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PROVISIONAL VERBATIM RECORD OF THE SIXTY-SECOND MEETING

Held at Headquarters, New York,
on Monday, 20 November 1989, at 3 p.m.

President: Mr. PAWLAK (Poland)
(Vice-President)

later: Mr. GARBA (Nigeria)
(President)

- Law of the sea [30] (continued)
 - (a) Reports of the Secretary-General
 - (b) Draft resolution
- Elections to fill vacancies in subsidiary organs and other elections [16] (continued)
 - (d) Election of the United Nations High Commissioner for Refugees
- Development and international economic co-operation: economic and technical co-operation among developing countries: report of the Second Committee [82 (e)]

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In the absence of the President, Mr. Pawlak (Poland), Vice-President, took the Chair.

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 30 (continued)

LAW OF THE SEA

- (a) REPORTS OF THE SECRETARY-GENERAL (A/44/461 and Corr.1, A/44/650)
- (b) DRAFT RESOLUTION A/44/L.42

Mr. BYKOV (Union of Soviet Socialist Republics) (interpretation from Russian): This session of the General Assembly reflects the historic changes occurring in the world. The replacement in international relations of confrontation by dialogue, interaction and co-operation has laid down the necessary basis for the accelerated process, through the efforts of the whole of the international community, of shaping a non-violent, safer and more just world in which universal and national interests are harmoniously combined.

The foregoing has the most direct bearing on bringing about the rule of law in the seas and oceans - which, as everyone knows, cover more than two thirds of our planet. Governed by the principles and norms of the United Nations Convention on the Law of the Sea, the legal régime governing the seas and oceans should be in keeping with the loftiest human ideals of justice and respect for the interests and rights of every State and every people.

The Soviet Union has always supported the Convention on the Law of the Sea from the very moment of its adoption and believes that it can and must become an effective instrument for bringing about a stable rule of law in the seas and oceans, taking into account the legitimate interests and rights of all States.

In order to bring about universal adherence to the Convention on the Law of the Sea, it is particularly important now to show a high sense of responsibility

(Mr. Bykov, USSR)

and begin a serious dialogue so as to overcome existing differences with regard to specific provisions in part XI relating to activities on the sea-bed. Our task is to adapt these provisions to new realities and identify ways and means of achieving mutually acceptable solutions ensuring that all States become parties to the Convention and leading to the creation of a genuine legal régime governing the seas and oceans.

The achievement of this goal would be an important milestone in the strengthening of interaction among all groups of States within the framework of the United Nations. We call upon all interested parties to make a constructive contribution to the development of dialogue and to finding mutually acceptable practical solutions for part XI of the Convention, that would lead to the participation of all States in this important international Convention. The Soviet Union reconfirms its readiness to take part in such a dialogue, with the participation of all interested parties, including those which have not yet signed the Convention. The United Nations and the Secretary-General have an important role to play in such a dialogue.

The Secretary-General's report on the law of the sea (A/44/650) at this session of the General Assembly not only provides a striking example of the wide variety of questions touched upon in the Convention but also demonstrates that problems are continually growing because of the fact that conditions do not yet exist for the universal adoption of the Convention, thereby delaying its entry into force.

The 1982 United Nations Convention on the Law of the Sea has a significant role to play in further consolidating international law and order; that is a topic that has been repeatedly mentioned from the rostrum of the General Assembly. Given

(Mr. Bykov, USSR)

the need for beginning serious dialogue, our delegation has felt it necessary to revert to this theme again, since we must bear in mind that the dialogue should not result in undermining any of the fundamental sections of the Convention or its integrity. Negotiations on overcoming the problems which have arisen in connection with part XI of the Convention should be viewed as part of an overall process designed to bring about the earliest possible entry into force of the 1982 Convention on the basis of universal participation by all States.

The Secretary-General's report mentions a number of factors which are all part of the development of the law of the sea. Particular reference is made to the signing by the USSR of bilateral Agreements concerning the Prevention of Incidents at Sea beyond the Territorial Sea with the United Kingdom and the Federal Republic of Germany. A similar agreement was recently concluded with France. Even earlier, in 1972, the USSR and the United States signed an Agreement on the Prevention of Incidents On and Over the High Seas (A/44/650, para. 38).

Co-operation between the USSR and other countries in the field of the law of the sea has been further developed this year too. In this regard, we should like to draw the attention of members to the 23 September 1989 Joint Statement by the Foreign Minister of the USSR Mr. Shevardnadze and the United States Secretary of State Mr. Baker, which has been circulated as document A/44/578. As the Statement reveals the parties signed an agreement for a regional commission on the region of the Bering Straits. A Joint Statement was also signed by the USSR and the United States on uniform interpretation of the norms of international law governing innocent passage through territorial waters, which removes a potential source of friction in relations between the two countries.

Soviet and American experts have jointly formulated an approach to regulating problems of delimitation of sea and ocean waters in the Bering and Chukchi Seas.

(Mr. Bykov, USSR)

The parties also confirmed their intention to conclude, by the end of this year, work on an agreement on co-operation in the field of research into the world's oceans.

Those examples once again demonstrate that questions of the law of the sea, and primarily the need for ensuring security at sea, still remain the focus of political attention.

This year the Secretary-General also submitted to the General Assembly at its request a report on the "Protection and preservation of the marine environment". Ecological problems, which are disturbing everyone, are now quite rightly the centre of the international community's attention. This is shown in particular by the general debate at this session of the General Assembly. The protection and preservation of the marine environment is an important and inalienable part of the overall problem. In this regard, I should like to draw attention to the fact that one of the primary tasks of the 1982 Convention on the Law of the Sea is to establish a legal régime to promote the protection and preservation of the marine environment. While we express our gratitude to the Secretariat for its interesting and useful study prepared on the legal aspects of the problem of the protection and preservation of the marine environment, we share the view expressed that the particular attention devoted in the Convention on the Law of the Sea to this particular problem is evidence of the paramount significance of the oceans' role in preserving the global ecological balance.

(Mr. Bykov, USSR)

As is quite rightly pointed out in the study, the main orientation of the Convention in this area is the ensuring of a universal basis for further global, regional and national measures. We have to acknowledge that we are still only at the beginning of this road and that the efforts of the international community will have to be stepped up considerably to produce such measures. We believe the Secretariat's study to be useful and timely and hope that it will be practically applied in the course of the preparations under way for the conference on environment and development, in 1992.

The effectiveness of the United Nations Convention on the Law of the Sea will depend largely on how successfully the Preparatory Commission for the International Sea-bed Authority and for the International Tribunal for the Law of the Sea performs the tasks it faces. The USSR will continue to participate actively in the work of the Preparatory Commission. The Soviet Union has carefully studied the proposals put forward by the Chairman of the Preparatory Commission at its summer session, in New York. As indicated by the Chairman of the Group of Four at the final meeting of that session, the Group will state its position on those proposals before the beginning of the next session of the Commission, in Kingston, next spring.

We should like to express our support for the views of the Group of 77, as set forth by its Chairman at the summer meeting of the Preparatory Commission, on the question of the secretariat of the future organization. We agree that the secretariat should function effectively and without unnecessary costs, and that its staff should not exceed the number necessary to ensure the organization's effective performance of its functions. The creation of a cumbersome bureaucratic apparatus would be counterproductive. We are convinced that we should confine ourselves

(Mr. Bykov, USSR)

to the minimum administrative structure necessary to service the Office for Ocean Affairs and the Law of the Sea, as is the case in connection with the Preparatory Commission.

In order to hasten the entry into force of the Convention, all States should make the necessary determined efforts to ensure universal accession to it. It is clear from the report of the Secretary-General, and has been stressed by many speakers in the debate, that the task of introducing national legislation strictly in accordance with the norms of the Convention to ensure its uniformity and effective application in practice is of great importance.

In conclusion, the Soviet delegation wishes to highlight the very important research and practical work being carried out in the United Nations Secretariat by the Office for Ocean Affairs and the Law of the Sea, headed by Under-Secretary-General Nandan.

It is cause for satisfaction that draft resolution A/44/L.42, was produced as a result of intensive and broadly based unofficial consultations. The Soviet delegation took part in those consultations and supports the draft resolution. We hope that the adoption of the draft resolution will demonstrate the value of concerted efforts to achieve mutually acceptable results in this area.

Dame Ann HERCUS (New Zealand): According to the myths of the indigenous people of New Zealand, the Maori, one half of my country was pulled as a fish from the sea by Maui, a central figure in Maori legend. It became the North Island of New Zealand, which is called by Maori people Te-Ika-a-Maui - the fish of Maui. The canoe from which Maui and his brothers cast the line became what is now the South Island of New Zealand, Te-Waka-a-Maui, or the canoe of Maui.

From ancient legend to modern times the people of my country have seen the seas that surround us as a source of food, as a natural barrier to our enemies, and

(Dame Ann Hercus, New Zealand)

as a route to distant places. Throughout our history the sea has commanded our respect, for the danger it presents, the challenges it promises, and the wealth it offers. So it is only natural that New Zealanders should now demonstrate this respect through their support for international agreements regulating ocean use and protecting the ocean environment.

That is why New Zealand is determined to help with the establishment of a universally accepted régime for the law of the sea covering all aspects of ocean use. It is a small measure of that determination that New Zealand is a co-sponsor of the draft resolution before us. We wish at this early stage to acknowledge with appreciation the excellent work done by Ambassador Jesus of Cape Verde in helping to bring this text to its present form.

Much of this draft text is concerned with the work of the Preparatory Commission for the International Sea-bed Authority and for the International Tribunal for the Law of the Sea. In all frankness we have to say that New Zealand has been concerned at the slow progress in the Preparatory Commission since its first meeting nearly seven years ago. Too often, certain difficult questions have been put off until a later time. The Preparatory Commission has meanwhile grappled with undeniably important issues relating to the registration of the pioneer investors and their ensuing obligations. The success that the Preparatory Commission has achieved to date in this area is evidence that the will exists to find solutions to the most intricate difficulties. But other important problems need to be addressed.

In particular, New Zealand wishes to see an early focus on the so-called hard core issues, including the questions relating to decision-making by the Authority in the financial area. The issue of the size and cost of the Enterprise in its

(Dame Ann Hercus, New Zealand)

initial phase needs further attention. These are central concerns to a signatory such as New Zealand, which is moving towards ratification of the Convention as a priority.

We therefore hope and expect that the Preparatory Commission will very shortly consider these matters. In this regard we note that, in accordance with the proposal outlined by the Chairman of the Preparatory Commission during its 1989 spring session, the Preparatory Commission should soon consider this cluster of issues with a view to concluding consultations on it by the target date of 1991. Because of the importance that it attaches to these issues, New Zealand hopes that consideration of them might begin even in advance of full resolution of the issues relating to obligations of the pioneer investors.

(Dame Ann Hercus, New Zealand)

The question of the universality of adherence to the Convention has weighed heavily with New Zealand since the Convention was adopted, regrettably without the full support of all delegations, in 1982. For New Zealand, as for other delegations, the establishment of a legal régime covering all aspects of ocean use which would command universal respect from the international community was our primary aim during the third United Nations Conference on the Law of the Sea. The failure of the Conference to produce that result did not curtail our ambition in that regard. One of our goals since the adoption of the Convention has been to encourage a constructive approach to the issues which in the view of some have not been satisfactorily resolved.

Accordingly, New Zealand was very encouraged by the statements made by the representatives of various groups during this year's summer session of the Preparatory Commission. These statements indicated a willingness on the part of all participants in the Preparatory Commission to consider possibilities for approaches leading to the universal acceptance of the law-of-the-sea régime. New Zealand's views on this subject were contained in a statement delivered by Denmark on behalf of the Group of Eleven - also known as the Friends of the Convention - to which New Zealand belongs. As our Danish Chairman said, the Group of Eleven is anxious to do its utmost to help achieve universal acceptance, which it believes can be only achieved by real dialogue between all interested parties. He committed the Group of Eleven to being ready to contribute to any initiative that could lead to universal acceptance of the Convention.

We are pleased to see a reflection of these same sentiments in the draft resolution now before us. The wording in the seventh preambular paragraph and operative paragraph 3 represents a hard-won consensus but it does, nevertheless,

(Dame Ann Hercus, New Zealand)

quite clearly indicate that members of the Preparatory Commission are ready to contemplate avenues leading to the universal acceptance of the Convention. New Zealand expresses the firm wish that this signal will receive a positive response as soon as possible from interested States, especially those which have not hitherto participated in the Preparatory Commission's work. We regret that this does not seem possible this year. New Zealand believes a useful role might nevertheless be played by the Secretary-General in seeking to facilitate dialogue in an appropriate forum.

Last year the General Assembly called, in its resolution 43/18, for the preparation by the Secretary-General of a special report on recent developments related to the protection and preservation of the marine environment in the light of the relevant provisions of the United Nations Convention on the Law of the Sea. That report was duly presented to us by the Secretary-General and it is a most thought-provoking, comprehensive document. It is very clear that the attention of the international community must become firmly fixed on the need to address such problems as damage to the marine environment caused by land-based sources of pollution and by dumping of wastes at sea. The Secretary-General identifies possible areas for further work and his recommendations in this area deserve careful study, which will lead, we hope, to early action.

In his report the Secretary-General focused as well on the current state of marine living resources and in particular on the impact of fishing activities on the sustainability of commercial fish stocks. He observed:

"The global yield of fisheries has continued to increase in the past decade, but a combination of overfishing and stock fluctuations due to natural events has led to the decline of certain fisheries and to greater instability in others". (A/44/461 and Corr.1, para. 111)

(Dame Ann Hercus, New Zealand)

He noted that the increased use of what he called "indiscriminate fishing methods" had had a profound effect and had, in combination with other factors, created "a growing number of fish-stock management and environmental problems, particularly in high seas", which, he noted, "are a matter of growing concern to a number of coastal States". (ibid.)

New Zealand is one such concerned coastal State. In the past 12 months we have witnessed a dramatic and worrying increase in the use of an indiscriminate fishing method in the South Pacific. Fleets of foreign fishing vessels have in ever-increasing numbers been targeting albacore tuna through the use of large-scale pelagic driftnets. These are individual nets which when joined together - as is frequently the practice - can reach lengths of more than 50 kilometres. Such nets can trap the targeted species in such numbers as to threaten the very sustainability of those species. But they have also been shown to catch non-targeted species of fish, as well as marine mammals, sea turtles and sea birds. These are the nets which my Prime Minister condemned as a "wall of death" (A/44/PV.15, p. 68) when he addressed the General Assembly early last month.

The deep concerns of New Zealand and other South Pacific countries led in July this year to the adoption by the South Pacific Forum of the Tarawa Declaration. That Declaration, to which the Secretary-General has referred in his report, calls for a ban on driftnet fishing in the South Pacific. Just a week from now a conference will be held in New Zealand's capital, Wellington, to draw up a convention that will ban the use of driftnets in the exclusive economic zones of its parties and by their nationals. It will also consider the question of a management régime for South Pacific albacore tuna, a stock whose very sustainability has been endangered by the use of driftnets in the South Pacific region.

(Dame Ann Hercus, New Zealand)

But the anxiety of the international community about this issue is widespread and not limited to the South Pacific countries. Just a month ago the 49 members of the Commonwealth, meeting in Malaysia, issued the Langkawi Declaration on Environment, which committed Commonwealth members to "seek to ban tangle net and pelagic driftnet fishing" (A/44/673, annex, para. 8 (1)).

Here in the United Nations a draft resolution co-sponsored by New Zealand is currently being considered by the Second Committee. It calls, among other things, for an immediate ban on the practice of large-scale pelagic driftnet fishing in the South Pacific region in order to prevent severely adverse - and perhaps irremediable - effects on South Pacific fisheries. This will, in turn, lead to the development of appropriate, comprehensive fisheries arrangements and management programmes.

(Dame Ann Hercus, New Zealand)

In the light of this international concern we are particularly pleased that, at the request of the New Zealand delegation and with the active support of Australia and a number of others, the draft resolution before us today calls, in operative paragraph 18, for:

"the prevention of the use of fishing methods and practices that can have an adverse impact on the conservation and management of marine living resources."

New Zealand hopes that those nations which are currently using large-scale pelagic driftnets in the South Pacific will heed this call by the General Assembly, which echoes the earlier declarations from Tarawa and Langkawi, and cease the deployments of these nets forthwith.

The report by the Secretary-General on the maritime environment is an example of the excellent work that he has done in this area, with the assistance of his Special Representative for the Law of the Sea, Mr. Nandan, and the Office for Ocean Affairs and the Law of the Sea. New Zealand wishes to pay a special tribute to Mr. Nandan and his staff for their dedicated professionalism in the fulfilment of their responsibilities, both in serving the Preparatory Commission in the preparation of various reports and in helping further the development of State practice in a manner consistent with the provisions of the Convention on the Law of the Sea. Indeed, it is only through a careful reading of the Secretary-General's annual report on the law of the sea that the full range of activities pursued by Under-Secretary-General Nandan's Office is revealed. We should like in particular to express our appreciation of the valuable assistance that has been given this year by the Office for Ocean Affairs and the Law of the Sea to various South Pacific organizations, including the Committee for Co-ordination of Joint Prospecting for Mineral Resources in the South Pacific, and to the University of the South Pacific.

Mr. LUKABU KHABOUJI N'ZAAJI (Zaire) (interpretation from French): My delegation would like to put before the Assembly our views on the question of the law of the sea and draft resolution A/44/L.42.

First, the delegation of Zaire reaffirms its confidence in and encouragement for the Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, for his competence, ability and selflessness in directing the work of the Preparatory Commission, the results of which are now being seen. The adoption of draft principles, policies, guidelines and procedures for a training programme is one of its tangible results.

The delegation of Zaire recalls and reaffirms the mandate given to the Preparatory Commission in accordance with the spirit and the letter of resolution I, concerning the establishment of the Commission, and is convinced that it is therefore the only legal framework within which all questions concerning the Convention on the Law of the Sea should be discussed with a view to the implementation of the freely negotiated provisions of that monumental work of codification.

With regard to the draft resolution before the Assembly, I have to say, on behalf of the delegation of Zaire, that the text as drafted does not fulfil our expectations.

Zaire would have liked the third preambular paragraph, which reaffirms the unified character of the Convention of the Law of the Sea, to be similar to the corresponding paragraph of resolution 43/18, of 1 November 1988. We would also have liked the seventh preambular paragraph to be drafted differently. The same is true of many other provisions that we do not find satisfactory.

I hasten to add that the draft resolution before us is a compromise text, arrived at after long negotiation, which we accept in the interests of the cause.

(Mr. Lukabu Khabouji N'zaaji,
Zaire)

This draft resolution, which we have accepted in a spirit of goodwill as a message, or a signal, calls for a positive response from all the signatories to the Convention, in the same way as did the Final Act. We believe that all members of the international community that still believe in the triumph of law will join together to make it possible for the Preparatory Commission to count on their participation in its work.

The Convention on the Law of the Sea, which is a monumental work of codification, contains mechanisms established by its drafters to respond to every concern that any party might express. These mechanisms are provided for in article 312, which provides for amendment of the Convention, and articles 154 and 155, which deal with periodic review and the review conference with regard to part XI of the Convention.

Zaire, which has ratified the Convention, calls for similar action by the largest possible number of States to permit the the mechanisms provided for in the Convention to be put into effect as soon as possible.

Our message is perfectly clear and demonstrates our willingness to ensure the universality of the Convention and help to overcome the misgivings felt by certain delegations.

My delegation, despite the reaction this morning of one of the delegations, that we would have liked to join us, will vote for the draft resolution which has been submitted to us in the hope that the message it contains will be received positively by all those that still have certain reservations regarding the Convention on the Law of the Sea.

Mrs. FELLICER (Mexico) (interpretation from Spanish): I should like first of all to congratulate the Secretariat on the two reports that have been prepared by the Office of Ocean Affairs and the Law of the Sea. The two documents,

(Mrs. Pellicer, Mexico)

which were received in good time, are now the subject of study and serve as reference material for countries interested in finding solutions to maritime questions.

The report on developments relating to the United Nations Convention on the Law of the Sea is the sixth report in the series submitted to the General Assembly. Congratulations are due for the sustained seriousness and excellence of this effort.

(Mrs. Pellicer, Mexico)

Furthermore, the information contained in the report on the protection and preservation of the marine environment, and the criteria and manner of its presentation, are highly commendable. The report is all the more useful because of its universal approach to sea matters. My delegation hopes that the recommendations and advice it contains will help guide States as they deal with the sea, its resources and the environment.

When in 1982 the United Nations Convention on the Law of the Sea was signed after laborious, patient and arduous negotiations, there was the certain knowledge that, in accepting new institutions, in considering geographical areas that had not yet been regulated and in establishing legal concepts for improving international life, we were at the same time establishing a careful balance among the various provisions of the Convention. That is all well known to all delegations. As a matter of fact it has been repeated ever since the Convention was signed. It was one of the principles that guided the negotiations and it is the result of genuine international co-operation.

My delegation believes that to seek changes in this carefully arrived at balance, outside the schemes and plans provided, is not in keeping with the times. It would destroy unity and wrest potential and rights from other States. The force of the Convention lies in its balance, which takes account of legal, economic and political interests. To preserve this balance and reconcile it with the desired universality of the Convention is the greatest challenge before us.

Out of the 60 instruments of ratification or accession required for the Convention to enter into force, more than two thirds have already been deposited. But, although this has not yet happened, a revealing fact has emerged: the impact of the provisions of the Convention, the new force deriving from its regulations, has inspired or served as a model for much national legislation.

(Mrs. Pellicer, Mexico)

We speak of the 60 instruments of ratification or accession, since that is the most urgent need for the Convention; but it is fair to say that all who worked for the Convention are now advocating participation in the results it has brought about.

On the other hand, we also speak of the Preparatory Commission, because the reports indicate that much remains to be done, and we hope that the difficulties that have arisen will be overcome at the next session.

My delegation does not believe that it is necessary to speak here about the specific issues under study. The Preparatory Commission will certainly reach the relevant decisions on those issues. My delegation intended only to stress once again the importance of the subject before us. We are convinced that the Convention embodies the hope of nations and, hence, is of particular interest to us.

Mr. NAGAI (Japan): My delegation wishes to express its appreciation for the preparatory work done by the Secretary-General and his Special Representative for the Law of the Sea, Mr. Satya Nadan. Our thanks go also to Mr. José Luis Jesús of Cape Verde, Chairman of the Preparatory Commission, for the outstanding leadership he demonstrated during the informal negotiations for a draft resolution under agenda item 30 of the current General Assembly session.

Universality of the United Nations Convention on the Law of the Sea continues to be an important goal in our efforts to realize its practical implementation. Indeed, without universal participation it will not be possible for the Convention truly to enter into force.

At the close of the summer session of the Preparatory Commission, the representative of Italy, Mr. Ruggiero, on behalf of the Group of Six, of which Japan is a member, spoke of the necessity for all States to agree to the launching of a dialogue without pre-conditions and in an appropriate framework.

(Mr. Nagai, Japan)

From that point of view the Group of Six welcomed the statement made that same day by the representative of Zambia, Mr. Kapumpa, on behalf of the Group of 77, in which such a dialogue was mentioned.

At this meeting of the plenary General Assembly, my delegation would like to confirm its support of that position and to indicate its satisfaction at seeing those concepts incorporated in draft resolution A/44/L.42 on the item entitled "Law of the sea". Although in my delegation's opinion the seventh preambular paragraph and operative paragraph 3 could be more explicit, they signal the wish to consolidate the atmosphere engendered by statements made in the Preparatory Commission on 1 September conducive to dialogue for ensuring the universality of the Convention.

Now that there is a consensus favouring dialogue, the States concerned should endeavour to initiate the dialogue as soon as possible. My delegation would like to stress once again that this dialogue ought to begin without pre-conditions and be conducted in whatever framework necessary to achieve its objective.

In our efforts to secure universal acceptance of the Convention, my delegation welcomes most heartily the co-operation of the States concerned as well as assistance from the Secretary-General. We believe that the initiative of the Secretary-General could be particularly effective in promoting these efforts. My delegation, for its part, is ready to contribute to the best of its ability.

Mrs. SANCHEZ LEON (Cuba) (interpretation from Spanish): The United Nations Convention on the Law of the Sea is entering a delicate stage, now that the Preparatory Commission has concluded its seventh session. On the one hand, an attempt is being made to reach agreement with the pioneer investors regarding compliance with their obligations. Generally speaking, such an agreement has met with rigid positions by the pioneer investors that make it difficult to arrive at a commitment in keeping with not only the interests of the investors but also those

(Mrs. Sanchez Leon, Cuba)

of the International Authority, whose Enterprise must function smoothly from the very beginning of production from the sea-bed. On the other hand, we are approaching entry into force of the Convention, which the Secretariat believes will attain the necessary 60 ratifications in approximately three years, 42 having already been reached.

As regards the first matter, the importance of reaching agreement with the pioneer investors lies in the fact that they - three of which are highly developed countries - have made it clear that they accepted the Convention when they signed it. But they have not shown equal understanding regarding guarantees for the functioning of the Enterprise of the Authority, which they could do by agreeing to pay \$1 million annually for their rights, when the exploitation period begins, in exchange for free exploration of the first site of the Enterprise during the stages necessary for beginning work.

(Mrs. Sanchez Leon, Cuba)

However, the pioneer investors as a whole have agreed - in exchange for the waiving of the \$1 million fee - to carry out at their own expense the first stage of the exploration of the Enterprise's initial site. But the Group of Experts has given us technical proof that two stages of exploration are required and that the second stage will be the most important and most costly, if the Enterprise is to be in a position to begin the exploitation of the Authority's site. The intransigent attitude on the part of all the pioneer investors has made it more difficult to reach agreement.

If such agreement were achieved, it would eliminate a fundamental obstacle to the ratification of the Convention, which, as we have already said, the pioneer investors appear to have accepted in principle. That is important because it would offset another prospect of concern to us - that is, the situation taking shape in regard to progress on achieving the necessary minimum of 60 ratifications; for the moment all the countries that have ratified the Convention are developing countries, with the exception of Iceland.

In the light of that situation, the Authority has demonstrated a very clear trend towards modifying part XI of the Convention, in particular - the part to which the developed countries have principally objected. But this is precisely the part of the Convention that is the most important politically. Hence, we should be very careful about making changes in it. In that respect, Cuba shares the opinion expressed at the last plenary meeting of the recently concluded session of the Preparatory Commission, on behalf of the Secretary-General of the Asian-African Legal Consultative Committee, by the representative of that Committee. He said:

"We the developing countries have our own reasons and bases for opposing any premature amendment".

My delegation agrees with the ideal objective: universal participation in the Convention. But we should not sacrifice essential provisions of part XI; rather,

(Mrs. Sanchez Leon, Cuba)

we should broaden the benefits the Convention could entail for the basic interests of all nations and all peoples. For the Convention does not merely advocate the exploitation of the immense metallurgical resources of the sea-bed: it also takes into account, through the establishment of the Enterprise of the Authority, the interests of the least-favoured countries, and the need to protect the developing countries that produce the very minerals that are to be mined from the sea-bed, without preventing the exploitation of those minerals by the most developed States.

For all those reasons, Cuba once again earnestly calls for ratification of the Convention, in the first place by the developing countries that have not yet ratified it. But our appeal goes also to the pioneer investors, who will be the initial beneficiaries of the exploitation of the great wealth of the sea-bed. It is directed too to all those countries that desire to see an international régime that would regulate economic activities in the international deep-sea areas - above all, the "Friends of the Convention", who we trust will contribute through their ratifications to the Convention's entry into force at the earliest possible date.

Mr. BLANC (France) (interpretation from French): Today the European Community and its 12 member States are for the first time expressing a unanimous view in the General Assembly on the question of the law of the sea. This proves the importance they attach to the subject, and it is a great honour for my delegation to be their spokesman.

This year the Secretary-General has submitted to the Assembly two reports under item 30 of the agenda. One of them - and this too is a first - is devoted to protection and preservation of the marine environment; the other is on the law of the sea in general. In the view of the States members of the European Community, protection and preservation of the marine environment is highly important, as the seas and oceans represent about 70 per cent of the surface of our planet. We are

(Mr. Blanc, France)

gratified that the Secretariat, in its report, has provided us with an overall view of this question.

The United Nations Convention on the Law of the Sea is a kind of framework convention. It serves as a point of reference for information on the various types of action taken at the world, regional and national levels. We therefore support the enumeration, in the Secretary-General's report, of areas of future action. The report gives an excellent indication of how, with solidarity, the international community can ensure that it will be able to meet the challenges confronting our planet.

We have noted with interest the Secretary-General's annual report on the law of the sea - in particular the part devoted to recent developments in this aspect of law. The report shows - and we note this with satisfaction - that the Office for Ocean Affairs and the Law of the Sea has grasped the global nature of new law in this area and is extending its activities to new areas of marine affairs. Indeed, the three realms of action of the Office for Ocean Affairs and the Law of the Sea seem to us to be of equal importance.

First, by publicizing legislation and national regulations this Office has facilitated harmonization. In this regard, we have a particular interest in the publications about State practice and the Law of the Sea Bulletin. We hope that the Bulletin will continue to be published regularly and in all the working languages of the Secretariat.

Secondly, thanks to meetings of expert groups, the Office for Ocean Affairs and the Law of the Sea is carrying out research in particularly useful areas. We would mention especially this year's meeting of the expert group on the legal régime governing scientific research at sea - a subject that is of particular interest to the States members of the European Community. We hope that this

(Mr. Blanc, France)

meeting of experts, as well as the document to be prepared by the Secretariat following its work, will help to make national practice in the area of scientific maritime research compatible with the provisions of the United Nations Convention on the Law of the Sea. We therefore hope that the Secretariat will continue to work on other subjects in which there is the same level of interest.

Thirdly, we also welcome the assistance the Office gives to developing countries, either directly by helping Governments to develop their maritime policies or by providing support for regional initiatives.

We congratulate the Secretary-General's Special Representative, Mr. Satya Nandan, on his enlightened leadership of the Office, and we thank all his staff for their effective work. We hope that this will continue and that, to the extent that financial constraints permit, it can be developed further.

The States members of the European Community note with great satisfaction that at the summer session of the Preparatory Commission of the International Sea-Bed Authority and the International Tribunal for the Law of the Sea many States recognized the need for a universally acceptable United Nations Convention on the Law of the Sea. We are indeed convinced of the importance and value of that Convention, which was adopted in 1982 and has done so much towards maintenance of a legal order to regulate the seas and oceans. This importance can be increased only by universal acceptance of the Convention and by its entry into force, with the support of all States.*

* The President took the Chair.

(Mr. Blanc, France)

We believe that special efforts should be made to achieve that universality. This would strengthen co-operation among States and ensure the standardization of their practices in a realm of such importance for our common future. In order to achieve universal acceptance of the Convention and compensate for its shortcomings with regard to the régime governing the sea-bed, which should be exploited for the benefit of mankind, the régime dealt with in part XI of the Convention, the members of the European Community consider it essential that a new dialogue begin. That dialogue has been lacking for too many years now and the time has come for it to begin, without any pre-conditions. We therefore appeal to all people of goodwill and, so far as is possible, to the good offices of the Secretary-General, in order that a satisfactory solution may be found that makes it possible to embark on this indispensable dialogue.

Mr. PERRI (Brazil): Since the General Assembly last considered the item on the law of the sea, in November 1988, seven States, including Brazil, have deposited their instruments of ratification of the United Nations Convention on the Law of the Sea, thus bringing the total number of instruments to 42 - only 18 short of the 60 required for its entry into force. The recent trend towards an increase in the number of ratifications seems to indicate that the comprehensive legal régime established by the Convention for the uses of the oceans soon may be fully in force.

The significance of this event for international law will be momentous, for, as we all know, the Convention and the related resolutions adopted at the Third United Nations Conference on the Law of the Sea represent the only legal régime regulating all the closely interrelated problems of the ocean space.

In making the necessary preparations for the entry into force of the Convention and the operation of the organs established thereby, the Preparatory

(Mr. Perri, Brazil)

Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea has been actively engaged in carrying out its mandate. It has made significant progress in drafting rules of procedure for the organs created by the Convention, as well as rules and regulations for the proper implementation of the régime established by the Convention. It has also been exercising the powers and functions assigned to it by resolution II of the Third United Nations Conference on the Law of the Sea.

If more has not so far been achieved within all areas of competence of the Preparatory Commission that is exclusively the result of attitudes on the part of certain States and groups of States, which are in contradiction with the obligations assumed as a result of their signature of the Convention, their registration as pioneer investors, or both. Those that have signed this major international instrument are under an obligation to act in accordance with its provisions, its objective and its purpose, not against them. Those that not only have signed the Convention but are now registered as pioneer investors and thus enjoy early benefits from the régime applicable to the exploration and exploitation of the deep sea-bed are for their part expected to comply fully with and carry out the obligations assumed as an integral part of registration.

I wish to thank the Secretary-General for having provided us with thorough reports on the law of the sea and on the state of the marine environment. The report on the latter comes at a particularly timely juncture and is an attempt to come to grips with the complex question of the world environment and to find ways and means of enhancing our co-operation in protecting it. In this connection, I stress that the Brazilian Government agrees with the opinion cited by the Secretary-General's report on the state of the marine environment, that adherence to the United Nations Convention on the Law of the Sea is

(Mr. Perri, Brazil)

"the most significant initial action that nations can take in the interests of the oceans' threatened life-support system." (A/44/461, para. 136)

Given the international concern with the state of the global environment and the importance of the oceans in influencing that environment, we would indeed encourage all States which have not yet done so, particularly those which during this debate have voiced their concern about the current state of the marine environment, to heed the Secretary-General's advice and ratify or accede to the Convention.

As the time when the Convention will enter into force draws nearer, we have given renewed thought to the importance of having as many States as possible participating in the régime established by it. Universal accession to the Convention is indeed desirable. Brazil for its part welcomes expressions of willingness to that effect, such as the statement made at the close of the summer 1989 meeting of the Preparatory Commission by the Chairman of the Group of 77, Dr. Mumba Kabumba of Zambia.

To take this expression of goodwill one step further, Brazil has agreed to reflect it in this year's draft resolution (A/44/L.42) in the form both of the insertion of a new seventh preambular paragraph and a new operative paragraph 3, and of the modification of the drafting of the third preambular paragraph and operative paragraph 5. Compared to last year's resolution on the same subject - resolution 43/18 - this year's draft resolution contains what we consider to be a major expression of goodwill to those States - the Federal Republic of Germany, the United Kingdom and the United States - which claim to have certain difficulties with regard to the Convention's régime.

After pondering the significance of this General Assembly's taking a step in the direction of facilitating the participation in the Convention of as many States

(Mr. Perri, Brazil)

as possible, and for the sake of giving a positive signal to that effect, we concurred with the requests of those and other States and agreed to alter significantly the drafting of the paragraphs I have mentioned. As we pointed out during the informal discussions on the draft resolution, the signal was sent on the understanding that it would be met by an equally clear and positive response from those States, translated into a change in the votes which they have for years cast on previous draft resolutions.

The statement made this morning by the Permanent Representative of the United States, however, gave rise to frustration and disappointment on the part of my delegation. We feel frustrated because the gesture we went to great lengths to make has not evoked a corresponding attitude by the United States. We are disappointed because, despite statements couched in less negative terms than we have heard in previous debates on this item, we fail to see the expected constructive attitude on the part of certain developed States regarding the universal participation in the Convention that we had envisaged. On the contrary, what we still see are increasingly direct reservations, whether explicit or not, on part XI of the Convention, as if that part of the instrument were still open for discussion.

(Mr. Perri, Brazil)

Those States, particularly the ones which have in fact signed the Convention, know full well that legally speaking it is not. As one of the 42 States that have so far ratified this international instrument, we find such insinuations particularly grave. As we have stated on previous occasions, universal participation in the Convention must be sought within the purview of the Convention itself and the legal framework provided by the Preparatory Commission. In fact, in our view it is universal participation in the work of the Preparatory Commission that would first need to be achieved on the road to securing universal participation in the Convention itself.

Finally, let me stress that we would have preferred to postpone a decision on the draft resolution, given the foregoing considerations. Our acceptance of the weaker wording in the third preambular paragraph and in operative paragraph 5, as well as the signals contained in the seventh preambular paragraph and in operative paragraph 3, was considered possible within the context, described earlier in this statement, of changes both in attitude and in voting. In any case, Brazil's vote in favour of the draft resolution does not in any way alter its resolve to continue to uphold the Convention and related resolutions adopted therewith, and resolutely to oppose any attempt to undermine them or defeat their object and purpose.

Mr. SOBOLÉV (Byelorussian Soviet Socialist Republic) (interpretation from Russian): The debate on the Secretary-General's latest report on the situation with regard to the United Nations Convention on the Law of the Sea and recent developments in the area of activity connected with the Convention is taking place at a time when the whole world is becoming more aware of its interdependence and the need for strengthening the international rule of law in order to create a comprehensive system of security.

(Mr. Sobolev, Byelorussian SSR)

In the Byelorussian delegation's view this has been strikingly evidenced by the universal support for the General Assembly resolution entitled "United Nations Decade for International Law" which was adopted on the initiative of the members of the Non-Aligned Movement. The resolution stresses the need to strengthen the rule of law in international relations and appeals to all States to work towards achieving a balance of interests and towards resolving differences between States on the basis of international legal principles and norms. It highlights the importance of the further progressive development of international law and its codification. In that light, the role of the Convention on the Law of the Sea is even more significant, inasmuch as it codifies and develops the norms of contemporary law of the sea and regulates the use of all the seas and oceans and their resources.

The Byelorussian delegation also attaches great importance to part XII of the Convention and its other articles relating to the protection and preservation of the marine environment. We believe that the Convention's provisions on this subject have considerable potential and that based on them it will be possible to produce a comprehensive set of regulations for the use of the world's oceans.

The deterioration of the world ecological situation cannot fail to alarm all countries, regardless of their size and geographical location. Since ecological security cannot be divided into land-based and sea-based ecology, the question of measures to preserve and protect the marine environment, where planetary climatic processes are formed, affects the vital interests of both coastal and land-locked States.

In this context we read with interest the special report of the Secretary-General on the latest events connected with the protection and

(Mr. Sobolev, Byelorussian SSR)

preservation of the marine environment in the light of the Convention's provisions. In our view this document is an important contribution to producing an overall strategy in the struggle for ecological security and should be used in the course of preparations for the United Nations conference on environment and development.

It is becoming universally acknowledged that the regulated use of the living and mineral resources of the world's oceans for the good of all of mankind cannot be achieved if the Convention is not universal; and it can be achieved if the necessary agreements are made to reflect the balance of interests of States and to take into account the contemporary economic reality which differs considerably from the economic projections made at the time the Convention was signed.

It seems to us that the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, in whose work our Republic participates, has an extremely important role to play. In our view, the Preparatory Commission's experience has enabled it to find compromise solutions to this problem also. The note upon which the work of the resumed session of the Commission in New York this year concluded gives us reason for optimism.

The Byelorussian SSR welcomes the readiness expressed at the session by all groups of States in the Preparatory Commission to engage in dialogue aimed at making the Convention universal. Thanks to the spirit of mutual understanding and co-operation and the efforts of all interested parties and sides in the Commission, under the leadership of its Chairman, Ambassador Jesus, it was possible this year to take some positive steps towards the fulfilment of its tasks.

The desire for universally acceptable solutions was once again demonstrated in

(Mr. Sobolev, Byelorussian SSR)

the course of the consultations which produced the draft resolution on the subject under discussion. The Byelorussian delegation supports its provisions and indeed is one of its sponsors.

Our stand is based on the priority of universal values, and on the need to establish the rule of law in international relations. We therefore call upon all States to support the draft resolution, which creates conditions for progress towards universally acceptable solutions that can create the basis for universal participation in the Convention and the development of international co-operation in the framework of a comprehensive legal régime established under the Convention.

Mr. BERRY (Australia): The Australian delegation welcomes the report submitted by the Secretary-General on the law of the sea. We have come to value the Secretariat's annual survey for its comprehensive coverage of international developments across a range of interrelated areas. The report is a useful reminder of the varied range and considerable volume of international activity falling within the scope of the Convention on the Law of the Sea.

In so far as it relates to Australia, my delegation would like to note that the Australian Government is continuing its comprehensive review of the legislative implications of the Convention. Over the past year the Australian authorities have revised the administrative guidelines they provide to foreign countries proposing to conduct marine scientific research off the Australian coast. The review has been designed to bring the existing guidelines into closer conformity with the provisions of the Convention.

The Australian delegation also welcomes the special report of the Secretary-General on the marine environment. It provides a timely and comprehensive review of the régime of environmental law as it relates to ocean

(Mr. Berry, Australia)

uses. The report draws attention to the contribution which part XII of the Convention has played and will continue to play in the evolution of new legal norms for the protection and preservation of the environment, and highlights areas for possible future action by the international community.

(Mr. Berry, Australia)

The Secretary-General's report on the law of the sea includes useful coverage of global fisheries issues and of the growing problem of global fisheries management, not least in high-seas areas. This week and next the South Pacific countries will be meeting in Wellington, New Zealand, to draft a convention which would seek to ban driftnet fishing operations in that region and to begin work on the establishment of a management régime for the albacore tuna fisheries. Draft resolution A/44/L.42 on the law of the sea, of which my delegation has the honour to be a sponsor, contains specific provisions relating to the prevention of fishing methods and practices which have an adverse impact on marine living resources.

The section of the report relating to the law of the sea Preparatory Commission reports on the progress achieved by the Commission over the past seven years on a range of organizational matters entrusted to it. We note that despite some significant progress, such as the registration of the pioneer investors and the work accomplished on the drafting of rules of procedure, there continue to be differences on significant issues arising out of part XI of the Convention.

These continued differences over aspects of the régime for the exploration and exploitation of the resources of the sea-bed have been significant impediments to the work of the Preparatory Commission and remain an obstacle to the early entry into force of the Convention. Australia continues to believe that the objective of a universal convention, which was the rationale for the adoption of the consensus approach to the negotiation of the Convention on the Law of the Sea, should remain our goal. Furthermore, means must be found of ending a situation in which a convention which is universally acknowledged to have laid the basis for the modern international law of the sea has not entered into force because of differences over the régime for the exploitation of the sea-bed beyond national jurisdictions.

(Mr. Berry, Australia)

It is, in the view of my delegation, time that this situation was addressed, not least because the task of implementing the body of rules contained in the Convention is a present and urgent task, while the exploitation of the resources of the deep sea-bed remains far in the future. For this reason my delegation welcomes the more conciliatory tone of this year's law of the sea draft resolution. We hope that it will encourage a reassessment of positions on the divisive issues which are delaying the entry into force of the Convention. We believe that the time may be ripe for the international community to address itself to these issues.

It is in this spirit that the Australian delegation has joined in sponsoring the draft resolution, and we are greatly pleased and encouraged that the text has achieved broad support. Of course, we look forward to the day when the Assembly may be able to adopt a resolution on the law of the sea by consensus. We hope that that day may not be far off. Meanwhile, we believe that the draft resolution before us marks an important step forward in resolving outstanding problems relating to the régime of the law of the sea as a whole.

The draft resolution sends a positive message and we trust that it will receive a positive response. But we should not be discouraged if that response does not produce immediate results. The problems are complex and are not susceptible to instant solutions. Moreover, my delegation sincerely believes that adopting a positive and constructive approach such as is reflected in the draft resolution is not just in the interests of one or two States, since the resolution of the major outstanding problems is in the interest of us all.

Therefore we firmly believe that perseverance, good faith and some hard work will produce in the not-too-distant future the result we all so earnestly desire: an effective and universal legal régime for the sea.

Mr. HAYES (Ireland): My delegation endorses and associates itself with the statement recently made by the delegation of France on behalf of the European Communities and their 12 member States. In view of that statement I can be extremely brief.

I recall, as other speakers have already done, the statement made on behalf of the Group of 77 at the closing plenary meeting of the Preparatory Commission in New York earlier this year. That statement was particularly welcome in that it showed a willingness to engage in a new and open dialogue to tackle issues that continue to create difficulties for some countries or that prove to be an impediment to universal acceptance of the Convention on the Law of the Sea.

Ireland supports the Convention and continues to work for its universal acceptance. In this context I recall that the Minister for Foreign Affairs of Ireland, in his address to the General Assembly earlier in the session, said:

"The Convention on the Law of the Sea is a milestone in the history of international law-making and co-operation, which must not be allowed to fail. Universal acceptance of its provisions still eludes us because some elements relating to the régime for the sea-bed have not found general acceptance. We believe, however, that a climate now exists which opens the way for dialogue between all States with a view to achieving a universally accepted Convention." (A/44/PV.13, pp. 41-42)

I am pleased to note that in many of the statements made in today's debate similar sentiments have been expressed.

Because draft resolution A/44/L.42 sends a clear signal, my delegation is one of its sponsors. It is therefore scarcely necessary for me to say that we shall be voting in favour of the draft resolution.

The PRESIDENT: The sponsors of draft resolution A/44/L.42 have been joined by the following countries: Cyprus, Madagascar, Papua New Guinea and Senegal.

The Assembly will now take a decision on draft resolution A/44/L.42.

Should the General Assembly adopt the draft resolution, it would request the Secretary-General to present reports on ocean resource development and management at the forty-fifth and forty-sixth sessions of the General Assembly. Additionally, the Secretary-General would be asked to make the report on protection and preservation of the marine environment available to the intergovernmental meetings to be held in preparation of the 1992 conference on environment and development, and to prepare a study on marine scientific research for the forty-fifth session of the General Assembly in the light of the provisions of the United Nations Convention on the Law of the Sea.

Provision for those three activities is included in the proposed programme budget for the biennium 1990-1991. Consequently, no programme budget implications are anticipated should the General Assembly adopt draft resolution A/44/L.42.

A recorded vote has been requested.

A recorded vote was taken.

In favour: Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Djibouti, Dominican Republic, Egypt, Ethiopia, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua

New Guinea, Paraguay, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Viet Nam, Yemen, Yugoslavia, Zaire

Against: Turkey, United States of America

Abstaining: Ecuador, Germany, Federal Republic of, Israel, Peru, United Kingdom of Great Britain and Northern Ireland, Venezuela

Draft resolution A/44/L.42 was adopted by 138 votes to 2, with 6 abstentions (resolution 44/26).*

* Subsequently the delegation of Mozambique advised the Secretariat that it had intended to vote in favour.

The PRESIDENT: I shall now call on representatives who wish to explain their votes. I remind delegations that, in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Mr. MARTINEZ GONDRA (Argentina) (interpretation from Spanish): My country interprets the third preambular paragraph and operative paragraph 5 of the draft resolution just adopted in accordance with the statement made on 5 October 1984 when we signed the United Nations Convention on the Law of the Sea, in particular the last paragraph of that statement.

Mr. AUST (United Kingdom): I should like to take this opportunity to set out the reasons why my delegation abstained in the vote that has just taken place, but first I should like to make a few more general remarks.

The United Kingdom recognizes that the law of the sea is of vital importance for the world. We believe that a great deal has been achieved in recent years in reducing divergencies in state practice and securing respect for generally agreed rules. This has contributed to the maintenance of international peace and security, as well as good order on the seas.

We welcome the tireless efforts of the Secretariat, pursued in the best traditions of the United Nations, to carry forward the implementation of generally agreed régimes developed during the course of the Third United Nations Conference on the Law of the Sea. In this context, we pay a particular tribute to the Secretariat for its initiative and hard work in producing the very useful series of publications and bulletins detailing developments world-wide in the law of the sea and helping to promote harmonization of national legislation and practice in accordance with the agreed régimes. We make special mention of the

(Mr. Aust, United Kingdom)

Secretary-General's comprehensive and most helpful report on recent developments relating to the marine environment, which will provide an excellent basis for further consideration of this important topic.

We welcome also the Secretariat's initiative in convening a group of experts in New York in September to consider the question of marine scientific research. We fully support efforts to achieve greater harmonization of national practice in this field in accordance with the relevant provisions of the United Nations law of the sea Convention.

Turning now to the resolution itself, we welcome the more open and flexible manner in which the discussions on the text were pursued. This was very much in the spirit of the statements made by interest groups at the close of the summer session of the Preparatory Commission, all of which stressed the importance of dialogue. We welcome the inclusion of references to these statements in the seventh preambular paragraph of the resolution, as well as the appeal in operative paragraph 3 for all States to make renewed efforts to facilitate universal participation in the Convention. We regret, however, that it was not possible to reach a consensus on the text.

We should have felt more able to give positive support to the resolution if it had given greater weight to the need to address the outstanding issues related to deep-sea-bed mining which are currently preventing universal acceptability of the Convention. We would have wished the resolution to have taken account also of the real difficulties which we and others face in giving full support to the Convention whilst these issues remain unresolved. As this was not the case, my delegation abstained in the vote.

(Mr. Aust, United Kingdom)

The United Kingdom's views on the defects of the deep-sea-bed mining régime envisaged in the Convention are already well known and I shall not rehearse them here. We wish to stress, however, that it remains our sincere hope that a universally acceptable Convention can be achieved. We hope that the expressions of willingness to enter into a dialogue will help to bring this about.

Mr. KORUTURK (Turkey): Turkey agrees with most of the provisions of both the Convention on the Law of the Sea and the resolution that has just been adopted. We have always been in favour of the establishment of a régime of the sea based on equity and generally acceptable to all States, and we have contributed to all efforts in this direction. However, Turkey has been unable to sign the Convention because it does not give due recognition to geographical particularities. Because of this shortcoming, the Convention is not able to establish a proper balance between conflicting interests. In addition, the Convention does not make allowances to enable signatories to reserve their positions vis-à-vis particular provisions.

As in previous years, Turkey has not been able to accept a resolution which does not meet its vital interests in the seas that surround it. As an example of one of our objections I can cite the provision that requires States to base themselves on the Convention when drafting their legislation. Not having signed the Convention, we cannot accept this provision.

Over the years we have noted that the authors of draft resolutions have been able to accommodate countries having difficulties by changing the language of the draft resolutions. We hope that in the future any draft resolution on this subject can be so worded that Turkey also can change its vote.

Mr. FERRI (Brazil): Brazil voted in favour of draft resolution A/44/L.42 since we are in agreement with its general objectives of upholding the comprehensive legal régime established by the United Nations Convention on the Law of the Sea, encouraging all States to adhere to that legal régime and enabling the Preparatory Commission for the International Sea-bed Authority and for the International Tribunal for the Law of the Sea to continue to fulfil its mandate in accordance with resolution I of the Third United Nations Conference on the Law of the Sea.

The resolution just adopted also contains a major expression of goodwill addressed to those States which claim to have certain difficulties with regard to the Convention régime, particularly those that have not signed the Convention. The pattern of voting we have just seen reflected on the board, however, confirms the frustration and disappointment we mentioned in our statement, given our high expectations regarding a change in the votes of those States. As we pointed out in the course of the debate, our acceptance of the weaker wording in the third preambular paragraph and operative paragraph 5, as well as the signals contained in the seventh preambular paragraph and operative paragraph 3, does not in any way alter our resolve to continue to uphold the Convention and the related resolutions adopted therewith and to oppose resolutely any attempt to undermine them or defeat their object and purpose.

Mr. BRAÜTIGAM (Federal Republic of Germany): The Federal Republic of Germany continues to take a great interest in all aspects of the development of the law of the sea. Our appreciation for the untiring efforts exerted in regard to these developments by the Office for Ocean Affairs and the Law of the Sea, under the guidance of Under-Secretary-General Nandan, has already been expressed by the representative of France in his statement on behalf of the States members of the European Community.

We welcome in particular the special emphasis placed on the problems of the marine environment as reflected in the report of the Secretary-General on the protection and preservation of the marine environment, as well as in the text of the resolution on the law of the sea. Protection of the marine environment is a crucial part of world-wide co-operation in the field of environmental protection and, as such, is a main foreign policy goal of the Federal Republic of Germany.

As was the case last year, we welcome the Secretary-General's efforts in providing assistance to Member States in the development of marine areas under their jurisdiction in accordance with international law. The Federal Republic of Germany seeks co-operation with all interested States in this field.

We also appreciate the efforts made by the Office for Ocean Affairs and the Law of the Sea to harmonize international practice in marine scientific research. The study resulting from a meeting convened by a group of experts in September in New York could be most useful for the promotion of international co-operation in this important area. My Government was pleased to contribute to the cost of that meeting.

As to the Convention on the Law of the Sea itself, the Federal Republic of Germany reaffirms its commitment to the universality of the Convention. We attach the greatest importance to the Convention as the comprehensive legal instrument to guarantee peace and the rule of law in the oceans, addressing all its many uses.

(Mr. Bräutigam, Federal Republic
of Germany)

Like other States, however, we maintain our reservations with respect to certain regulations contained in part XI of the Convention, dealing with deep-sea-bed mining. We regret that solutions to the outstanding issues have not yet been found, nor are they at hand - a situation that still prevents the Convention from becoming universally acceptable. For that reason, the Federal Republic of Germany again abstained in the voting on the draft resolution on the law of the sea.

As already stated by the representative of France on behalf of the Twelve, we nevertheless appreciate all the efforts - beginning with the summer session of the Preparatory Commission - to bring about a serious dialogue on the issues still to be solved in order to secure universal acceptability of the Convention. We have actively participated in these efforts.

In this context we welcome in particular the statement made by the Chairman of the Group of 77 on the last day of the summer meeting of the Preparatory Commission. We are also aware of the new wording in this year's resolution on the law of the sea. The intensive talks which led to these new texts may be an indication of the new openness to discussions in search of solutions to the outstanding problems, although we had hoped that the signal to be given through the resolution would come through more clearly.

We are prepared to participate actively in a dialogue which, we hope, will begin soon and which might ultimately lead to results making it possible for the Federal Republic of Germany to accede to the Convention. In his report to the forty-fifth session of the General Assembly, next year, the Secretary-General should be able to refer to some substantial progress being made towards the goal of universality of the Convention.

The PRESIDENT: That concludes our consideration of agenda item 30.

AGENDA ITEM 16 (continued)

ELECTIONS TO FILL VACANCIES IN SUBSIDIARY ORGANS AND OTHER ELECTIONS

(d) ELECTION OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (A/44/478)

The PRESIDENT: I wish to draw the attention of the Assembly to document A/44/478 a Note by the Secretary-General.

By its resolution 42/108 of 7 December 1987 the General Assembly decided to continue the Office of the United Nations High Commissioner for Refugees for a further period of five years from 1 January 1989.

By its decision 43/312 of 29 November 1988 the General Assembly, on the proposal of the Secretary-General (A/43/864), extended the appointment of Mr. Jean-Pierre Hocké as United Nations High Commissioner for Refugees for a three-year term of office beginning on 1 January 1989. On 26 October 1989 the Secretary-General accepted with regret the decision of the United Nations High Commissioner for Refugees to resign from his post, effective 1 November 1989.

In conformity with the procedure established by paragraph 13 of the statute of the Office of the United Nations High Commissioner for Refugees, the Secretary-General proposes to the General Assembly that it elect Mr. Thorvald Stoltenberg, former Minister for Foreign Affairs of Norway and current Permanent Representative of Norway to the United Nations, as United Nations High Commissioner for Refugees for a period of four years beginning on 1 January 1990.

Before we proceed to take a decision on the proposal before the Assembly, I should like to quote from rule 78 of the Rules of Procedure as it relates to that proposal:

"As a general rule, no proposal shall be discussed or put to the vote at any meeting of the General Assembly unless copies of it have been circulated to all delegations not later than the day preceding the meeting".

MM/bg

A/44/PV.62
54-55

(The President)

In view of the limited time available and of the desire of members to dispose of this item expeditiously, I should like to suggest, with their concurrence, that we proceed to take a decision on the proposal in document A/44/478, even though it has been circulated only this afternoon. I wish to point out that most of the information contained in document A/44/478 is available in document A/44/247, which was circulated on 15 November 1989.

(The President)

If I hear no objection, I shall take it that the Assembly agrees with my proposal.

It was so decided.

The PRESIDENT: May I take it that the General Assembly approves the proposal contained in document A/44/478?

It was so decided.

The PRESIDENT: I should like, on behalf of the Assembly, to congratulate Mr. Thorvald Stoltenberg, former Minister for Foreign Affairs of Norway and current Permanent Representative of Norway to the United Nations, on his appointment as United Nations High Commissioner for Refugees for a period of four years beginning on 1 January 1990.

This concludes our consideration of sub-item (d) of agenda item 16.

AGENDA ITEM 82 (continued)

DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

- (e) ECONOMIC AND TECHNICAL CO-OPERATION AMONG DEVELOPING COUNTRIES; REPORT OF THE SECOND COMMITTEE (Part VI) (A/44/746/Add.5)

The PRESIDENT: I request the Rapporteur of the Second Committee, Mrs. Martha Dueñas de Whist of Ecuador, to introduce the report of the Second Committee.

Mrs. DUEÑAS de WHIST (Ecuador), Rapporteur of the Second Committee (interpretation from Spanish): I have the honour to present to the Assembly the report of the Second Committee (Part VI) (A/44/746/Add.5) on economic and technical co-operation among developing countries - sub-item (e) of item 82 of the agenda.

(Mrs. Dueñas de Whist, Ecuador)

In paragraph 5 of the report the Second Committee recommends that the General Assembly adopt a draft decision entitled "Report of the High-Level Committee on the Review of Technical Co-operation among Developing Countries on its sixth session". This was adopted without a vote in the Second Committee.

The PRESIDENT: If there is no proposal under rule 66 of the rules of procedure, I shall take it that the General Assembly decides not to discuss the report of the Second Committee which is before the Assembly today.

It was so decided.

The PRESIDENT: The positions of delegations regarding the various recommendations of the Second Committee have been made clear in the Committee and are reflected in the relevant official records.

I remind members that under paragraph 7 of decision 34/401, the General Assembly agreed that

"When the same draft resolution is considered in a Main Committee and in plenary meeting, a delegation should, as far as possible, explain its vote only once, i.e., either in the Committee or in plenary meeting unless that delegation's vote in plenary meeting is different from its vote in the Committee."

I remind delegations that, also in accordance with General Assembly decision 34/401, explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

In paragraph 5 of its report, the Second Committee recommends the adoption of a draft decision entitled "Report of the High-Level Committee on the Review of Technical Co-operation among Developing Countries on its sixth session".

(The President)

The Second Committee adopted the draft decision. May I take it that the Assembly wishes to do the same?

The draft decision was adopted.

The PRESIDENT: We have concluded this stage of our consideration of sub-item (e) of agenda item 82.

The meeting rose at 5.15 p.m.