co-operation in scientific research". We attach great importance to this principle, and consider that it should be reflected in the text of the declaration. We should like to recall in this connexion that this principle appeared in the so-called "Synthesis" in the report of the Legal Sub-Committee for 1969.

116. The draft declaration also fails to reflect adequately the need to respect the generally accepted freedom of the high seas, and the formulations relating to the rights of coastal States are given in a form which would enable them to be used to cover undue expansion of national jurisdiction over the high seas.

117. We have called attention to only a few shortcomings in the text. However, even this is enough to make it clear why we shall not be able to support the draft.

118. At the same time we should like to stress that we have always considered and still consider the drafting of agreed principles to be an important, urgent and responsible task.

119. Agreement can be reached on a draft declaration of these principles if such a draft contains provisions which are formulated in a general manner and which will not undermine the generally accepted principles and norms of contemporary international law. A declaration of legal principles must contain generally agreed provisions, which can then be worked out in detail during the drafting of an international treaty or treaties establishing a legal régime for the sea-bed beyond the limits of national jurisdiction.

120. The difficulties we are encountering in drafting legal principles governing the activities of States on the sea-bed and the ocean floor, and indeed in our consideration of other questions, arise to a considerable extent from the fact that our knowledge of the ocean is as yet too fragmentary and inadequate. Our delegation is accordingly deeply convinced that the primary task remains, as before, to step up the efforts of States in the study of the sea-bed.

121. The delegation of the Ukrainian SSR considers that attention must be given to a further comprehensive study of this important sphere of human activity, on the basis of broad international co-operation and the co-ordination of the efforts of individual States. Such research is an essential prerequisite to the economically feasible exploitation of the resources of the sea-bed and the ocean floor.

5 *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22*, part two, paras. 83-97.

122. Scientists in the Ukrainian SSR attach great importance to oceanographic research and are continuing to study, in particular, the biological resources of the ocean, the hydrological and hydrochemical aspects of the environments, radio-active contamination and chemical and oil pollution of the ocean and their effects on marine organisms, and the sources of minerals on the sea-bed and the ocean floor. In recent years they have been working on a study of the distribution patterns and geological properties of bottom deposits and silty waters in the Atlantic and Indian Oceans. The processes of formation and pattern of location of mineral deposits are being elucidated, and research is being conducted into the lithology and mineralogy of bottom deposits, their physical and mechanical properties and the isotopic composition of the bottom waters. Detailed studies are also continuing into a powerful sub-surface current which has been named after Lomonosov and which is one of the interesting and important features in the circulation of the waters of the Atlantic Ocean.

123. While developing a national programme of research into the marine environment, Ukrainian scientists are continuing to play an active part in international scientific research, especially within the framework of the Intergovernmental Oceanographic Commission, whose authority has recently been considerably expanded through the implementation of the Long-Term and Expanded Programme of Oceanic Research.

124. One positive aspect of the Committee's work was the reaching of agreement on the need to take appropriate measures to prevent pollution, in particular, radio-active contamination of the marine environment and the disturbance of biological, chemical and physical relationships and processes, and damage to the flora and fauna of the marine environment during the exploitation or exploration of the sea-bed and the subsoil thereof. In spite of the preliminary nature of its description of the problems of pollution which may arise in the future as a result of the exploration and exploitation of the natural resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction, the Secretary-General's report on this question *[A/7924]* contains a good deal of useful material, which must be taken into account in the further consideration of the whole complex of problems relating to pollution of the marine environment.

125. The report rightly notes the inadequacy of our knowledge of the kinds of pollution caused by the existing forms of exploitation of the sea-bed. As time goes on, relevant research will undoubtedly be conducted as part of the process of developing the means and methods for the scientific as well as the industrial exploitation of the resources of the sea-bed and the ocean floor. Furthermore, the legal aspects of pollution which at present remain unsettled will in time be regulated, beginning with a definition of the concept of pollution and ending with clearly formulated provisions of an agreement on this matter.

126. The increasing danger of pollution of the marine environment requires further joint efforts by all countries to prevent pollution of the marine environment and disturbance of its ecological balance.

127. The reply of the Ukrainian SSR to the Secretary-General's letter of 17 March 1970 indicates that in the view of the Ukraine, these purposes would be served by the conclusion, by all countries concerned, of an international treaty or treaties which would remove any danger of pollution of the marine environment, and, in particular, of radio-active contamination. Such an international treaty or treaties could also contribute to the further expansion of international co-operation in the elimination of the effects of pollution resulting from shipwrecks or accidents. Such treaties could, of course, only be effective if they were open to all the States concerned and corresponded fully to the principles and norms of the international law of the sea established, in particular, in the Geneva Conventions of 1958 on the law of the sea and in other international agreements.

128. Our delegation would like to comment on some of the conclusions of the Economic and Technical Sub-Committee of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. For a year this Sub-Committee has, in accordance with its mandate, been considering the economic and technical conditions and rules for the exploitation of the resources of the sea-bed and the subsoil thereof, beyond the limits of national jurisdiction. The Sub-Committee recognized that at this stage it was not in a position to advance concrete proposals about the economic and technical conditions and rules regarding exploitation and exploration of the resources of this area. This conclusion is in our view a realistic and sober assessment of the information available to us concerning the world's oceans. We should not be discouraged by it, since national rules and practices relating to the utilization of the sea-bed are still in the course of being established. Hence it is difficult to formulate even general rules, conditions and provisions relating to the exploitation of the deep-lying areas of the sea-bed which would be acceptable to all States of the world without exception.

129. In the view of the Ukrainian delegation, it is essential to carry out a further comprehensive study of the various aspects of the future régime to regulate the exploration and exploitation of the resources of the sea-bed. Only if this is done will it be possible, in the future, to draft provisions for a régime to regulate the exploitation of the floor of the world's oceans.

130. In conclusion, we should like to touch on the question of the desirability of convening a conference on the law of the sea at an early date. Member States have expressed differing views on this question. Some are in favour of convening a conference to deal with a wide range of problems, while others propose that, after careful preparation, the conference should deal with individual questions of the law of the sea that have not already been settled. The Ukrainian SSR is among that group of countries which sees a need to convene a conference on the law of the sea not to review the legal norms governing the world's oceans and their resources which were established in the Geneva Conventions, but to expand and strengthen them. The basis for this attitude is our belief that these legal norms were the result of joint efforts by many Member States; they have served and still serve as a reliable international legal basis for the activities of States in this area. At the same time we feel that, after careful study and

preparation, the conference should consider such outstanding questions as the establishment of the breadth of territorial waters and related questions, a clear definition of the outer limits of the continental shelf, the drafting of an agreement on the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction and a certain number of problems relating to the law of the sea which have not yet been settled. A discussion of these subjects will be profitable if it is conducted on the basis of the generally accepted principles and norms of international law and takes into account the views of all States concerned, large and small, coastal and land-locked.

131. The delegation of the Ukrainian SSR has dealt only with certain aspects of the very broad and varied problems relating to the law of the sea which the First Committee now has before it. In conclusion, we should like to state that we are ready to co-operate as closely as possible with all interested delegations, with a view to reaching agreed and mutually acceptable solutions.

132. The CHAIRMAN *(interpretation from Spanish)*: There are no other names on the list of speakers for this meeting.

133. I shall therefore call on the representative of the Food and Agriculture Organization of the United Nations, who wishes to make a statement in connexion with the item that is now being considered in the First Committee.

134. Mr. CARROZ: Thank you, Mr. Chairman, for allowing me to make a short statement on behalf of the Food and Agriculture Organization of the United Nations.

135. I should like to inform the First Committee of two recent events that may be of interest to the Committee in its consideration of agenda item 25, particularly in view of the numerous references made in the general debate to fisheries and to conservation and management of the living resources of the sea.

136. General Assembly resolution 2574 A (XXIV) was brought to the attention of the intergovernmental Committee on Fisheries of the Food and Agriculture Organization of the United Nations (FAO) at its fifth session in April this year. It may be recalled that the role of the Committee on Fisheries was recognized by the General Assembly in several of its resolutions concerning ocean resources and marine co-operation. The Committee took note of General Assembly resolution 2574 A (XXIV) and agreed that, in the event that a conference on the law of the sea were to be held and were to include fishery matters, the Committee itself and the FAO Department of Fisheries, having in view their responsibilities in this field, would stand ready to prepare any necessary information of a technical nature relating to fisheries. The Council of the Food and Agriculture Organization of the United Nations, at its current session, has just endorsed those views.

137. Secondly, the Sixth FAO Regional Conference for Africa, which was held at Algiers in September and October 1970, expressed concern over the present state of fishery resources and fishing operations off the shores of Africa and recommended that FAO organize a consultation of African member nations on the conservation of fishery resources and the control of fishing. When making this recommendation the Regional Conference for Africa specifically referred to the prospective conference on the law of the sea and indicated that the consultation, tentatively scheduled for May next year, would assist African Governments in preparing for the conference on the law of the sea.

138. It is believed that that information might be of interest to the Committee, which may wish to keep in mind the technical information and advice provided by FAO at both the 1955 International Technical Conference on the Conservation of the Living Resources of the Sea and at the United Nations Conference on the Law of the Sea in 1958.

139. While I have the floor I should also like to give an assurance that the references and the suggestions made during this debate with respect to FAO activities and programmes, especially the statement by the representative of Trinidad and Tobago, will be given all due consideration by FAO.

140. The CHAIRMAN *(interpretation from Spanish)*: Before adjourning the meeting I wish to inform members of the Committee that the Dominican Republic has been added to the list of sponsors of draft resolution A/C.1/L.536.

The meeting rose at 5.25 p.m.

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