United Nations
GENERAL ASSEMBLY
TWENTY-FIFTH SESSION
Official Records

FIRST COMMITTEE, 1785th MEETING

Friday, 4 December 1970, at 3 p.m.

NEW YORK

CONTENTS

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, 542 to 544);

(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. The CHAIRMAN *(interpretation from Spanish)*: I should like to invite the members of the Committee to take note of the fact that Algeria and Madagascar have joined in sponsoring draft resolution A/C.1/L.543.

2. Mr. SHARIF (Indonesia): My Government has attached great importance from the outset to the four subjects of item 25 which we have been discussing since 25 November. To bring these four subjects under the single title of "The Question of a Conference on the Law of the Sea", as proposed by the United Kingdom delegation *[1775th meeting]*, may belittle in some degree the importance of our primary objective, which is the reservation of the sea-bed and the ocean floor for peaceful purposes and progress in the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. My delegation completely agrees, however, that a close relationship exists between the questions of the sea-bed Committee and those to be discussed by the forthcoming conference on the law of the sea. The work of the Committee and the preparation of the conference on the law of the sea may well be considered as subitems under the single title of "Questions relating to the Sea" in future discussions.

3. As there would hardly be sufficient time in this Committee at this session to discuss in detail subitems *(b)* marine pollution and *(d)* the question of the breadth of the territorial sea and related matters, my delegation believes that for practical reasons these two subitems could easily be dealt with together with item *(c)* in the context of the desirability of holding a conference on the law of the sea.

4. Accordingly, I shall comment first on the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor beyond national jurisdiction and the progress of work of the sea-bed Committee.

5. When the delegation of Malta took the initiative three years ago to promote and create frameworks for international co-operation in the exploration and use of the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, and to ensure the exploitation of the resources of this area for the benefit of mankind, my delegation fully endorsed the importance of the issue and gratefully welcomed that initiative. Indonesia is not a member of the sea-bed Committee, but we follow the work of the Committee closely through an observer to its meetings. Not only are matters relating to the sea close to the Indonesian people as inhabitants of an archipelago of more than 13,000 islands set in a sea the area of which is two to three times that of our islands, and on a cross-roads between two continents and two oceans, but also it is our firm belief that the increasing ability of modern technology and science to exploit underwater resources at greater depths will continue to open new vistas of knowledge, thereby offering mankind a larger reservoir of resources to meet many of its needs.

6. From time immemorial, the inhabitants of the Indonesian archipelago, like the people of any island or island groups, have regarded the seas surrounding our islands as part and parcel of our national life and a God-given source of living. While farmers are tilling the soil of plains and mountains and making agriculture and cattle-breeding their main source of living, the seas have similarly become the playground and the main source of living for our fishermen and seafaring people of the coastal areas. When industry and mining are making progress on the land, it is only natural that the people start looking beyond their horizon and extend their explorations to the area of the adjacent waters and the subsoil underlying the seas.

7. The representative of Uruguay, Ambassador Legnani, described with his Latin American eloquence the axiomatic truth of the close relationship that existed between the sea and the human groupings and settlements established on their coasts from the very moment when human settlements were first created. He went even further and stated that that close relationship, resulting from the utilization of the waters, of maritime hunting and fishing, of navigation and of the possibilities offered by the sea for defence, preceded the human settlements of today and determined the location of those settlements in territories surrounded by or close to the sea zones. Those territories with their respective air rights, he continued, constitute true geographical units, and it is in the context of this geographical reality of the coastal or riparian State that a wide adjacent maritime zone is to be included. The representative of Uruguay stated further:

> "We cannot overlook, underestimate or curtail the just maritime interests of the coastal State, without overlooking, underestimating or curtailing at the same time the natural single geographical environment in which a politically organized human society exists and functions, and without also denying the use of the natural resources and natural environment which come from the marine zones, which, for reasons of propinquity or priority, belong to that unit, and which in an ever increasing degree become the economic source of its progressive development." *[1773rd meeting, para. 69.]*

8. We completely subscribe to his views. Ambassador Legnani also explained that that position of his country and other Latin American countries had been consolidated and further reaffirmed, as part of the rights of sovereignty of those States, in several international declarations, agreements and other legal documents, from the Santiago Declaration of 1952 to the recent Declarations of Lima and Montevideo of 1970. The defence aspects were cited by referring to resolution 7 *(a)* of the consultative meeting of Foreign Ministers held in Panama in 1939, and article 4 of the Inter-American Treaty on Reciprocal Assistance signed at Rio de Janeiro in 1947.[1]

9. The representative of the Philippines, Mr. Yango, explained yesterday in most eloquent language the unique position of his country as an archipelago of more than 7,000 islands *[1782nd meeting]*. As another archipelago in that same area, Indonesia finds itself in an exactly similar situation. My delegation wholly endorses his statement. We are in absolute agreement and I would not be able to present our common situation in better or clearer language.

10. My delegation is most grateful indeed for this enlightenment. It is gratifying indeed to learn more from others who have been longer in this world. It is exactly from these very same economic and ecological considerations, as well as from the all important point of view of defence and security—in order to defend national unity and territorial integrity—and in application of the principle of the inherent sovereign rights of coastal States which consist of nothing but islands with a wide adjacent maritime zone, that my Government has ultimately arrived at the typical position of an archipelago State consisting exclusively of islands—13,667 in number. With most irregular distances between the islands and irregular depths of the seas surrounding them, and with a coastline longer than the equator, my Government has regulated the Indonesian continental shelf and the Indonesian waters, including the territorial sea, and safe passage for peaceful traffic of foreign vessels in our waters, by legislation. These laws and regulations are public and they have been made known to the world so that all may know where we stand.

11. Furthermore, our national development policy is based on these laws and regulations, as it is clear by now that our surrounding seas have a profound effect on our physical environment. Rich mineral resources lie in the subsoil of our shallow waters. At present, petroleum and tin are being extracted from those areas, by State enterprises as well as by joint ventures of State and foreign private companies. Many of our plans for future economic growth are based and depend on the further exploitation of these and other yet untapped and undiscovered resources. The vast potential of our seas is one of the keys to our goal of improving the life of our people.

12. We ourselves are also already engaged in oceanographic research. We have assisted vessels for scientific research passing through our waters and we have conducted joint scientific research with governmental and non-governmental bodies, as we did last year in the Straits of Malacca in co-operation with the Government of Malaysia and with the assistance of the United Nations Educational, Scientific and Cultural Organization.

13. Furthermore, following the same method of delimitation of jurisdiction and boundaries of continental shelves through bilateral and multilateral agreements on a regional basis, as that used by the Western European countries, with the shelf underlying the North Sea in their part of the world, Indonesia and Malaysia, on the basis of their respective national laws and regulations and of the continental shelf as an accepted legal concept, have been able to arrive at an agreement, signed at Kuala Lumpur on 29 September last year, concerning the continental shelf between the two countries. Thus the areas falling within our respective jurisdictions are now open for exploration and exploitation, and their development need not be kept any longer in abeyance.

14. Mindful of our national programme of activities and of the interest that our people have in matters concerning the sea and its whole environment, my delegation welcomes the report of the sea-bed Committee contained in document

1 United Nations, *Treaty Series*, vol. 28 (1948), No. 324a.

A/8021. We are most indebted to the members of the Committee for their untiring efforts to complete their task; I should like to extend my delegation's appreciation also to the Rapporteur, Mr. Vella of Malta, and to the Chairman, Ambassador Amerasinghe of Ceylon for their highly enlightening introductory comments, presented to this Committee on Wednesday, 25 November *[1773rd meeting]*.

15. The further efforts, after the failure of the Geneva round in August, to arrive at political decisions and adopt a single set of draft principles to govern activities on the sea-bed and the ocean floor outside national jurisdiction testify to the seriousness and devotion which the Chairman and the members of the sea-bed Committee have given to their task. They deserve our highest admiration. We are grateful indeed that the extensive informal consultations have ultimately resulted in supplementing the nine-point "synthesis" with the principles in the draft declarations contained in documents A/C.1/L.542 and 544. Thus the Committee has succeeded in preparing a new formula of 15 principles which appear in the draft declaration. Even if, as the Chairman asserted, it does not constitute the consensus of the whole sea-bed Committee, we are gratified that it commands the wide support of the members.

16. We do realize that the present 15 principles represent a compromise, the result of much give-and-take in order to accommodate all essential interests, and thus we also fully understand that they represent a delicate and comprehensively balanced set in which one principle is inseparable from the others. Any attempt to introduce changes may reopen protracted and most probably fruitless discussions. We agree therefore that the draft declaration is the maximum that we can achieve at this time, and we support the suggestion that has been expressed by many that no amendments be proposed.

17. As to the substance, my delegation believes the inclusion of the following basic concepts to be of the utmost importance: that the sea-bed and the ocean floor beyond the limits of national jurisdiction, together with their resources, are the common heritage of mankind, as stated in paragraph 1 of the draft declaration; that that area is not subject to appropriation by States or persons, as stated in paragraphs 2 and 3; and that all States have the right to participate in its administration and to receive a fair share of the benefits of the activities of exploitation, as stated in paragraphs 4, 7, 9 and 10.

18. My delegation agrees with many speakers who have spoken before me that some provisions are not clear and precise.

19. My delegation has listened carefully to the statement of the representative of the Soviet Union *[1777th meeting]*, who made mention of substantial shortcomings and excessive detail in some provisions, and stated that he would elaborate on this further. My delegation has noted that there are no provisions to ensure that the administering organization to be established shall not be dominated by the technically advanced countries, in view of the big gap between the developed and the developing nations as stressed in paragraph 33 of last year's report of the Economic and Technical Sub-Committee.[2] Paragraph 10 of the draft declaration on co-operation in scientific research does not refer at all to the recommendations in last year's report of the Sub-Committee on the training of national experts, in particular in developing countries, and on providing them with basic equipment to carry out research and investigations and the basic documents needed in the identification of areas where various minerals occur, and in the appraisal of their potential resources. We hope that in working out the details of paragraph 10, or in the consideration of the preparation of the first programme of activities, these recommendations could still be seriously considered for inclusion.

20. The sixth preambular paragraph states that "the development and use of the area and its resources shall be undertaken in such a manner as to foster healthy development of the world economy and balanced growth of international trade, and to minimize any adverse economic effects caused by fluctuation of prices of raw materials resulting from such activities." My delegation further agrees with the delegations of Peru, Brazil and others that an issue so vital to all developing nations should not be included in the preamble, but should appear as one of the principles in the operative part of the declaration. We agree also with the possibility of asking for studies on the subject by the United Nations Conference on Trade and Development and some specialized agencies, because it would be irresponsible to repeat in this field the patterns that govern international trade today and widen the gap separating the rich from the poor nations. My delegation is happy to note that this has already been the subject of a draft resolution contained in document A/C.1/L.543, which we readily agree to co-sponsor.

21. My delegation is happy to note further the inclusion in the draft declaration of the principle of co-operation in the adoption of international rules, standards and procedure for:

> "*(a)* Prevention of pollution and contamination, and other hazards to the marine environment, including the coastline, and of interference with the ecological balance of the marine environment;
>
> "*(b)* Protection and conservation of the natural resources of the area and prevention of damage to the flora and fauna of the marine environment;".

22. My delegation is also satisfied with the guarantee of the rights of coastal States as stated in paragraph 12: "Consultations shall be maintained with the coastal States concerned with respect to activities relating to the exploration of the area and the exploitation of its resources with a view to avoiding infringement of such rights and interests." This is reaffirmed in the provisions of paragraph 13.

23. My delegation is quite content with the 15 principles as a whole. The draft declaration does meet most of the national aspirations and policies which we have formulated in preparation for the conference of non-aligned countries. Like the 52 other countries which participated in the Third Conference of Heads of State or Government of Non-Aligned Countries held in Lusaka in September of this year, my delegation believes that the six points in resolution 11 of the heads of State or Governments have been adequately

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

worked out and included in that document. My delegation does not find it difficult, therefore, to add Indonesia to the list of sponsors of the draft resolution contained in document A/C.1/L.544. We commend the draft resolution for unanimous approval.

24. On the question of the establishment of an international machinery to administer the activities on the sea-bed and the ocean floor, and in the subsoil thereof, beyond national jurisdiction, my delegation has thus far only been able to make a preliminary study of the report of the sea-bed Committee on its deliberations on the report of the Secretary-General in paragraphs 39-66 of document A/8021, with the several working papers pertaining to it, including the report of the Secretary-General himself in annex III, the draft United Nations convention on the international sea-bed area proposed by the United States in annex V, and the working papers of the United Kingdom and France, in annex VI and annex VII respectively.

25. Time was indeed too short to expect at this session detailed comments on these working papers from the home Governments of non-members of the sea-bed Committee. It seems further to my delegation that although there have been extensive discussions on several relevant points relating to the issue, the sea-bed Committee itself has not been able to recommend a draft plan for an international organization to serve the common heritage of mankind which commands the support of many, if not all, of its members. Furthermore, we have noted that the sea-bed Committee is still expecting additional information from the Secretary-General on the structure of the international machinery and its financial aspects.

26. My delegation believes that these preliminary discussions and the relevant working papers are very valuable indeed for further study and examination. We are looking forward to receiving more concrete recommendations from the sea-bed Committee at our next session of the Assembly.

27. I should now like to turn to the question of the conference on the law of the sea, subitem *(c)* of agenda item 25, and I shall also cover subitems *(b)* and *(d)*. Subitem *(b)*, on the question of 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, could indeed be discussed more appropriately and in greater detail in the context of pollution of the seas in general, and many delegations have already proposed this as an item on the agenda of the projected conference on the law of the sea. It is dealt with by the Committee in paragraphs 24-32, of its report.

28. My delegation is quite satisfied with the discussions on the various issues involved. To name a few, my delegation agrees that there is a need for a greater scientific knowledge of the ecology of the area and its vulnerability to pollutants. This should be taken up in the preparations for the United Nations Conference on the Human Environment to be held in Stockholm in 1972. There is need for closer co-ordination of a number of specialized agencies working in this field, particularly in the context of the international decade of ocean exploration and scientific research; the preventive measures taken by a coastal State or by coastal States in a region jointly to protect their coastal area from pollution caused by activities in the area beyond national jurisdiction should be carefully studied further; the question of oil spills from ships will also have to be considered as well as the work of the Inter-Governmental Maritime Consultative Organization, the Intergovernmental Oceanographic Commission, the Food and Agriculture Organization of the United Nations, the World Meteorological Organization and the International Atomic Energy Agency. My delegation believes that the international machinery should assume the responsibility devolving upon it for the prevention of pollution. Provision should be made in the international régime for including adequate safeguards against pollution. My delegation furthermore shares the opinion which has been expressed that it is important to arrive at an agreement on the liability for damage. At this stage we are gratified to note, as we said earlier, the inclusion of paragraphs 11 and 12 in the draft resolution contained in the draft declaration as the basis for further elaboration and for working out the details in the draft articles.

29. On the question of the breadth of the territorial sea and related matters, time would indeed not permit us to hold extensive discussions in this Committee at this session, except for the request for its inclusion as an item in the agenda of our present session by the delegations of Bulgaria, Syria, the Soviet Union, Hungary, Poland, Iraq and Czechoslovakia, with the explanatory memorandum in document A/8047 and Add.1-4. The item needs more careful preparation in view of the detailed and technical material involved. It seems to me that all we can do here, at this stage, is merely discuss the procedural aspects, that is, consider the most appropriate place for further extensive deliberations. With this in mind, my delegation agrees with the view that the question of the breadth of territorial waters, together with marine pollution, which was mentioned earlier, and other subjects related to the sea, be considered for inclusion in the agenda of the forthcoming conference on the law of the sea.

30. On this question of the conference on the law of the sea my delegation would like first to recall our position last year with regard to the draft resolution that eventually became General Assembly resolution 2574 (XXIV) dated 15 December 1969. With a substantial majority both in the Committee and in the plenary my delegation voted in favour of that resolution requesting the Secretary-General:

> "to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea to review 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, particularly in order 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, in the light of the international régime to be established for that area".

31. Our reply to the Secretary-General's questionnaire *[see A/7925/Add.1]* is stated in the same sense: we regard it as desirable that a conference on the law of the sea should be held at an early date, but at the same time we stress the need for careful and thorough preparation in

order to secure maximum success. My delegation believes, in the words of General Assembly resolution 2574 (XXIV), that the conference should have a comprehensive agenda in the light of the international régime to be established for the area to be considered by the sea-bed Committee for peaceful purposes.

32. For these reasons my delegation endorses the two principles contained in both the draft resolutions A/C.1/L.536 and 539, that is, first, the desirability of holding a conference on the law of the sea, and second, the need for preparations. As to the date of the conference, my delegation will follow the general consensus of the Committee but, working on a schedule that I will explain later, we believe that we should be able to make adequate preparations for the conference to be held in the first half of 1973, or at least during that year, and thus meet the proposal by the United States in draft resolution A/C.1/L.536.

33. We further note the close relationship between preparations for the conference on the law of the sea and the work of the sea-bed Committee, which is also recognized in both draft resolutions. The United Kingdom proposal mentioned earlier to include the four subitems under one title: "The Question of a Conference on the Law of the Sea" was no doubt also based on this close relationship. In fact, my delegation believes that detailed articles on the maximum breadth of territorial waters, on the interests of coastal States with respect to fisheries on the high seas and other related matters cannot be considered separately from the consideration of limits of the international régime that is to be established for the sea-bed and the ocean floor beyond national jurisdiction.

34. Preparations for the conference are no doubt of the utmost importance to secure maximum success. It should be remembered that the United Nations Conferences on the Law of the Sea of 1958 and 1960 were held when many of the present Members of the United Nations were not in a position to attend, so they have not been able to express their views on the principles of the Geneva Conventions. When most of the developing countries are also short of experts in this highly technical field, we may well consider, for practical reasons, the possibility of combining the sea-bed Committee and the preparatory committee for the conference on the law of the sea, that is to say, since we already have the sea-bed Committee we can entrust that committee also with the responsibility of making the necessary preparations for the conference on the law of the sea. The advantages, further, of having one single committee for these two questions were elaborated yesterday by the representative of Australia *[1782nd meeting]*. We share his views.

35. When this year the Assembly will have completed its first task on the set of principles–by adopting the principles in document A/C.1/L.544–we can request the sea-bed Committee to concentrate next year on the following two subjects and to report accordingly to the next session of the Assembly: first, the organization of an international régime to be established for the sea-bed and the ocean floor beyond national jurisdiction on the basis of the documents and other working papers already available, and, second, the agenda and procedure of the conference on the law of the sea in the light of General Assembly resolution 2574 (XXIV).

36. At the end of our session next year, we would have at our disposal all the general concepts on the international régime on the agenda for the conference on the law of the sea. The whole year of 1972 could then be devoted to the preparation of draft articles, through working committees, committees or working groups of experts and sub-committees as suggested by the representative of Australia yesterday, so that the conference of plenipotentiaries itself could be held, as I said earlier, at any time in the first half of 1973, as proposed by draft resolution A/C.1/L.536 of the United States.

37. In view of the importance of its task and to overcome some delicate issues relating to the question of the representation in the Committee and also attracted by the benefits derived from a larger presence of experts and political representatives of the world community, my delegation believes that an increase in the membership of the sea-bed Committee is desirable. Such an increase would, I am sure, not only facilitate the completion of the Committee's original task and the preparations for the conference on the law of the sea, but would at the same time prevent proliferation of manpower and funds and save our Governments at least half of the expenses of two separate committees.

38. These are the general views of my delegation on the four subjects of item 25, on which my delegation will base its position on the draft resolutions which have been, or will be, presented on the issue.

39. Mr. LIANG (China): May I at the outset, in the name of the Chinese delegation, pay a tribute to the Chairman and members of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction for their report *[A/8021]* which is now under consideration by the First Committee. The work of the sea-bed Committee during the past year has been described in this Committee as an exercise in frustration. We feel sure, however, that frustration is often the mother of success. The truth of this saying is now proved by the presentation at an opportune time to this Committee of the draft declaration of principles on the sea-bed beyond national jurisdiction *[A/C.1/L.542]*.

40. We wish to offer our sincere congratulations to Senator Claiborne Pell, leader of the United States delegation for item 25, for taking the lead and opening the discussion with an inspiring address *[1774th meeting]*. We are all well acquainted with his distinguished pioneer work at national and international levels in connexion with the development of the resources of the sea-bed and the ocean floor. The recounting of his rich and manifold experience incidentally prompted in myself a feeling, at once profound and poignant, of dedication and nostalgia, for, like him, the law of the sea early became my active interest, and it occupied practically a decade of my 18 years' service as Director of the Codification Division in the Secretariat of the United Nations and as Executive Secretary of both the 1958 and 1960 United Nations Conferences on the Law of the Sea held in Geneva. Like him, I had a certain feeling of loneliness also when I started, for the first time in American

law schools, a seminar on the law of the sea in the graduate division of the New York University Law School in the winter of 1952. I was, however, happy to be able to continue giving the seminar for a period of 14 years and to count among my students and fellow-researchers a good many who eventually became delegates to the United Nations or attorneys specializing in the law of the sea.

41. In the view of the Chinese delegation, all the four subitems of item 25 revolve by their very nature around the general or generic theme, "the law of the sea". They form a conglomeration, it is true, but they have repercussions one upon another. It is in a sense a blessing in disguise that we are enabled to discuss them together, although by reason of their complicated character each item really deserves a separate meticulous discussion.

42. In his statement before this Committee at the first meeting of the discussion of item 25, the Secretary-General aptly gave a composite picture of the contemporary scene *[1773rd meeting]*. He drew attention to the prospects for the exploration and development of mining of undersea minerals and of oil which gave rise to hopes that production in areas beyond national jurisdiction would be commercially viable within a matter of years. He feared, however, that in the absence of international agreements, national Governments might encounter difficulties and feel compelled to interpret their national jurisdiction or national interests in such a fashion that international co-operation could be severely compromised. He referred to the dangers of pollution. In more general terms, he stressed that in the legal field there were 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, might prevail.

43. It is of exceptional interest to compare the above statement with the views expressed in a document entitled *Survey of International Law in relation to the work of codification of the International Law Commission,*[3] issued as a memorandum submitted by the then Secretary-General to the International Law Commission, bearing the date of 5 November 1948. Those views, though not couched in the topical language of 1970, had to do with the question of the codification of the law of the high seas. In the opinion of the Chinese delegation they foreshadowed not only the position of the present Secretary-General as stated above, but also the multifarious problems now confronting the States Members of the United Nations in their consideration of item 25.

44. The memorandum states:

> "The law of the sea offers an inducement which is of some urgency for a co-ordinated effort at codification. For in the absence of international regulation aiming at introducing clarity and a reconciliation of conflicting interests, the régime of the freedom of the sea often threatens to assume a complexion of waste and disorder calling for unilateral measures of self-help. While in some matters the principle of the freedom of the sea provides a sufficient and rational basis for a régime of order and co-operation, in others it is productive of gaps which are inimical to peaceful relations between States and to their general international interest . . . It must be a matter of consideration whether, of all the branches of international law, that of the law of the sea does not lend itself to comprehensive treatment by way of codifying the entire branch of the law. A codification–in its widest sense–of the entire field of the law of the sea in a unified and integrated 'restatement' or similar, more ambitious, instrument would go far toward enhancing the authority both of the work of codification and of international law as a whole."

45. What prophetic insight in the above-cited passage as regards the relative success of the United Nations Conference on the Law of the Sea of 1958 and in particular as regards the present situation concerning deep-sea mining, wherein the principle of the freedom of the sea threatens to be made an instrument for the introduction of a scramble for spheres of exploitation and for the partition of the ocean space. Those who uphold the existing doctrine of the abuse of rights, *l'abus des droits,* are at their wit's end in the exercise of their powers of persuasion or dissuasion. Nothing short of an international régime based upon international agreements seems capable of preventing the imminent chaos, and this has been generally conceded.

46. Addressing myself to item 25 itself, I wish to take up, first of all, the question of the convening of a new conference on the law of the sea. I should like to discuss first the question of the preparation of the conference and, secondly, the scope of its deliberations. Regarding the second question, I wish for the time being to avoid using the term "agenda", which, as some delegations have argued, should be determined by the conference itself, for the conference is the master of its own procedure.

47. Concerning the question of preparation, previous speakers have been unanimous in their insistence that "adequate" and "methodical" preparation was the condition *sine qua non* for the holding of the conference. The replies of Member States to the note verbale of the Secretary-General on the desirability of convening at an early date a conference on the law of the sea make it also abundantly clear that such preparation would be absolutely necessary *[A/7925 and Add.1-3]*. However, it is submitted that "adequate" and "methodical" are abstract terms and it is difficult to gauge the degree of "adequacy" and "methodicalness" achieved at a particular time. Lessons should therefore be drawn from past experience.

48. In the history of the codification of international law within the framework of the United Nations, whether it was a question of the law of the sea, the law of diplomatic relations or the law of treaties, the first preparatory work was done by the formulatory organ, that is to say, the International Law Commission. The statute of the Commission provides for a complicated procedure, which it is not my intention to enter into. When the Commission considered a draft satisfactory, it submitted the draft to the General Assembly, and the latter took over the task of examining whether to call a conference for the adoption of a convention on the subject. In a sense, the role of the General Assembly–in former cases it was, of course, in the Sixth Committee that the matter was considered–was also of a preparatory character, since it was to decide whether a

3 United Nations publication, Sales No. 1948.V.1(1).

conference should be called to codify a certain branch of international law. The debates in the Sixth Committee in connexion with a particular draft of the International Law Commission to figure as a basis of discussion in the conference used to be of paramount importance, as these debates invariably gave a more or less reliable indication of the positions which the States participating in the codification conference were going to assert.

49. It was, of course, understood that the Secretariat would furnish the necessary technical and administrative assistance in the preparation. The contribution of the Secretariat to the technical part, especially in the documentary and doctrinal sphere, might be important, but it was only auxiliary.

50. It is thus clear that I have preferred to speak of preparation in terms of organs or institutions, and not in terms of abstract qualities. Yet the length of time involved in a particular case may afford some indication as to the extent of preparation undertaken. For example, the 1958 Geneva Conference on the Law of the Sea was in the process of preparation for nine full years, beginning with the first session of the International Law Commission in 1949, when the Commission gave priority to the topic of the régime of the high seas and appointed Professor J. P. A. François as Special Rapporteur for it. It must naturally be understood that not until 1956 did the General Assembly decide to convene an international conference to codify the subject. The fact remains that the actual work on the subject started in 1949, with a view to the possibility, *inter alia*, of the convening of a conference to conclude a convention.

51. It is in the light of the tradition of the preparation of codification conferences by organs or institutions within the framework of the United Nations that the Chinese Government, in its reply to the Secretary-General concerning the desirability of holding a conference on the law of the sea *[see A/7925]*, suggested that the preparation might be entrusted in the first place to the International Law Commission. The Commission has in the past carried out special mandates of the General Assembly. For example, in 1949, it dealt *inter alia* with the draft declaration on rights and duties of States and the formulation of the Nuremberg principles, and, in 1951, with the question of reservations to multilateral conventions. We were also cognizant of the fact that the United Nations sea-bed Committee had already undertaken an important share of the work relating to the law of the sea.

52. However, we have been persuaded by the arguments which stress the utmost urgency of the whole matter and the advisability of creating another *ad hoc* organ which, early in 1971, will engage actively in the preparation of the conference on the law of the sea. We are glad to fall in with the suggestion for the creation of such a committee; we do not believe that the present United Nations sea-bed Committee should shoulder this additional responsibility. If the contemplated *ad hoc* committee is to prepare treaty texts even on a limited number of subjects, it will have ample work to do, considering the juridico-political factors involved and bearing in mind the arduous experience of the drafters of the articles of the preliminary reports on the law of the sea of the International Law Commission from 1950 to 1956. The last-named year, as it will be remembered, saw the publication of the final draft of the International Law Commission on the law of the sea, which was used as the basis of discussion by the 1958 Conference.

53. The considerations which I have ventured to submit in connexion with the question of preparation inevitably lead me to reach certain conclusions concerning the more controversial question as to what ought to be the scope of the deliberations of the forthcoming conference on the law of the sea. If the whole set of the Geneva conventions on the law of the sea is to be reviewed on a global basis, or, as one representative put it, from A to Z, it is the firm conviction of my delegation that no conference should be convened within five years; in other words, a somewhat shorter period should be allowed to elapse than that devoted to preparation for the 1958 Geneva Conference. As I have indicated, the past history of preparation shows a gamut of organs or institutions taking part in the work of preparation; in the present instance the whole process would have to be repeated.

54. It could even be argued that to review and revise a set of treaty articles would be more time-consuming than to draft them from scratch, because reasons of impelling character would have to be adduced to convince States already parties that the rules in question were obsolete or obsolescent. It would be easy to persuade a contracting State that article I of the Convention on the Continental Shelf[4] was out of date because of technological progress; but, unfortunately, or fortunately, there are not many articles about which the truth is so patent. It is a truism that law must be certain but that it cannot stand still. Nonetheless, it is not to be believed that the changing seas have changed so much that a body of rules adopted slightly more than a decade ago must be scrapped altogether.

55. There are even more weighty reasons from a juristic point of view. It is uncontroverted that by far the greater part of the law of the sea is customary law of long standing and of great generality of acceptance. The Geneva Convention on the High Seas[5] reminds us in its preambular part that the provisions of the Convention were generally declaratory of established principles of international law. Article 1 of the Convention on the Territorial Sea and the Contiguous Zone[6] provides in paragraph 2 that the sovereignty of a State is exercised subject to the provisions of these articles and to other rules of international law. There is authority for the view that the phrase "and to other rules of international law" implies that the Convention is itself declaratory of international law.

56. That even the newer developments in the law of the sea are largely derived from customary international law has recently been brought home in a most forceful manner by the chairman of the International Committee on Deep-sea Mining, Professor D. H. N. Johnson, in his introduction to a report on this subject presented a few months ago to the Hague Conference of the International Law Association. Contrasting the law of outer space and the law of "inner space", meaning the sea-bed and subsoil of the high seas

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

5 *Ibid.*, vol. 450 (1963), No. 6465.

6 *Ibid.*, vol. 516 (1964), No. 7477.

beyond the limits of national jurisdiction, he states that, whereas it is possible to treat the question of a law for outer space almost entirely *de lege ferenda*,

> "the task of framing rules applicable to the exploration and use of the sea-bed and subsoil of the high seas beyond the limits of national jurisdiction, although it contains much *lex ferenda*, involves also to a considerable extent fitting the new rules into an existing pattern of *lex lata* and acquired rights extending back over many centuries".

57. It is not in the interest of the international community, the Chinese delegation submits, to call in question in a global fashion the body of rules consecrated by international custom and restated and confirmed by the Geneva conventions on the law of the sea, comprising, in addition to formal articles, 78 substantive articles. My delegation agrees with a well-known participant in the Geneva Conferences in both 1958 and 1960, Sir Gerald Fitzmaurice, when he stated in 1959 that the Conference of 1958 avoided the mistake made by the Hague Codification Conference of 1930, which treated the failure to agree on the question of the breadth of the territorial sea as a reason for not drawing up any agreement about the territorial sea at all, and that there was ample scope for agreement on the régime of the territorial sea, irrespective of its breadth. That statement by Sir Gerald Fitzmaurice appeared in "Some Results of the Geneva Conference on the Law of the Sea", in the *International and Comparative Law Quarterly*, Volume 8 (1959), page 74.

58. In the view of the Chinese delegation, though there was a failure to reach an agreement on the breadth of the territorial sea at the 1960 Conference, it cannot be said that there has been no rule of customary international law on the matter, even though the formulation of such a rule has been none too explicit and has often taken the form of a negative statement. On 1 December 1970, at the 1778th meeting of this Committee, one delegation–I think it was the delegation of France–cited a passage from the decision of the International Court of Justice in the Anglo-Norwegian Fisheries Case[7] in which the Court laid down that the delimitation of territorial sea "cannot be dependent merely upon the will of the coastal State", but that "the validity of the delimitation with regard to other States depends upon international law".

59. The International Law Commission in 1956 also put itself on record with the view that

> "1. The Commission recognizes that international practice is not uniform as regards the delimitation of the territorial sea.
>
> "2. The Committee considers that international law does not permit an extension of the territorial sea beyond twelve miles."[8]

60. That text was, of course, not submitted as a proposal to the Geneva Conference, since the Commission reiterated its opinion that the breadth of the territorial sea should be exactly fixed by agreement at an international conference.

61. It is well known that subsequent to the 1960 Conference particular groups of States within specific areas proceeded to regulate the question of the territorial sea on the basis of common interest, with particular reference to mutual adjustments in the matter of fisheries. Multilateral and bilateral treaties were entered into which, with a few exceptions, did not go beyond the 12-mile limit. The list of claims published by the United States Department of State on 24 February 1964 showed a substantial increase in States that claimed 12 miles as compared with 1960.

62. Therefore the Chinese delegation believes that the establishment of a 12-mile limit for the territorial sea to be embodied in a new treaty, as announced by President Nixon in his declaration on United States ocean policy on 23 May 1970, is consonant with customary international law as expounded by the International Law Commission in 1956. This proposal, together with cognate and consequential proposals, should be included within the scope of the deliberations of the forthcoming conference. These questions will constitute the salient features of the provisional agenda to be drafted by the contemplated *ad hoc* committee. A provisional agenda is indisputably a matter of necessity for any international conference. There has never been an international conference which plunged into a general debate on its opening day without a provisional agenda to be adopted, or an *ordre du jour provisoire*.

63. Needless to say, whether the Geneva Convention on the Continental Shelf is to be revised or supplanted by another instrument, it is clear that as a matter of necessity the provisional agenda is bound to include the 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 national jurisdiction and the use of their resources in the interests of mankind, as well as that of 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.

64. My delegation attaches importance to the question of marine pollution not only as it exists within the framework of subitem *(b)* of item 25, that is to say, in regard to the harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, but in its wider implications. It is frankly recognized that the two articles in the Convention on the High Seas on pollution have been out-distanced by the developments in recent years and that the scope of these two articles has been deemed too narrow, dealing as they do only with pollution due to the discharge of oil and the disposal of radio-active waste. It is true that technical studies have been prepared and the problem will be viewed in a larger setting in the United Nations Conference on the Human Environment to be held in Stockholm in 1972, yet we lawyers must do our own work in the formulation of rules to be embodied as a part of a revised set of articles in a convention on pollution or as an amendment of the relevant articles in the Geneva Convention.

---

[7] *Fisheries Case, Judgment of December 18th, 1951: I.C.J. Reports 1951*, p. 116.

[8] *Official Records of the General Assembly, Eleventh Session, Supplement No. 9*, chap. II.

65. Pollution has been considered as one of those problems in which the element of the abuse of rights sometimes looms large. As the above-cited Secretary-General's memorandum of 1948 argues, under the régime of the freedom of the seas conflicts often threaten to assume a complexion of waste and disorder calling for unilateral measures of self-help. The efforts to counteract the harmful effects of pollution may also prompt States to stretch the extent of their territorial sea. A sensational illustration was recently reported in a popular yet high-brow and intellectual periodical in the United States. The renowned editor of the "Saturday Review", himself a world federalist, in its issue dated 12 September 1970, that is, less than three months ago, gave his views in a leading article:

> "One of the most striking talks at the Ottawa congress was given by the Hon. Mitchell Sharp, Foreign Secretary of Canada, who described the damaging effects of oil spills on the ecology of Canada. The spills come mostly from American tankers operating off the northern coasts, killing millions of fish and birds and upsetting the inland chain of life. If prompt and enforcement machinery of world law existed, Secretary Sharp said, Canada would be able to obtain necessary protection. Under present conditions, however, Canada cannot look to the United Nations for swift action, since the United Nations does not have constituted authority in this field. The World Court would appear to offer recourse, but the difficulty here is twofold. First, the United States would have to agree to have the case submitted to the World Court. (Since the United States was not exercising its own authority to keep commercial tankers off Canadian shores, it is unreasonable to believe the United States would be willing to risk an adverse opinion by the World Court.) Second, by the time the World Court would be able to hand down a decision, further oil spills could do serious and substantial harm.
>
> "Under the circumstances, Canada felt it had no choice but to declare that it did not feel itself bound by the traditional 12-mile limit and would therefore extend its jurisdiction to 100 miles off its coasts. It has issued a warning that it is prepared to back up its decision by force if necessary."

This leading article was signed by "N. C.". "N. C." are the initials of Norman Cousins, who is a well-known writer and a world federalist who is the editor-in-chief of the "Saturday Review".

66. I do not call attention to the above-cited article for reasons associated with world federalism. None the less, the issues raised in this situation were fraught with such grave implications that the case might well have been a *cause célèbre*. However, despite the suggestion that international institutions were impotent in the solution of such a conflict of interests, lawyers could perhaps take comfort in the fact that the most esteemed scientific body of international jurists, *l'Institut de Droit international*, had been studying the problem of marine pollution for a number of years and in the course of its last session at Edinburgh in September 1969, adopted a resolution containing a set of rules of a more extensive scope than the two articles in the Geneva Convention on the High Seas.

67. Let me now turn for a moment to certain aspects of the problem posed in the context of item 25.

68. First, the Chinese Government is cognizant of the imprecision surrounding the concept and the definition of the continental shelf as they appear in article 1 of the Convention on the Continental Shelf. Nonetheless, before international legislation in the sense of the conclusion of new multilateral treaties has succeeded in defining the outer limits of the continental shelf, we do not see any other alternative than to consider the Geneva Convention as the positive law. And we do not find many other weaknesses in the provisions of the Convention on the Continental Shelf which would peremptorily call for amendment. We are glad to observe that this is the attitude of some other delegations, in particular the delegation of Canada.

69. With these considerations in mind, and with a view to seeking guidance for exploring and exploiting the submarine resources of its own continental shelf, the Chinese Government authorized the deposit of its ratifications, which comprise two reservations, to that Convention with the United Nations Secretariat as recently as 12 October 1970.

70. In regard to the so-called "moratorium resolution" adopted by the General Assembly in December 1969 *[resolution 2574 D (XXIV)]*, it will be recalled that China abstained in the voting at the plenary session of the General Assembly. We still hold the view that during the interim period before the adoption by the international community of an international régime and the definition of the area of exploration and exploitation, development programmes and enterprises should not be stultified. Time and tide indeed wait for no man. The moratorium, however, may have the advantage of discouraging operations conducted in an irresponsible manner oblivious to the cardinal principle enshrined in article 2 of the Geneva Convention on the High Seas, providing that the freedom of the high seas shall be exercised by all States with reasonable regard for the interests of other States in their freedom of the high seas.

71. The Chinese delegation welcomes the presentation of the draft declaration of principles on the sea-bed beyond national jurisdiction *[A/C.1/L.544]*. It is a momentous achievement which might dispel much of the pessimism which afflicted even the well-wishers of the sea-bed Committee. The Chinese delegation has no intention, however, of going into the details of the formulation. It desires to point out that it is fair to consider the declaration only as a preliminary step, in the same sense that the Universal Declaration on Human Rights has paved the way for the elaboration and adoption of human rights Conventions. As compared with the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations *[resolution 2625 (XXV), annex]*, we wish to emphasize that as the present draft declaration deals with an eminently practical matter, it should not remain for a long period in a state of abstraction but should be endowed with a form and body, that is to say, it should have one convention or several multilateral conventions in order to attain its utilitarian objectives.

72. As regards the question of its binding force, the Chinese delegation is in absolute agreement with the

statement in the concurring opinion of the late Judge Sir Hersch Lauterpacht in the Advisory Opinion on voting procedure on questions relating to reports and petitions concerning the territory of South-West Africa. After stating the principle that the resolutions of the General Assembly are not legally binding upon Member States of the United Nations, except in certain organizational and election matters, Sir Hersch stated:

> "Whatever may be the content of the recommendation and whatever may be the nature and the circumstances of the majority by which it has been reached, it is nevertheless a legal act of the principal organs of the United Nations which Members of the United Nations are under a duty to treat with a degree of respect appropriate to a resolution of the General Assembly."[9]

73. In conclusion, the Chinese delegation wishes to express the fervent hope that in the First Committee general agreement will soon be reached that one or more conferences on the law of the sea will be held in the very near future. It also hopes that a common denominator will be found as to the scope of the conference or conferences, and that preparations will be commenced immediately by the organs or institutions involved. Furthermore, it hopes that the sea-bed Committee will redouble its efforts and avail itself of the traditional and new diplomatic methods to bring to fruition the tasks which it set out to perform. Above all, we are anxious that all Member States will see their way to view their own interests in the larger context of the community interest, for in no branch of international law is the need for compromise and harmonization of divergent interests more imperative and insistent.

74. Permit me to end my address with a quotation from one of the most distinguished philosophers of law of the present century, a former teacher of mine at the Harvard Law School 40 years ago, whose words are particularly relevant to our discussion on the present item. I quote:

> "For the purpose of understanding the law of today, I am content with a picture of satisfying as much of the whole body of human wants as we may with the least sacrifice. I am content to think of law as a social institution to satisfy social wants—the claims and demands and expectations involved in the existence of civilized society—by giving effect to as much as we may with the least sacrifice, so far as such wants may be satisfied or such claims given effect by the ordering of human conduct through politically organized society. For present purposes I am content to see in legal history the record of a continually wider recognizing and satisfying of human wants or claims or desires through social control; a more embracing and a more effective securing of social interests; a continually more complete and more effective elimination of waste and precluding of friction in human enjoyment of the goods of existence—in short, a continually more efficacious social engineering."[10]

75. How apt are the words of Dean Roscoe Pound when applied to the problems facing the forthcoming conference on the law of the sea. They constitute a challenge to all statesmen and lawyers who are in every sense social engineers, working to establish an edifice dedicated to the rule of law and to furthering the prosperity of the common heritage of mankind.

76. Mr. JAMIESON (United Kingdom): I think it may be helpful if I intervene again at this stage of our discussion in order to outline briefly my delegation's ideas on the immediate procedural issues, that is, what sort of resolution we think it is right to be aiming for at this session of the General Assembly. Before I do so, however, I should like very briefly to pick up a point which has emerged from this extraordinarily interesting debate.

77. I think I detected a certain feeling of suspicion as regards the sincerity not only of the major nations but of all technologically advanced nations in regard to the sea-bed régime. There seems to me to be a suspicion that the motive of these Powers is to establish and to perpetuate a monopoly in the exploitation of the sea-bed. I can only speak for my own delegation, but as I reminded the Committee in my previous intervention *[1775th meeting]* the purpose of the ideas in the British working paper *[A/8021, annex VI]*—and they are not firm proposals, they are still only ideas—was precisely to avoid a situation in which the exploitation of the sea-bed and the deriving of the benefits thereof could become a monopoly of a small group of countries, be they the technologically advanced countries or those with long coastlines opposite promising portions of the ocean. Although I can only speak for my own delegation, I believe that the other working papers which have been put forward are proof of a similar sincerity.

78. I am, of course, conscious of the paradox that the working papers which have so far been presented on this matter, which is of such importance for developing countries, come from the technologically advanced countries. There is a gap here which needs to be filled. I very much hope that when we get down to the next stage of our work, that is, drafting provisions for the régime, we shall have working papers from other groups—perhaps from the Asian-African Legal Consultative Committee which will be meeting in February—showing how they feel that we can best translate into practical terms the concept of the common heritage of mankind.

79. In any case, my delegation is fully prepared to have its intentions tested during our forthcoming preparatory work and at an early conference.

80. It is to this aspect of preparing for and holding an early conference on the law of the sea that I now turn. There are three principal procedural issues: the timing of a conference, its scope and the method of preparation. And I should like to recall the three criteria which I suggested earlier for judging proposals on these matters: will they result in an early conference, will they be conducive to satisfactory preparatory work, and will they facilitate the reaching of firm decisions at the conference?

81. As regards the date for the conference, two main trends seem to have emerged during the debate: one is that we should fix a very early date for the first session of the

---

9 *Nottebohm Case (Second phase), Judgment of April 6th, 1955: I.C.J. Reports 1955*, p. 4.

10 Roscoe Pound, *An Introduction to the Philosophy of Law*, (New Haven, Yale University Press, 1922).

conference; the other is that a firm date would make for difficulties at the conference and that we ought not to think of fixing a date for the time being. The position of my delegation, though inclining towards the former, lies somewhere between the two. Certainly we feel that it is necessary that a date should be fixed. If we do not fix a date, the conference could be put off until the Greek Kalends. There would be no guarantee that it would be at an early date, and in this connexion I must again stress that time is of the essence. I do not think that the representative of the United States was far wrong in speaking of 1973 as the decisive year. Nor do I believe that the absence of a date would be conducive to satisfactory preparatory work. "Depend upon it, Sir," said Dr. Johnson, "when a man knows he is to be hanged in a fortnight it concentrates his mind wonderfully." Perhaps I should add that he was an earlier Dr. Johnson who said that, not our distinguished friend and colleague from Liberia. And concentration on our drafting work is what we surely need. On the other hand, we agree that adequate preparation is needed, and January of 1972 seems to us to be a little too early; we ourselves are therefore thinking of a somewhat later date.

82. Then there is the question of the scope of the conference. Here again various views have been expressed, ranging from a very narrow conference, dealing with little more than the breadth of the territorial sea, to an indefinite and open-ended agenda. Here too, the position of my delegation lies between the two extremes. We firmly believe, in common with other speakers, that the purpose of the conference should be to deal with the unresolved issues of the law of the sea. Within that framework our sole aim is to ensure that the conference is effective, that it does result in clear decisions. This approach, in our view, would point to an agenda dealing with two groups of subjects and dealing with them in a parallel manner: on the one hand the sea-bed régime, together with related anti-pollution measures and, of course, international machinery and the related question of the area to which it is to apply; and on the other hand, the maximum breadth of the territorial sea and the related questions of straits and of coastal fisheries. I am very conscious of the point made by the representative of Cameroon in his thoughtful and constructive intervention this morning *[1784th meeting]*—the point about priorities—and this reinforces my view that we must deal with those two groups of subjects in a parallel manner.

83. Other specific subjects, as well as some undefined ones, have been suggested. There is conservation. This is an important question, but it is one which we feel can only be considered in the context of regional stocks of fish and other marine resources; it is therefore a topic appropriate to the regional fisheries commissions. Then there is pollution. As I have indicated, we accept that pollution arising from the exploitation of the sea-bed should be considered in the context of the régime. But that is only part of the problem, one that is again an important one, as my country well knows from its own experience. However, as other speakers have pointed out, this is a matter which will be discussed at the United Nations Conference on the Human Environment to be held in Stockholm in 1972. It is also the subject of an Inter-Governmental Maritime Consultative Organization conference in 1973. In both cases a broad and comprehensive approach is being adopted and preparatory work is already well in hand. To put the general question of pollution within the agenda of a law of the sea conference and within the mandate of its preparatory machinery would cause duplication. We do not believe in duplication. It would cause confusion and perhaps could lead to delay rather than speed in solving what is universally recognized as one of our most urgent problems.

84. I have explained in all honesty what my delegation believes to be a suitable agenda, but we do not want to adopt a rigid position. We fully accept that other delegations may wish to demonstrate that there are other issues of the law of the sea which are unresolved and which therefore might be suitable for inclusion as specific and defined items in the eventual agenda. What we do want to avoid is a situation in which we achieve no proper preparatory work in the form of drafting, but instead dissipate our efforts in discussing generalities and in arguing about the definition of agenda items, their priority, and so on—and all this in circumstances in which, I am inclined to believe, many countries have not yet had time to work out fully just what precise topics they think should be discussed at the conference.

85. In these circumstances, my delegation suggests that it may be premature to fix the agenda this year. We suggest, therefore, that we could, in this year's resolution, call for a conference to discuss and reach decisions on the unresolved issues of the law of the sea, and agree to decide on the precise agenda at the twenty-sixth session. By then, all countries will have had more opportunity to reflect. By then, too, we shall know more about the preparations for the Stockholm Conference and we shall also have the results of the preparatory work of the Inter-Governmental Maritime Consultative Organization's Sub-Committee on Marine Pollution, which will be meeting in May 1971 to prepare for that Organization's conference in 1973.

86. Meanwhile, we must get on with the detailed work of drafting. The fact of the matter is that, even without taking final decisions on the agenda for the conference, there is a good deal that we must face up to without delay. Without any prejudice whatsoever to our decision on the agenda or to the relative priority of different items, we need now to get down to detailed drafting on the sea-bed régime and its area, and on the maximum breadth of the territorial sea and the two closely related questions. That is the third point which I believe should be covered in our resolution.

87. Whether we need one committee or two committees for this is an open question. The point has been made, and is entirely valid, that many countries' interests are directly affected and that they are entitled to an opportunity to ensure that their views are fully taken into account. Whether this points to one committee or two I am honestly not sure. My own delegation has had a preference for two committees: the sea-bed Committee, possibly enlarged, to draft on the sea-bed régime and its area; and a separate committee, perhaps of about the same size, to deal with the traditional law-of-the-sea topics, and with co-ordination between the two. But there are respectable arguments for a single committee, some of them of a highly practical nature, and we would wish to fall into line, on our part, with majority opinion on this. If the decision is for a single committee, however, we think that the resolution should clearly instruct the committee to set up the necessary

sub-committees and working groups to ensure that rapid progress is made, so that, as several speakers have suggested, draft articles can be in the hands of Governments in good time. As to just how this could be worked out, like the representative of Australia, who intervened yesterday *[1782nd meeting]*, I have no fixed position. I see merit in the ideas he outlined and I think it would be valuable if other delegations too could make their views known, so that if the decision is for a single committee, we can reach a general understanding before the end of this Assembly session on the structure of the committee's machinery.

88. My delegation does not wish to submit a draft resolution at present. We are, however, discussing with other delegations possible wording to reflect the ideas I have expressed, with a view to contributing to the elaboration of a draft resolution that will gain the overwhelming support of this Committee.

89. Mr. YASSEEN (Iraq) *(interpretation from French)*: The regulation of the problems of the sea has been a matter of constant concern to the international community. It was one of the first questions that interested our Organization in the field of the progressive development of international law and its codification. I am thinking of the intensive work undertaken in this connexion by the International Law Commission, the success of the first United Nations Conference on the Law of the Sea in 1958 which resulted in the adoption of the Conventions, and the failure of the second Conference in 1960 concerning the limits of the territorial sea.

90. With the progress of science and technology, the sea opens up new horizons and, therefore, confronts us with new challenges. Let us hope that modern research will succeed in confirming the claims of a princess of the sea. I am sure I may be allowed to refer to "The Thousand and One Nights"; I am from Baghdad. According to Scheherazade, it seems that Golnar of the Sea said to her husband, Shah Zaman, a king on the land: "Compared to our riches, the riches of the entire earth are but misery and poverty."

91. Item 25 is one of the most important items on our agenda, in all its four subitems, and with regard to these latter I shall try as briefly as possible to set forth the attitude of my delegation.

92. First, the 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 exploitation of their resources in the interest of all mankind. This question is perhaps what has led us once again to think of the problems arising from the law of the sea. Its solution in the direction already indicated by the political will of the international community presupposes a certain definition and degree of development in the field of positive international law.

93. The tireless work accomplished by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction can indeed be considered a remarkable achievement. The Committee certainly did not accomplish its task in the matter of preparing an appropriate international régime to govern all the activities of exploration and exploitation of the sea-bed and the subsoil thereof, but it succeeded–and we know how difficult the conditions were–in presenting to us a draft declaration of principles *[A/C.1/L.542]* for which, in the name of my delegation, I would like to congratulate the Committee, its Chairman, Mr. Amerasinghe, and the remarkable Chairman of its Legal Sub-Committee, Mr. Galindo Pohl.

94. This draft, as has already been stressed, is only a compromise. No consensus was reached on it in the Committee. However, it enjoyed wide support. As to the substance it appears to us to be extremely important. It confirms some basic ideas without which it is impossible to launch this large-scale international co-operative effort in the service of mankind. It will suffice to quote paragraph 1 which says that this area is the common heritage of mankind. It excludes the idea of first exploitation. Paragraph 2 says that the area shall not be subject to appropriation by any means by States or persons, natural or juridical, and that no State shall claim or exercise sovereignty or sovereign rights. Paragraph 5 concerns the use of the area exclusively for peaceful purposes. Paragraph 7 speaks of the exploitation of the area for the benefit of mankind as a whole taking into particular consideration the interests and needs of the developing countries.

95. These principles give us a solid foundation for a complete and balanced international régime. Their acceptance would certainly facilitate the working out of such a régime in the Committee. Let us hope that these principles will reflect the consensus of the General Assembly. This is why my delegation will vote in favour of the draft resolution submitted by Argentina and other countries and containing the draft declaration *[A/C.1/L.544]*.

96. The exploitation of the sea-bed and the subsoil thereof could lead to pollution. Any international régime relating to this exploitation should therefore be very careful not to ignore this harmful and nefarious element. In paragraph 11 of the draft principles we read about the need to take measures to prevent pollution and contamination and other hazards to the marine environment. Let us hope that the international régime which is established in this field will take advantage of all experience acquired or to be acquired by the various United Nations bodies, the future United Nations Conference on the Human Environment to be held in Stockholm in 1972 and by the Inter-Governmental Maritime Consultative Organization.

97. To define the limits of the area we are talking about we must know the limits of national jurisdiction. But there are other reasons which confirm the need to determine the breadth of the territorial sea and to consider some related matters such as the limits of the continental shelf.

98. Important problems of limits between various legal norms are involved here. The failure of the Geneva Conference of 1960 only confirmed the need for new efforts in order to determine the breadth of the territorial sea, taking into account the new realities of the world, and these efforts have not ceased on the bilateral and regional levels.

99. Without going into detail, my delegation would like to make a few comments with regard to this thorny problem.

First of all, the delimitation of the breadth of the territorial sea comes under international law. It must therefore be carried out according to international criteria. It has a direct bearing on the breadth of the high seas and the international scope of State sovereignty. Any unilateral delimitation can therefore oppose anything on the international level only if it has international legal status. But it is possible to adopt a flexible criterion. The territorial seas are different for many reasons, geographic, economic, and so on. It has been said quite correctly that there is no territorial sea but that there are territorial seas. International law could recognize limits within which the breadth of the territorial seas could be determined according to reasonable discretionary powers.

100. The International Law Commission already noted that the practice of States in this field was to define the breadth of the territorial sea between a maximum of 12 miles and a minimum of 3 miles.

101. But any criterion, if it is to be adopted, must become a positive international rule and we must express the hope that the concerted efforts of States will succeed in finding a flexible and reasonable criterion which could prevent injustices by the international community and excesses by a given State.

102. As to subitem *(c)* of the item in question, my delegation has already had an opportunity of speaking about the proposal to convene as soon as possible a conference on the law of the sea. The progressive development of international law and its codification is a continuous task. It must always aim at adapting international order to the dynamic realities of life. We therefore hold the view that the task already accomplished should be changed only to the extent that these changes appear necessary.

103. The United Nations has accomplished remarkable work in the field of the law of the sea. Bodies concerned with the progressive development of international law and its codification have tirelessly co-operated to work out the Geneva conventions. But a code is never completed. There are questions that were not settled, such as the breadth of the territorial sea. There are rules which developments in international life made obsolete, imprecise or inexact.

104. My delegation is in favour of convening a conference on the law of the sea in order to remedy the shortcomings, fill the gaps and palliate the various insufficiencies or lack of precision; yet, it would respect, beyond this, the task achieved after so many efforts, research and goodwill.

105. To succeed, a conference must be carefully prepared. As a basis for its discussions it must have carefully worked-out drafts. Let us recall that the United Nations Conference on the Law of the Sea of 1958 worked on the basis of drafts which the International Law Commission, in co-operation with States, worked out after several years of careful study.

106. We express reasonable optimism with regard to the forthcoming conference. Much spade work has already been done about some of the matters to be discussed. Much more has still to be done and we hope that in the spirit of co-operation which is essential in a field such as this, the conference on the law of the sea will, within the limits described by us, accomplish an extremely useful task.

107. Mr. FONSECA TRUQUE (Colombia) *(interpretation from Spanish)*: Colombia has a fundamental interest in the item concerning the law of the sea, the utilization for peaceful purposes of the sea-bed and the ocean floor, the establishment of a régime to govern the area beyond the limits of national jurisdiction, the adoption of legal principles and the convening of a conference in the preparation of which my delegation wishes to collaborate most decisively.

108. For more than three years now the United Nations has been devoting continuous attention to these urgent matters which are of such overriding importance for the progress of the world and the well-being of nations. It is no more than right that we should all aspire on this anniversary of the founding of the Organization to establish certain minimal bases, that we should attempt to overcome the first stage of difficulties so that, without failing to apply the realistic criterion that has always prevailed in our deliberations, we can at least see that we are capable of obtaining positive results in the course of our work.

109. We have still not recovered from our surprise at the inexplicable fact that, nine years before turning its attention to the utilization of the oceans—which, as we all know, make up something more than 70 per cent of the surface of the earth—the United Nations should have taken up the question of the use of outer space.

110. In fact it has been our lot to live in an era of the acceleration of technology and we feel justifiably proud when advances in science open new frontiers, prolong human life and open up broader avenues of progress to him every day. But at the same time we are concerned to observe that, while some nations aspire to conquer new fields, many others are desperately engaged in the struggle to overcome the unacceptable levels of poverty inflicted on their peoples.

111. We are also ashamed to note that while fabulous budgets and the efforts of the most qualified scientists are devoted to the sinister arms race the vast resources of the oceans are not utilized to meet the elementary needs of millions of human beings who lack not only education but even the capacity to fight against the ravages of hunger.

112. Only four sessions of the General Assembly have so far dealt with these questions of the sea. Undoubtedly, however, we now find ourselves committed to an irreversible process and the only way out is through international co-operation guided by the principles of law and justice. But we also know that it is essential to exert all our powers of imagination with a very clear picture of the future.

113. Accordingly, when we hear talk of "the common heritage of mankind", when reading the draft declaration of principles, we are inspired by the hope that a new era is dawning in international relations which will no longer be one of mere peaceful coexistence or good-neighbourliness but rather an era of common interests, an era which could well lead us towards genuine universal brotherhood. It is

natural that this should be the case in a world which, because of progress, is becoming smaller every day.

114. If the concept of the "common heritage of mankind" is understood in its deeper significance, to which we attribute more of a philosophical than a legal character, we can simplify enormously the acceptance of the entire text of the declaration of principles.

115. We find no reasons which prevent us from accepting the idea that there is an area in the oceans beyond the limits of national jurisdiction and that this area will not be subject to appropriation; that it should be administered by an international régime adapted to the rules of law including the Charter of the United Nations; that the exploitation of its resources will be carried out to the benefit of all mankind regardless of the geographical position of States, regardless of whether they are land-locked or coastal States and giving special consideration to the interests and needs of the developing countries; that this area will be reserved exclusively for peaceful purposes; that international co-operation will be encouraged in scientific research, and contamination and other dangers to the ecological balance of the marine environment will be prevented; that nations will be duty bound to consult and respect the legitimate rights and interests of the coastal States with regard to activities relating to the exploration and exploitation of the resources in the aforesaid area.

116. Our debates have shown that the draft declaration in document A/C.1/L.542, now reproduced in document A/C.1/L.544, represents a delicate balance of compromise, which has been reached after a long and arduous process of consultation. Accordingly, my delegation will refrain from making any legal observations or comments on the drafting of the document, on the assumption that the text will be approved as a whole. We know that any change would serve to alter the complicated balance required for its acceptance, and it seems to me that we all sincerely want to reach a consensus.

117. We would like to convey to Mr. Amerasinghe of Ceylon, the Chairman of the Committee on the Sea-Bed, and also to Mr. Galindo Pohl of El Salvador, the Chairman of the Legal Sub-Committee, our congratulations and thanks for this important contribution.

118. With respect to the international machinery that should be established to regulate, co-ordinate, supervise and control all activities related to the exploration and exploitation of the vast resources of the ocean, we are in favour of a kind of organization with broad authority and powers, but at the same time with the degree of flexibility that will enable it progressively to adapt its structures and functions to the pace of evolution that may develop in the future in all of these spheres.

119. In the field of the peaceful utilization of the sea-bed and ocean floor, we welcome as a positive step the adoption by the First Committee of draft resolution A/C.1/L.523, in which we approve the draft treaty concluded between the Soviet Government and the United States Government on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and the depositary Governments are requested to open this instrument for signature and ratification by Member States as soon as possible.

120. The Minister for Foreign Affairs of Colombia devoted a considerable portion of the statement that he made to the plenary meeting of the Assembly, on 23 September last, to questions of the sea. With reference to the conference that should be convened in accordance with resolution 2574 A (XXIV), to revise the régimes of the high seas, the continental shelf, the territorial sea and contiguous zones, fisheries and the conservation of living resources, and to arrive at an internationally acceptable definition of the area of the sea-bed and ocean floor beyond the limits of national jurisdiction, in the light of the international régime to be established for its administration, Minister Vásquez Carrizosa expressed, *inter alia*, the following ideas:

> ". . . progress in the science of oceanography has left far behind certain rules of the Convention of the Continental Shelf, in which the right of sovereignty was envisaged as extending to 200 metres or, if possible, still further, without setting a limit to the exploitation or exploration of the natural resources of these zones. Furthermore, there is the Latin American consensus which grants the coastal State equally exclusive rights over the living resources of the part of the sea nearest its coast. There is an unequivocal need to complement this 1958 Convention with new and very explicit provisions in the light of the most recent experience.
>
> "Therefore, Colombia is in favour of the idea of convening a general conference of Member States of the United Nations to carry on the work discontinued since 1958. We desire this provided that, at the next meeting, due consideration will be given to all the various factors to which we have referred and which constitute an indivisible whole." *[1846th plenary meeting, paras. 46 and 47.]*

121. With respect to the United States initiative concerning the work of a preparatory committee for the conference on the sea, which appears in document A/C.1/L.536, and the draft submitted by Brazil and Trinidad and Tobago *[A/C.1/L.539]*, my delegation would be prepared to support the compromise formula which, according to the information circulated about the consultations in progress, appears to have considerable support. This formula would recommend the establishment of a single committee, broader than the one which exists today, to deal with the question of the sea-bed, and it would be asked to study the whole problem in all its aspects: firstly, the careful preparation of the conference and, secondly, the elaboration of the régime and the international machinery that should be created to administer the area beyond the limits of national jurisdiction. In this new committee, very fruitful work could be done by all of those countries which, as is the case of my country, place the highest importance on questions concerning the sea.

122. The prospects of increasing the exploitation of the resources of the sea inevitably have preference for a country like Colombia which has two long coastlines fronting on the oceans and which is engaged in the task of achieving higher levels of living for its people. Our country wishes to attain these objectives within a dynamic process

of international co-operation guided by the criterion of justice, and of distribution of international labour and technology which would aim at reducing the disparate economic inequalities which every day increase the gap between nations.

123. The international community should take into due consideration and control the negative effects for the developing countries which might result from the intensive exploitation of the resources of the sea, if the prices of certain primary commodities on world markets are affected.

124. It is essential that technology and the great reservoirs of intelligence and wealth in the world should be applied more intensively to this vast frontier which is today opening up heretofore unsuspected prospects for mankind.

125. The developing countries, including those which have no coastlines, urgently need to train their people, acquire the tools, the manpower and the technology which are indispensable if they are to take an active part in this great undertaking.

126. Mr. CUDJOE (Ghana): As a coastal State whose interests in the resources of the ocean have reached a stage where several oil companies have been granted licences to prospect for oil, and where, after about 12 months of such prospecting, positive indications have been given that oil in commercial quantities may be found off our shores, I think it is only natural that my country, Ghana, should continue to take keen interest in the questions relating to the sea-bed and ocean floor. We have therefore been following very closely the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction since its inception and it is our fervent hope that, in the not too distant future, Ghana may be privileged to serve as a member of that Committee.

127. In my short intervention today I do not intend to deal with all the four topics listed under agenda item 25. Like the majority of delegations which have spoken before me in this debate, I merely wish to make a few preliminary remarks on two of the issues that seem to me to deserve the most urgent attention at this stage of our work, namely, the draft declaration of principles contained in draft resolution A/C.1/L.544, of which Ghana is one of the sponsors, and the question of the desirability of convening at an early date a conference on the law of the sea.

128. Regarding the draft declaration of principles, my delegation would like from the very outset to express its appreciation and gratitude to the Chairman of the sea-bed Committee, Mr. Amerasinghe, and to his devoted team of collaborators, through whose hard work, persistent efforts and selfless devotion to duty it has been possible for a draft declaration to be presented to this Committee for consideration, in compliance with the mandate given to the sea-bed Committee last year in General Assembly resolution 2574 B (XXIV), requesting the sea-bed Committee to "expedite its work of preparing a comprehensive and balanced statement of principles and to submit a draft declaration to the General Assembly at its twenty-fifth session". My delegation would like to associate itself with all those delegations which, in the full knowledge that the draft declaration does not and cannot satisfy each and every individual delegation in all respects, have nevertheless, in a spirit of compromise and mutual accommodation, indicated their willingness to support it provided it is not changed substantially. We fully endorse the view of Mr. Amerasinghe that the draft declaration represents a compromise commanding wide support and reflects the highest degree of agreement attainable at the present time, and we would join others in appealing to those who have reservations of substance not to insist on them, so as not to upset the delicate balance of the draft declaration.

129. As far as my delegation is concerned, we are happy to note that the main positions which we have held all along and which we expressed in this Committee at the twenty-third and twenty-fourth sessions of the General Assembly have been duly reflected in the draft declaration. Our basic concepts have always been that there should be recognition of the existence of an area of the sea-bed beyond the limits of national jurisdiction, and that this area and its resources should be the common heritage of mankind and as such should not be subject to appropriation by any State or person. The area should be used exclusively for peaceful purposes, and all activities regarding the exploration and exploitation of its resources should be governed by an international régime to be established. Furthermore, the exploitation of the resources of the area should be carried out for the benefit of mankind as a whole, taking into particular consideration the interests and needs of developing countries. All these have been incorporated in the 15 paragraphs of the draft declaration. The declaration also deals with the important questions of international co-operation in scientific research, prevention of pollution and contamination and contains provisions for settlement of disputes. In our view it is a carefully balanced and comprehensive set of principles which should be recognized as an essential first step towards the elaboration of a comprehensive régime for the sea-bed. Without this basic recognition and acceptance, progress in other areas, particularly the formulation of a régime, would be extremely difficult. It is in that spirit that my delegation supports the draft declaration and recommends it for unanimous acceptance.

130. With regard to the proposed conference on the law of the sea, my Government, in its reply to the Secretary-General's questionnaire *[see A/7925]* stated that it is agreeable to a new conference on the law of the sea being held at the earliest possible date. That decision is in line with that of the Third Conference of Heads of State or Government of Non-Aligned Countries[11]—in which Ghana participated—calling for an early conference on the law of the sea.

131. My delegation believes, however, that in order to ensure the success of the Conference it would be necessary to prepare for it adequately and thoroughly. In this regard my delegation would support the proposals made by several delegations in this Committee for a single preparatory committee. The reasons for our preference for a single committee were eloquently stated yesterday by the representative of Jamaica *[1782nd meeting]*, and I need not repeat them. That single committee, in our view, should be

11 Held at Lusaka in September 1970.

composed of the present forty-two-member sea-bed committee—as at present constituted—enlarged by an additional 20 to 25 members, with the additional members selected on the basis of equitable geographical distribution.

132. The new committee, thus composed of a membership of about half the total membership of the United Nations, should, in addition to the present mandate of the sea-bed Committee, be charged with the preparatory work for the conference on the law of the sea. The new enlarged committee might be authorized to establish such subsidiary organs as it might deem necessary for the efficient performance of its functions. Regarding dates for the holding of the conference on the law of the sea, my delegation believes that, given the goodwill and co-operation of all States, it should be possible to hold the conference not later than 1973. That would give the preparatory committee two clear years to prepare for the conference, assuming that the new enlarged committee commences its preparatory work early in 1971, which we think is possible.

133. As far as the procedural approach to working out an agenda is concerned, we realize that one of the most difficult questions to deal with in this regard is whether the delimitation of the area beyond national jurisdiction should be established after the formulation of an international régime or should precede it. While it is true that prior formulation of the régime may assist in inducing many States to relinquish part of the area which they claim to be subject to their jurisdiction or over which they exercise sovereign rights, it can also be said that unless the area is clearly defined it would be difficult to see what régime would be the proper one to govern it. Although both these arguments have their merits, my delegation would tend to agree with the viewpoint expressed by the representative of Kuwait *[1780th meeting]*, to the effect that the formulation of the régime and the delimitation of the area should be seen as two facets of the same process which are so closely interrelated that they should be undertaken simultaneously, since it is patently clear that, owing to their interdependence, progress achieved in one respect would ensure further progress in the other. My delegation believes that it should be possible to treat the two issues simultaneously and would recommend that approach.

134. My delegation attaches great importance to the proposed conference on the law of the sea. We should like to see it held in the early part of 1973, and we should also like the agenda of the conference to be comprehensive enough to include all aspects of the law of the sea and all other matters relating to the area of the sea-bed, the ocean floor and the subsoil thereof, lying beyond the limits of national jurisdiction, and the exploration and exploitation of its resources. In particular the agenda should not exclude the question of the breadth of the territorial sea, which we do not consider has been definitively fixed, and that of the principle of trusteeship zones of the continental shelf, which at present is a matter of controversy. My delegation believes that adequate preparation for the conference, which alone can ensure its success, should include the drafting of relevant international conventions and the submission of progress reports to the twenty-sixth and twenty-seventh sessions of the General Assembly for consideration.

135. Those, in brief, are the tentative thoughts of my delegation at this time, on the two aspects of the sea-bed question, namely, the draft declaration of principles, and the proposals for a conference on the law of the sea. My delegation, however, remains flexible on these views and will reserve its right to speak again on these and other issues of the sea-bed question at a later stage of our discussion, should it become necessary.

136. Finally, while I still have the floor, I would like to re-emphasize a suggestion which my delegation made last year in its statement during the discussion of the sea-bed item *[1681st meeting]* concerning the urgent need for the training of nationals of developing countries in the field of marine science and technology, if we hope to benefit from the resources of the sea-bed on a basis of equity. My delegation still considers this matter important, and is glad to note from paragraph 18 of the report of the sea-bed Committee, contained in document A/8021, that the Committee did consider it, and not only emphasized the importance of training nationals from developing countries, but also placed on record the view that the results of scientific research and exploration of the sea-bed and ocean floor should be widely disseminated. Furthermore, the Committee took note of the view that even prior to the establishment of the régime for the area beyond the limits of national jurisdiction, the United Nations Educational, Scientific and Cultural Organization and its subsidiary body the Intergovernmental Oceanographic Committee, the Food and Agriculture Organization of the United Nations and other agencies within the United Nations family might usefully consider intensifying, expanding and expediting their programmes for the training of nationals of developing countries in the various aspects of marine science and technology.

137. My delegation is grateful to the representative of Trinidad and Tobago for informing us in his statement on 1 December 1970 *[1778th meeting]*, that the Director-General of the United Nations Educational, Scientific and Cultural Organization, through his representative at the Geneva meeting of the sea-bed Committee, made a positive commitment to this effect, and that that Organization's recent General Conference endorsed that commitment and increased its budgetary allocation to this end. My delegation will be looking forward with keen interest to the specific details of the proposed training programme, particularly to what programmes are envisaged, how much moncy has been allocated for them and how best the developing countries might expect to benefit from them. We hope that the United Nations Educational, Scientific and Cultural Organization will make this information available to us as soon as possible.

138. Mr. HULINSKY (Czechoslovakia): It is my task to explain at this stage of the general debate, pertaining to item 25 of the agenda, the position of the Czechoslovak delegation concerning the key problems in the complex of questions relating to the sea-bed and the ocean floor and the law of the sea now under our consideration.

139. I should like to emphasize at the very outset the fact that my Government considers it important that the limits of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction of

coastal States should be precisely determined. Without resolving this problem we cannot, indeed, envisage the elaboration of the legal régime of this area. The fact that we have not resolved this problem has already created considerable difficulties during the consideration of the declaration of general legal principles, that is, the declaration which should precede the elaboration of a legal régime.

140. As a land-locked country we see in a precise determination of the limits of the sea-bed and the ocean floor beyond the limits of national jurisdiction of coastal States one of the prerequisites for the realization of the generally recognized principle that the resources of the sea-bed and the ocean floor should serve for the benefit of mankind as a whole, irrespective of the geographical location of States, in other words, that its resources should be open to peaceful exploration and exploitation by all States, both large and small, both maritime and land-locked, on the basis of equality, in accordance with international law.

141. My delegation was led to emphasize that point of view by some attempts to apply various national regulations governing the exploitation of the resources in the continental shelf to the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction. Similarly, our emphasis emanated from the attempts of some coastal States to expand the limits of their jurisdiction deep into the high seas.

142. After the first United Nations Conference on the Law of the Sea in 1958 a considerable number of countries substantially expanded their territorial waters. The Truman Proclamation of 28 September 1945 on the policy of the United States with respect to the natural resources of the subsoil and sea-bed of the continental shelf served as a signal for the beginning of a fever of exploitation and expansion of the continental shelf. The United Nations Conference on the Law of the Sea in 1958 made that new attack in this field legal in principle. The incorporation of continental shelves into the national jurisdiction of coastal States changed the political, economic and strategic topography of the globe. Land-locked States, like States which have a steeply declining coast, became poorer; other States gained access to enormous riches and control over vast areas.

143. The rights of land-locked countries to the exploitation of the riches of the sea begin where the control of coastal States ends. Land-locked countries are excluded from participation in the exploitation of the living sea resources not only in the territorial waters but also in adjacent waters and in fishing zones. They have no access to the riches of the continental shelf. These adverse facts, geographical location and in most cases an insufficient raw material basis lead the land-locked countries to take interest in the possibilities of exploiting the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction of the coastal States. Consequently, it is not unnatural that the land-locked countries defend the concept of the common interest of mankind in the exploitation of the sea-bed and the ocean floor and that they oppose tendencies to expand territorial waters and the continental shelf beyond acceptable limits. They defend their legitimate interests and the same economic interests as those referred to frequently by some coastal States.

144. Another question is whether land-locked countries, like some coastal ones, have sufficient technical and financial capacities to start an independent exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction. For many of them, the only way out lies in international co-operation by virtue of which they can attain an equal and advantageous participation in the exploitation of the riches of the sea. For Czechoslovakia, a land-locked country with developed industries but without a corresponding raw material basis, the question of international co-operation in the international area of the sea-bed and the ocean floor is an important one.

145. Generally speaking, these are some of the considerations from which my delegation proceeded when determining its position on the concrete problems now under discussion in the political Committee of the General Assembly.

146. We consider a precise determination of the limits of the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction and the principle of equal rights of coastal and land-locked countries to the exploration and exploitation of this area as two sides of the self-same coin; similarly, we consider the principle of the use of the sea-bed and the ocean floor exclusively for peaceful purposes and the prohibition of any military activities on the sea-bed and the ocean floor to be two sides of the same coin. We regret that the question of the prohibition of the use of the sea-bed and the ocean floor for military purposes has also not yet been solved to the extent the socialist countries have striven for its solution. However, we note with satisfaction that quite recently our Committee approved a 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. The treaty may be conducive to the transformation of the sea-bed and the ocean floor into an area of peace and international co-operation.

147. If the precise delimitation of the area of the sea-bed and the ocean floor beyond the limits of national jurisdiction—the object of the negotiations of the sea-bed Committee—is a prerequisite for the elaboration of the legal régime of this area on the basis of the declaration of general legal principles, then a prerequisite for a solution of the question of the so-called international machinery to cover this field—a question frequently emphasized by many delegations, though no doubt only in part—is the previous adoption both of this declaration and of a detailed legal régime of the sea-bed and the ocean floor beyond the limits of national jurisdiction based thereupon.

148. We see the purpose of a potential international machinery in its control of the manner in which individual States implement the provisions of the generally recognized future legal régime of the sea-bed and the ocean floor. To tell the truth, in this connexion, the Czechoslovak delegation, like the delegations of the other socialist countries, does not conceal its hesitation concerning the draft declaration of principles governing the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, as contained in documents A/C.1/L.542 and 544. The draft did not originate at the session of the Committee on the Peaceful Uses of the Sea-Bed and the

Ocean Floor beyond the Limits of National Jurisdiction, but quite recently in unofficial consultations among its members. Our critical remarks concern both the substance of the draft and the procedure under which the above-mentioned text was submitted to the First Committee of the General Assembly.

149. We share the view that the draft declaration contains some provisions which could be agreed upon only during the elaboration of provisions governing the legal régime of the sea-bed and the ocean floor–for example, operative paragraphs 1 and 9–while avoiding a number of important elements which fully accord with the generally recognized principles of international law, for instance, the prohibition of the use of the sea-bed and the ocean floor for military purposes. Likewise, we are of the opinion that the violation of the common practice according to which important proposals are submitted to the General Assembly only after consensus has been reached in the relevant Committee creates an undesirable precedent for further activities of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, and not exclusively of that Committee. After all, in the long run, do not the positive results of the Committee's work depend upon the degree to which the Committee respects the interests of all the main groups of Member States as well as the interests of all members of the international community in general?

150. Czechoslovakia, together with certain other countries, became a sponsor of the item on the agenda of the twenty-fifth session of the General Assembly entitled "Question of the breadth of the territorial sea and related matters" *[A/8047 and Add.1-4]*. The proposal meets the objection that twelve-mile territorial waters might violate recognized international ship routes. Czechoslovakia, as a land-locked country with a developed foreign trade, in which sea transport also plays an important role, has an economic interest in the expansion of the freedom of the seas and international water routes. Consequently, frankly speaking, it has an objective interest in a solution which would limit the sovereignty of coastal States, while fully respecting their legitimate interests, in such a way that, in principle, the freedom of the seas should be respected and its exercise not limited.

151. At the same time, the Czechoslovak delegation does not think that the questions of fisheries and fishing zones should be dealt with in detail together with the question of territorial waters. Even if these questions are, no doubt, interrelated, the problems of fisheries are, from the point of view of the breadth of territorial waters, of secondary character and may be solved after the breadth has been determined; moreover, the questions relating to fisheries require a special preparation by experts.

152. As to the question whether it would be useful to convoke a new international conference on the law of the sea, my Government, in its response to the Secretary-General's enquiry, replied that its position would depend on the purposes of such a conference *[see A/7925]*. Czechoslovakia considers that it would be undesirable to convene a conference for the purpose of reviewing the régime established by the 1958 United Nations Conference on the Law of the Sea. It is, however, in favour of accelerating efforts to reach a solution of individual questions, such as the determination of the breadth of territorial waters, a more precise definition of the outer limit of the continental shelf, etc. It goes without saying that a successful solution of these questions will require careful preparation, but it has to be done in the relatively near future.

153. Mr. SHAHI (Pakistan): On behalf of the Pakistan delegation, I should like to comment briefly on the four subjects comprised in agenda item 25 relating to the peaceful uses of the sea-bed.

154. We cannot but feel heartened that, in spite of their strong reservations, many delegations have expressed support for the draft declaration of principles as set forth in document A/C.1/L.544. This endorsement, subordinating strongly held positions for the sake of achieving a compromise that would put an end to the existing state of anarchy in the environment of the ocean depths, is worthy of our highest commendation. Our thanks and deeply felt gratitude are due to Ambassador Galindo Pohl of El Salvador for enlarging the area of agreement and to Ambassador Amerasinghe of Ceylon for a final and successful effort at obtaining a text acceptable to a large number of States. Without their tireless efforts and negotiating skill this wide support for the draft declaration of legal principles could not have been enlisted.

155. Like many other delegations, we have had occasion to voice informally our reservations in regard to the draft declaration. It is no more than the irreducible minimum of agreement acceptable to us. But we are also conscious of the fact that it is a painstakingly negotiated compromise and, in spite of its imperfections, does reflect what Mr. Amerasinghe has called "the highest degree of agreement attainable at the present time". As such, we believe that it carried within itself the promise of stability and progress towards the realization of an international régime. We shall continue to hope that this draft will not prove to be the last word on the subject and that, in due course, Member States will find ways and means of enlarging the area of agreement.

156. Given the present realities, and impelled by the desire to achieve some progress at this session of the General Assembly on a matter that is of such great consequence to all countries, we are happy to be a sponsor of the draft declaration. In commending it to the members of this Committee for acceptance, my delegation is impelled by the conviction that its adoption would open the way for the preparation of a treaty to establish an international régime to provide for the peaceful uses of the sea-bed and its resources for the benefit of mankind.

157. Our next step must be the preparation of a convention on an international régime. The urgency of this task cannot be over-emphasized. The Secretary-General has already alluded in this Committee to the apprehensions felt by Member States. On 25 November he stated: "There is concern that in the absence of international agreements, national Governments may encounter difficulties and may feel compelled to interpret their national jurisdictions or national interests in such an extensive fashion that international co-operation could be severely compromised. It is not necessary to dwell on other possible consequences. The appropriate processes of multilateral diplomacy to secure

the interests of all take much longer than unilateral action by any Government or organization." *[1773rd meeting, para. 4.]*

158. A number of representatives have defended the right of coastal States to take unilateral action to set the limits of their own maritime sovereignty or jurisdiction in accordance with what they consider to be reasonable criteria, taking into account geographical, geological and biological characteristics. Without entering into an argument in this regard, the Pakistan delegation feels bound to voice the apprehension that unless an international régime is established and the geographical area of its jurisdiction is defined without undue delay, a number of other States which have so far exercised self-restraint may well be constrained to extend their territorial seas far beyond the limits set by them at the present time.

159. This sense of urgency seems to us to be behind the very valuable working paper submitted to the Geneva session of the sea-bed Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction by the United States Government entitled "Draft United Nations Convention on the International Sea-bed Area" *[A/8021, annex V]*. It is apparent that a great deal of effort has gone into the formulation of that paper. The comprehensive nature of the draft convention is an eloquent testimony to the ingenuity of its authors, representing as they do a developed, highly industrialized nation. Before offering a comment or two on its contents, let me say that the submission of the working paper has in itself undoubtedly given momentum to the work of the sea-bed Committee.

160. Our first comment relates to article 3 of the United States draft convention, which declares that the international sea-bed area shall be open to use by all States, without discrimination, except as otherwise provided in the convention. In its practical implications, we are not sure that this formulation would lead to an equitable sharing of benefits, as between developed and developing countries, of the resources of the sea-bed which are the common heritage of mankind.

161. Secondly, in paragraph 1 of article 5 we would like to see the word "revenues" replaced by "benefits". In the context of a machinery for the sea-bed and the ocean floor the word "revenue" has a particular connotation, at least to the mind of my delegation, signifying amounts collected through fees or royalties. The type of international machinery that most of us envisage is one that should have wider functions than the mere collection of revenues. We are, however, in complete agreement that the "benefits" be used in the service of all mankind. Apart from designating this broad use, we would be a little wary of prejudging, at this stage, how any portion of these "benefits" should be expended, even though we agree with most of the uses listed under article 5. We believe that it should be left to the international community to determine how best it might use those "benefits" and for what purpose.

162. Thirdly, article 10 of the United States working paper envisages that all exploration and exploitation activities in the international sea-bed area shall be conducted by States or natural or juridical persons under its or their authority or sponsorship. In our view, this would rather drastically restrict the competence of the international machinery, by reserving all such activities to individual States or groups of States.

163. Fourthly, we view with considerable reservation articles 26 to 30, which deal with the international trusteeship area. At the Geneva session of the sea-bed Committee, the representative of Ceylon commented very ably on these articles *[A/C.138/SR.34]*. More recently, we have had the benefit of the views expressed by the representatives of Sweden *[1775th meeting]* and Kuwait *[1780th meeting]*. We should, therefore, hope that the United States delegation would take a fresh look at the provisions relating to the international trusteeship area. The other day the representative of the United States justified those provisions on the ground that without them it would not be possible to obtain the agreement of those States which had extensive coastlines *[ibid.]*. At the same time, it seems to us that the articles in question are unduly favourable to the highly developed nations, at least in their incidence, and may well result in accelerating the growing economic disparity between them and the developing countries, contrary to the spirit of the principle that the exploration and exploitation of the resources of the sea-bed should be carried out for the benefit of mankind as a whole.

164. Turning now to the question of international machinery which, in our view, must constitute an integral part of the international régime, we believe that any international sea-bed authority should be vested with comprehensive powers. At the same time, we are conscious that, if agreement is to be reached, all members must negotiate in a spirit of mutual accommodation. In regard to its structure, we note the general consensus that it should have four main organs: *(a)* an assembly of all Member States which would be responsible for all major policy issues; *(b)* a council to implement the policy outlined by the assembly; *(c)* a secretariat; and *(d)* a judicial organ. We also share the view that there should be no veto powers given to States singly or as groups, and that voting should be on the basis of "one State, one vote".

165. Turning to the question of the pollution of the marine environment, we would like to express our appreciation of the Secretary-General's report, document A/7924, which has added considerably to our understanding of this grave problem.

166. Pollution appears to be an inevitable by-product of industrialization and progress. So far the industrialized nations have treated the oceans as a limitless dump. But a point has now been reached beyond which marine life would be seriously threatened. About 70 per cent of our total requirement of oxygen comes from the ocean phytoplankton. Nearly 55 million metric tons of fish and other sea-food are harvested annually from the oceans. This represents about one-tenth of the total world supply of animal protein and, for some nations, an indispensable means of sustenance. It has been estimated that there are ten people for every cubic mile of sea water. As the world becomes more industrialized, man's increasing propensity

to contaminate is also becoming an inevitable and dangerous threat to his very survival. Consequently, we will support all proposals which aim at controlling the effects of marine pollution as a result of the exploration and exploitation of the mineral wealth of the sea-bed.

167. There is no denying the fact that as a result of increasing shipping activity, exploitation of oil from the continental shelf and leakage from tankers and pipelines, marine pollution has already become a serious hazard, as has the placing of storage-tanks for oil, gas, radio-active wastes, chemical and other substances on the sea-bed. We would like to see steps being taken towards providing compensation to the country affected by pollution where it is directly attributable to any State or agency.

168. In regard to the conference on the law of the sea, the desirability of holding it is no longer open to question. The report of the Secretary-General, document A/7925 and Add.1-3, clearly demonstrates that an overwhelmingly large number of States favour the convening of such a conference. We have already outlined our viewpoint in this regard. My Government continues to be of the opinion that an international conference should be held and that it should consider all issues relating to the law of the sea, since problems relating to the high seas, territorial waters, the contiguous zone, the continental shelf, superjacent waters and the sea-bed and ocean floor beyond the limits of national jurisdiction are closely interlinked and cannot be separated. In spite of the efforts of the Geneva Conventions to codify customary international law, some highly important and crucial questions remain to be settled, leaving incomplete the formulation of the law of the sea. The practice of States which has developed in the régime of the seas since 1960 does not find any place in those Conventions. Also many States, now members of the United Nations, were not present at the negotiations which led to the formulation of the Geneva Conventions of 1958 and 1960. For these reasons, the criticism voiced against the Geneva Conventions is not without validity. Many members who have so far spoken on this subject have supported the idea of convening a conference on the law of the sea on account of these and other reasons.

169. Before we comment on the question of establishing a time-table for the conference, it would be worthwhile to remind ourselves that this matter cannot be viewed in isolation from the preparatory work that needs to be undertaken if the success of the conference is to be assured. It is our firm belief that the pace and extent of the preparatory work must determine the date at which the conference can be held. We are cognizant of the divergence of opinion among Member States with regard to setting deadlines. On the whole we feel that it would be desirable to have a target date, so that we are forced to bestir ourselves and bring a sense of urgency to bear on the necessary preparations. We therefore see considerable merit in the idea of convening a conference on the law of the sea by early in 1973 and of completing the preparatory work in good time for that deadline. To our mind this target date would be consistent with the urgency of the matter and yet realistic enough to allow sufficient time for identifying the range of issues on which agreement might be achieved at the conference.

170. The idea that a Committee of the whole should be charged with the preparatory work appears to be gaining ground. We are inclined to favour this approach. We would also welcome the idea of the expansion of the sea-bed Committee to make it more widely representative of the membership of the United Nations. Such an arrangement would ensure the retention of available experience already accumulated in the sea-bed Committee, while also providing new members from the developing countries an opportunity to become more aware of the complexity and range of issues involved, issues which are of crucial importance to their countries and to all mankind.

171. The CHAIRMAN *(interpretation from Spanish):* I now call on the representative of Canada who has asked to make a brief statement.

172. Mr. BEESLEY (Canada): I just want to clarify a point concerning a reference made to a statement by the Secretary of State for External Affairs of Canada. It is obviously an honest misunderstanding and I wish to correct it. The statement as read into the record was exactly the way it was reported in the review in question, but the report was quite inaccurate and bears very little relationship to what was said on the basis of the official press release of the statement. I have also gone to the trouble of checking it with the Executive Assistant of the Minister who was at the meeting. I would just like to read what was actually said:

> "The threat to the Arctic ecology posed by the possibility of oil spillage in the frigid Arctic waters is only one in a long list of threats posed to our physical environment by our uncontrolled exploitation of the world's resources. It is hard to believe that our search for the economic betterment of our people has, as a by-product, opened the possibility and the very real threat of the destruction of our environment. We find ourselves, in a rapidly accelerating situation, faced with a threat that is increasing in a geometrical rather than an arithmetical progression. In the technologically advanced nations we have to find, as a matter of the utmost urgency, means to recapture the purity of the atmosphere, the waters and the earth. In the developing countries ways must be found to achieve the benefits of technological advance without paying the price of a polluted environment."

173. I would like to go one step further and assure the Committee that there is no factual basis for the report that tankers, American or otherwise, have been spilling oil in our northern waters and killing millions of fish, destroying wildlife and so on. There was one very serious accident on the east coast which did not involve an American tanker, and we all know about that.

174. The CHAIRMAN *(interpretation from Spanish):* I should like to remind you that we have not yet concluded our consideration of the question on the strengthening of international security. We must allow sufficient time for consideration of the draft resolution or declaration which in due course may be submitted to this Committee on this particular item. Furthermore, we must bear in mind that there is one other item that we have not yet discussed. I refer to the item on the peaceful uses of outer space. For all these reasons, we must make the best use of the short time

still available to us. We must make an effort to conclude our work next week or, at the very latest, at a meeting on Monday morning, 14 December, in order to clear up any matter that may be outstanding. This would enable the General Assembly to complete its work as scheduled on 15 December.

175. In view of the foregoing, I would request all those representatives who are on the list of speakers for the general debate to be ready to take the floor when they are called.

The meeting rose at 6.20 p.m.

Litho in United Nations, New York 77101—October 1973—2,100