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Chairman: Mr. Agha SHAHI (Pakistan).

AGENDA ITEM 32

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 (A/7622 and Corr.1 and Add.1, A/7750; A/C.1/L.473/Rev.2, L.474/Rev.1 and Add.1-2, L.475/Rev.3, L.476/Rev.1, L.477 and Add.1-3, L.478, L.479, L.480/Rev.1 and Add.1, L.481, L.482, L.484, L.496) (continued)*

1. The CHAIRMAN: In accordance with the decision taken at the 1698th meeting, the Committee will resume consideration of agenda item 32, namely, question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor.

2. The following draft resolutions and amendments are before the Committee. First, a revised draft resolution submitted by Malta, contained in document A/C.1/L.473/Rev.2. Amendments to this revised draft resolution have been submitted by Barbados, Bolivia, Brazil, Guyana, India, Jamaica, Kuwait, Libya, Mauritania, Sierra Leone, Sudan, Togo, Trinidad and Tobago and the United Republic of Tanzania in document A/C.1/L.475/Rev.3.

3. I should like to draw the Committee's attention to the amendments submitted by Cyprus in document A/C.1/L.476/Rev.1 and by the Democratic Republic of the Congo in document A/C.1/L.481, both of which were submitted to the text of the Maltese draft resolution before its second revision. I would appreciate clarification from the sponsors on the status of these amendments.

4. Secondly, the thirty-six-Power revised draft resolution contained in document A/C.1/L.474/Rev.1 and Add.1 and 2.

* Resumed from the 1683rd meeting.

Amendments to this revised draft resolution have been submitted by seventeen Powers and are contained in document A/C.1/L.482.

5. Thirdly, a twenty-five-Power draft resolution contained in document A/C.1/L.477 and Add.1-3. An amendment to this draft resolution has been submitted by Afghanistan and is contained in document A/C.1/L.479.

6. In this connexion, I would draw the Committee's attention to the statement on financial implications of draft resolution A/A.1/L.477 and Add.1-3, which is contained in document A/C.1/L.496.

7. Fourthly, a draft resolution submitted by Uruguay and contained in document A/C.1/L.478.

8. Fifthly, a ten-Power draft resolution contained in document A/C.1/L.480/Rev.1 and Add.1. Amendments had been submitted by Brazil, Chile, and Trinidad and Tobago in document A/C.1/L.484 to the original text of this draft resolution. However, as those three countries are now sponsors of the revised text of the draft resolution, I take it that these amendments are no longer before the Committee.

9. I shall give the floor to those delegations which wish to make statements concerning the draft resolutions and amendments.

10. Mr. GARCIA ROBLES (Mexico) (*translated from Spanish*): Draft resolution A/C.1/L.480/Rev.1 and Add.1, sponsored by the delegations of Brazil, Ceylon, Chile, Ecuador, Guatemala, Kuwait, Mauritania, Mexico, Peru and Trinidad and Tobago, is a combination of the original draft [A/C.1/L.480] and the amendment submitted by the delegations of Brazil, Chile and Trinidad and Tobago [A/C.1/L.484].

11. A brief comparison of the revised draft with the original shows that as far as the preamble is concerned they are almost identical. The only real change made has been the inclusion of a specific reference to two previously adopted resolutions. General Assembly resolutions 2467 (XXIII) and 2340 (XXII), for the purpose of strengthening the draft resolution. The operative part, too, is essentially unchanged. Consequently, I do not feel it necessary to go into the details of the purposes of the draft resolution, since that would be an unnecessary repetition of what I said at the 1683rd meeting of this Committee on 10 November last, in introducing draft resolution A/C.1/L.480 on behalf of the original sponsors.

12. I should merely like to repeat that the primary objective of the draft resolution can be summed up as

follows: it is an attempt to reconcile the need for the Committee—I refer, of course, to the Standing Committee—to be given enough time to carry out its difficult task of establishing an international régime with the equally important need to ensure that the time allotted to the Committee is not used either by States or by physical or juridical persons to appropriate the resources of the sea-bed or to exploit them for their own benefit since, obviously, that would be contrary to the very spirit of all our work, namely, to ensure that these resources are exploited solely for the benefit of mankind, bearing in mind the special interest and needs of the developing countries.

13. Mr. DE ARAUJO CASTRO (Brazil): My delegation has asked for the floor in order to commend to the Committee the draft resolution contained in document A/C.1/L.480/Rev.1 and Add.1, which has been introduced by the representative of Mexico.

14. In its operative paragraph, the draft resolution states that

“... pending the establishment of the aforementioned international régime:

“(a) States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction;”.

15. Furthermore, subparagraph (b) declares that there shall be no recognition of claims to any part of that area which result from or are advanced on the basis of the activities of exploitation mentioned in subparagraph (a). Subparagraphs (a) and (b) are thus closely interrelated, and it is only in the context of subparagraph (a) that subparagraph (b) should be read, the emphasis of the declaration being mainly directed to the activities of the exploitation of the resources of the sea-bed.

16. I shall now mention some of the reasons why the delegation of Brazil supported the concept of what has perhaps improperly been called a “moratorium on activities”. Several delegations, including my own, have maintained in the sea-bed Committee that the absence of regulation for the exploration and exploitation of the sea-bed does not mean that such activities are permitted under international law or that international law provides a basis for them. The representative of Trinidad and Tobago, in his intervention in this Committee on 5 November, went straight to the point when he asserted: “. . . silence in the law does not amount to permissiveness, and . . . the absence of a prohibition does not constitute tacit consent”. [1677th meeting, para. 28.]

17. In its statement before this Committee on 31 October, the delegation of Brazil said that: “it questions the legality of any exploration or exploitation activities concerning sea-bed resources in the absence of a legal régime for the regulation of such activities”. [1674th meeting, para. 11.]

18. I shall not dwell on the allegation that the freedom of the high seas applies to the exploration and exploitation of the resources of the sea-bed, because this kind of reasoning

has already been disposed of in the report of the Legal Sub-Committee. Suffice it here to say that the idea of the applicability of the freedom of the high seas to the resources of the sea-bed and the sea-bed in general purports to be based on the unity of the marine environment and particularly on the unity of the water column. The fallacy of that argument has been laid bare by the very régime of the continental shelf which introduced a sharp distinction between the norms that apply in the sea-bed and the norms that apply in the superjacent waters which remain as high seas.

19. Furthermore, a stronger case could have been made for applying the freedom of the high seas to the shelf than to the deep sea-bed, in view of the fact that even the shallowness of the waters above the shelf, the so-called unity of the water column, would appear to be more obvious than in the case of the deep seas. An alternative case for the application of the freedom of the high seas to the resources of the sea-bed has been made by alleging that the Geneva Convention on the High Seas¹ provides a basis for the freedom of the exploration and exploitation of these resources. According to this view, article 24 of the Convention which mentions “the exploitation and exploration of the sea-bed and its subsoil”—and *nota bene* not the freedom to explore and exploit them—should be read in connexion with article 2 of the same Convention, which, as will be remembered, lists, *inter alia*, the four main freedoms of the high seas. Then, the argument goes on, the freedom to explore and exploit the sea-bed is assumed under the freedoms of which specific mention is not made.

20. Such an extensive interpretation clearly calls for a critical comment. In the first place, the Convention on the High Seas was not intended to create international law but only to codify already existing law, as is expressly recognized in its preamble. Therefore, it could not create rights regarding activities that, at the time of the conclusion of the agreement, were non-existent and unforeseen. Furthermore, the International Law Commission in its commentary on article 27 of its final draft on the régime of the high seas, which was later to become article 2 of the Convention on the High Seas, pointed out, after mentioning the “freedom to explore and exploit the subsoil of the high seas”, that “it considered that apart from the case of the exploitation or exploration of the soil or subsoil of a continental shelf, such exploitation had not yet assumed sufficient practical importance to justify special regulation”.²

21. That commentary seems to indicate two significant points. In the first place, it mentions the freedom to explore or exploit the subsoil of the high seas, not the freedom to explore or exploit the sea-bed and ocean floor. Thus it appears that the International Law Commission had exclusively in mind the activities of exploration and exploitation carried out in the subsoil of the sea-bed through tunnelling from *terra firma*, the only kind of activity then existing in the area, so as to justify the remark that it “had not yet assumed sufficient practical importance”.

¹ United Nations, *Treaty Series*, vol. 450 (1963), No. 6465.

² See *Official Records of the General Assembly, Eleventh Session, Supplement No. 9*.

22. Those differences of language become the more significant when we remember that article 24 of the Convention on the High Seas referred not to the freedom to explore or exploit the subsoil of the high seas but to "the exploitation and exploration of the sea-bed and its subsoil" --doing so, furthermore, in the context of an article relating to pollution.

23. Finally, the very text of the commentary of the International Law Commission contains a significant asymmetry. Although it mentions the exploitation or exploration of the soil or subsoil of a continental shelf, it refers only to "the subsoil of the high seas" when it deals with the area beyond national jurisdiction.

24. The second observation regarding the commentary of the International Law Commission on article 27 of its final draft is that, even if we assume that the Commission had in mind the exploration and exploitation of the resources of the sea-bed and not only of its subsoil, the commentary clearly implies that the freedom to explore and exploit the sea-bed and its subsoil is conditional upon the establishment of a special regulation and should be carried out in accordance with such a regulation. On the other hand, the very fact that the General Assembly has been seized of the matter since 1967 indicates that the sea-bed beyond national jurisdiction is an area of immediate concern to the international community as a whole and that this area is subject to regulation by international agreement and is not the kind of no man's land open to the unilateral initiatives of States or powerful corporations. That was the basic intention and the real meaning of resolutions 2340 (XXII) and 2467 (XXIII), as well as of the very existence of the sea-bed Committee.

25. The Brazilian delegation is well aware of the fact that it has been said that as long as there is no precise delimitation of the continental shelf it would not be appropriate to declare that activities of exploitation are not permitted in the area beyond national jurisdiction.

26. My delegation has good reasons to disagree with such a view. In the first place, the lack of a precise delimitation is not the fault of this particular draft resolution. It is, indeed, a difficulty that pervades the whole discussion of the sea-bed question. By the same token, it would not be appropriate to discuss the question, to establish a committee to deal with it and to entrust such a committee with the task of devising a legal régime for the area beyond national jurisdiction. Therefore, to argue on the basis of the non-existence of limits amounts in reality to paralysing the whole United Nations effort concerning the sea-bed, until the day comes when the international community arrives at a solution of the question of boundaries. My delegation cannot agree that the question of limits should be made a pretext for preventing the necessary action on the part of the General Assembly to safeguard the legitimate interests of all nations.

27. Secondly, technological progress has already made possible the exploitation of resources which exist in areas clearly outside national jurisdiction, well beyond the continental margin and the continental rise in the deep sea-bed under abyssal waters. Only last October, the United States National Science Foundation announced the exist-

ence of oil deposits in the Gulf of Mexico at a depth of 10,000 feet, in the high seas, well beyond the area under national jurisdiction. According to the National Science Foundation, such deposits might extend over a region as large as the State of Texas. This is only one instance of the exploitation of resources which are clearly beyond the boundary area made ambiguous by the definition contained in Article I of the Convention on the Continental Shelf.³

28. Another instance is the exploitation of manganese nodules in the deep sea-bed, for which the appropriate technology has already been developed. The only remaining difficulty consists of attracting the necessary capital to finance the commercial phase of the venture. These examples indicate the need for action by the General Assembly, which should not allow itself to be tied down by a question--namely the delimitation question--which relates to only part of the problem.

29. I ask the indulgence of this Committee if I have entered into too many details of a strictly legal nature. This was, however, indispensable in order to explain the significance that we attach to the draft resolution contained in document A/C.1/L.480/Rev.1 and Add.1. It is the opinion of the Brazilian delegation that the right approach does not consist in a freeze of claims, in the exhortations of dubious effects, or in urgings of restraint, but in the General Assembly recognizing that activities of exploration and exploitation of the sea-bed and ocean floor and the sub-soil thereof beyond national jurisdiction have no basis in international law and that therefore they are not permitted, pending the establishment of an international régime. Let me only add that in doing so the General Assembly would not be innovating but restricting itself to recognizing an obvious lacuna in international law.

30. Mr. KAYUKWA-KIMOTO (Democratic Republic of the Congo) (*translated from French*): I asked to speak in order to explain my delegation's amendments and to make a few brief comments on the revised Maltese draft resolution [A/C.1/L.473/Rev.2].

31. It will be remembered that on 11 November 1969 my delegation placed before the Committee two amendments [A/C.1/L.481] to the draft resolution submitted by Malta in document A/C.1/L.473/Rev.1. They called for the addition of a new preambular paragraph and for the deletion of operative paragraph 1 of the draft resolution.

32. Consultations have since been held between the Maltese delegation, other delegations which had submitted amendments to the draft resolution, and my own delegation.

33. Today we have before us a revised draft resolution --A/C.1/L.473/Rev.2. My delegation notes that its first amendment has been incorporated in the preamble. It feels that its second amendment is no longer pertinent, since operative paragraph 1 has been amended and redrafted. In the circumstances, my delegation will not press its amendments to a vote, and requests the Chairman to take note of that fact.

34. I would now turn to the present version of the Maltese draft. Before making my comments, which relate mainly to

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

operative paragraph 1, I should like to analyse that paragraph.

35. To begin with, in that paragraph the General Assembly requests the Secretary-General to consult Member States on the desirability of convening a conference at an early date. The purpose of that conference would be to arrive at a clear, precise and internationally acceptable definition of the area of the sea-bed and the ocean floor which lies beyond national jurisdiction, naturally taking into account the relevant provisions of international law and the prospective establishment of an equitable international régime. My delegation fully agrees that the Secretary-General should be requested to consult Member States. He cannot be asked to convene the conference, but he can be asked to ascertain the views of Member States on the desirability of such a conference.

36. Where the conference itself is concerned, it might be useful to state whether it is to be a conference of experts or one of plenipotentiaries. In an earlier statement in this Committee [1681st meeting], I expressed a preference for a conference of experts—a technical conference—being held first, to be followed by a conference of plenipotentiaries, which might settle some of the difficulties, especially political difficulties, encountered by the conference of experts. Therefore the type of the conference in question should perhaps be specified.

37. My delegation is also in full agreement with the idea of a clear, precise and internationally acceptable definition, but it would like to explain its position with regard to the words “the relevant provisions of international law”.

38. My delegation finds it difficult to accept this passage. First of all, there are no relevant provisions of international law with regard to the sea-bed and the ocean floor. This is an entirely new area, which calls for entirely new legal regulations. The only provisions of international law which might be considered relevant would be those governing the continental shelf; but as we all know, the continental shelf is under national jurisdiction. I would go further. Whether they relate to the provisions of the Convention on the Continental Shelf, or of any other convention, the words “taking into account” are apt to cause confusion.

39. Several possibilities come to mind. These words might mean that, in defining the area of the sea-bed and the ocean floor which lies beyond national jurisdiction, we must take account of international law without amending it, in other words, preserve the *status quo*. But if we are not to amend international law, or at the least the definition of the continental shelf based on the principle of exploitability, it becomes very difficult to define the zone of the sea-bed and the ocean floor beyond national jurisdiction.

40. The words in question might also mean that, in seeking to define the area we are concerned with, we must of course take international law into account, but that we may interpret it. But if we attempt to interpret what is the zone subject to national jurisdiction and what lies beyond, there would obviously be great disagreements between Member States.

41. Those words might also mean that we should take international law into account, but that we should amend it

in order to define more clearly and precisely the area which lies beyond national jurisdiction. It is this last interpretation that my delegation would support. My delegation feels that there should be no hesitation in revising existing international law in order to define clearly and precisely the area of the sea-bed and the ocean floor which lies beyond national jurisdiction. My delegation is naturally anxious to facilitate the work of the Committee which we have instructed to elaborate an international régime for that area. Clearly, we cannot define the area beyond national jurisdiction without amending the law as a whole—by which I mean the law of the sea as a whole. We cannot tell which zone will be subject to the new legal regulations unless we know at what point national jurisdictions stop. We have to know what lies beyond it, and we must therefore review the Convention on the Territorial Sea and the Contiguous Zone, if possible.⁴ We know that some countries set the limit of their territorial waters at twelve nautical miles, others at six, and still others at three. There are even countries seeking to extend their territorial waters. Consequently, we cannot define this zone either without knowing exactly where the continental shelf, which is subject to State sovereignty, stops. Hence, we must also review, as far as possible, the Convention on the Continental Shelf.

42. Similarly, we cannot begin to define the area lying beyond national jurisdiction without reviewing the Convention on the High Seas.⁵ Why? Because we want the area beyond national jurisdiction to be reserved exclusively for peaceful purposes—we want to demilitarize it completely, and we must therefore regulate the movement and emplacement of war weapons in that part of the high seas constituted by the deep waters adjacent to the sea-bed and the ocean floor which are beyond national jurisdiction.

43. My delegation sees all these matters as a legal whole, no part of which can be dealt with separately. In that spirit, I said in this Committee when we were discussing the question of the sea-bed and the ocean floor:

“My delegation . . . considers that the area beyond national jurisdiction should have covered a global entity including also the adjacent surface and the column separating it from the sea-bed and the ocean floor. It is that whole organic entity which should be removed from the existing international régime, put under a new legal order and—this is very important—used exclusively for peaceful purposes.” [1681st meeting, para. 45.]

That being so, my delegation feels it cannot support the new wording of operative paragraph 1 of the draft resolution.

44. On the other hand, it will examine with great interest the amendments in document A/C.1/L.475/Rev.3.

45. My delegation reserves its right to comment on other draft resolutions, if necessary.

46. The CHAIRMAN: I should like to inform the Committee that Guyana and Singapore have joined as co-sponsors of the draft resolution contained in document A/C.1/L.477 and Add.1 to 3.

⁴ *Ibid.*, vol. 516 (1964), No. 7477.

⁵ *Ibid.*, vol. 450 (1963), No. 6465.

47. Mr. LEGNANI (Uruguay) (*translated from Spanish*): After consulting with other delegations, my delegation does not wish its draft resolution, which was distributed as document A/C.1/L.478, to be put to the vote.

48. Mr. BALLAH (Trinidad and Tobago): It is my privilege to introduce on behalf of the co-sponsors the revised amendments contained in document A/C.1/L.475/Rev.3 to the revised draft resolution submitted by Malta in document A/C.1/L.473/Rev.2.

49. The amendment to operative paragraph 1 of the Maltese draft resolution, like the draft resolution itself, is procedural in nature. It merely seeks the views of Member States on the desirability of convening at an early date a conference on the law of the sea particularly to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond national jurisdiction. It is not asking States to agree to a revision of existing conventions on the law of the sea. The operative part of the amendment does not seek in any way to convene at this time a conference nor to prejudice its agenda if States agree as to the desirability of holding such a conference. Its main purpose is to ascertain the views of member States on the holding of a conference to delimit the area, reviewing and taking into account the existing régimes.

50. Delimitation cannot be conceived of without reference to all the legal problems of the marine environment, which are closely and intimately interrelated. General Assembly resolutions 798 (VIII) and 1105 (XI) have already recognized that, physically, the marine environment constitutes an organic whole and that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf, superjacent waters are linked together juridically.

51. We do not consider that any one of these problems should be considered *in vacuo*—that is, to the exclusion of others—however expedient it seems at the moment to do so. We have, in principle, no objection to the Maltese draft but we feel that its operative paragraph 1, as it stands, fails to take cognizance of the close inter-connexion between the problems of the law of the sea. While it is true that what borders in many cases the area we are attempting to delimit is the continental shelf of coastal States, in a number of given instances, however, it is a territorial sea and contiguous zone of coastal States that borders the area lying beyond national jurisdiction.

52. We agree with all of the preambular paragraphs of the Maltese draft, but we have sought the inclusion of a new preambular paragraph which balances the text as a whole and is the basis of a new operative paragraph which replaces operative paragraph 1. This new operative paragraph gives States a wider range of alternatives. It is only when States reply to this procedural resolution that the Committee needs to engage itself in a substantive discussion about the Conference, its agenda or its priorities.

53. On behalf of the co-sponsors, my delegation commends the revised amendments to the revised Maltese draft to the Committee for adoption. Before I end, I should say that Madagascar has joined the sponsors of the amendment.

54. The CHAIRMAN: The Chair takes note that Madagascar has joined the sponsors of document A/C.1/L.475/Rev.3.

55. Mr. ARORA (India): I shall address myself to the draft resolution in document A/C.1/L.477 and Add.1-3 and the amendment moved by the delegation of Afghanistan in document A/C.1/L.479.

56. I shall only touch on the question raised in the amendment submitted by Afghanistan. There may be other questions relating to draft resolution A/C.1/L.477 and Add.1-3 which might be raised later on. I wish to inform the Committee that the sponsors of the draft resolution have been in consultation with the delegation of Afghanistan to find language which would best express the aspirations and needs of the land-locked and coastal developing countries. We are grateful to the delegation of Afghanistan for extending the warmest co-operation during our consultations. We wish to assure the delegation of Afghanistan that the co-sponsors of draft resolution A/C.1/L.477 and Add.1-3 attach the same importance to those countries and gives the same consideration to their interests and needs as they do to the interests and needs of the coastal developing countries.

57. The amendment proposed by the delegation of Afghanistan in document A/C.1/L.479 would have added at the end of operative paragraph 1, the words: "including the equal interests, needs and the special problems of the developing land-locked countries."

58. The formula which we, the co-sponsors of draft resolution A/C.1/L.477 and Add.1-3, have worked out with the delegation of Afghanistan, and for which we are greatly indebted to it, would be first, to delete the semi-colon and add a comma at the end of operative paragraph 1 and then to add the words: "whether land-locked or coastal".

59. Therefore, the last phrase of this paragraph would read as follows:

"taking into account the special interests and needs of the developing countries, whether land-locked or coastal;"

60. We trust that this language we have worked out will be acceptable to the members of the Committee.

61. Mr. GHAUS (Afghanistan): At this late stage of our work I have no intention of explaining in detail the advantages that our amendment in document A/C.1/L.479 may hold for safeguarding the position of land-locked countries in the context of operative paragraph 1 of the draft resolution contained in document A/C.1/L.477 and Add.1-3. I put forward our views in this regard when introducing the amendment on 7 November [1681st meeting]. We are extremely grateful to the co-sponsors of the draft resolution in document A/C.1/L.477 and Add.1-3 for their understanding of our concern regarding the inclusion in their text of an adequate reference to land-locked countries. After consultation and in the spirit of compromise they have put forward the new proposal that the Committee has just heard from the representative of India.

62. Let me state that we are not entirely satisfied with this proposal, but in appreciation of their efforts to accommodate our views and in the light of the explanations which have just been put forward by the Indian representative, to whom I am particularly grateful, and in a spirit of compromise, the Afghanistan delegation wishes to accede at this stage to their wishes, and we therefore will not press our amendment to a vote. However, I am reserving the right of my delegation to take up this amendment or a similar formula at an appropriate time, either here or in another United Nations body.

63. We are particularly interested to see to what extent the study proposed in operative paragraph 1 of the draft resolution in document A/C.1/L.477 and Add.1-3 which is envisaged to cover in depth the status, structure, functions and powers of international machinery, will take into consideration the problems, interests and needs of the developing land-locked countries and to what extent the machinery will be geared to that end. We hope that in preparing that study the Secretary-General will take the purport and essence of our amendment into consideration.

64. While I have the floor, may I draw the attention of the Committee to the amendment contained in document A/C.1/L.482 to draft resolution A/C.1/L.474/Rev.1 and Add.1-2. I hope that the sponsors of that amendment will find it possible to sub-amend their amendment so as to bring their text into conformity with the proposal which has been put forward by the sponsors of draft resolution A/C.1/L.477 and Add.1-3 and accepted by the delegation of Afghanistan. That will bring all the texts in this regard into conformity with one another.

65. Mr. HASHIM (Malaysia): I take the floor now merely to make some remarks on Malta's revised draft resolution in document A/C.1/L.473/Rev.2. My delegation has always supported any idea for the convening of an international conference particularly on defining the boundary of the area of the sea-bed and ocean floor. We find the revised draft resolution submitted by Malta to be in line with our stand on that subject. However, we would find it difficult to support this revised draft resolution without some slight amendments. Therefore, provided the Maltese delegation has no objection, we propose to move a formal amendment to draft resolution A/C.1/L.473/Rev.2.

66. The sixth preambular paragraph of that draft resolution reads:

"Convinced of the urgent necessity of preserving this area from encroachment inconsistent with the common interest of mankind."

67. We are still not satisfied with that sentence, because we are not happy about the use of the word "encroachment" alone. We should like to see the following words added after "encroachment": "or appropriation by any State". The amended paragraph would read:

"Convinced of the urgent necessity of preserving this area from encroachment, or appropriation by any State, inconsistent with the common interest of mankind."

68. Another amendment which we would like to see concerns only the language. We are not happy about the word "acceptable" in operative paragraph 1, which reads:

"Requests the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference particularly for the purpose of arriving at a clear, precise and internationally acceptable definition of the area. . . ."

We would prefer the word "accepted" rather than the word "acceptable".

69. If those two amendments could be accepted by the Maltese delegation, my delegation would be in a position to support the revised draft resolution submitted by Malta and contained in document A/C.1/L.473/Rev.2.

70. Mr. KHANACHET (Kuwait) (*translated from French*): I have been holding consultations with the authors of draft resolution A/C.1/L.477 and Add.1-3 in order to help the Committee to adopt this draft resolution, if not unanimously, as I had hoped, at least by a substantial majority.

71. We took advantage of the delay kindly granted us by the Chairman to exchange views with all the various groups and, as far as possible, with separate delegations. I have the pleasure to announce that this morning we arrived at an agreement which my fellow sponsors and I hope will command a solid majority, so that some progress can be made in the matter.

72. I have been asked by the sponsors to announce that, as a result of the consultations, we have accepted an amendment to operative paragraph 1 of the draft resolution. In English, the paragraph would begin as follows:

"Requests the Secretary-General to prepare a further study on various types of international machinery, particularly a study covering in depth the status. . ."

In French it would read:

"Prie le Secrétaire général de préparer une nouvelle étude sur les divers types de mécanismes internationaux, et en particulier une étude approfondie sur le statut. . ."

73. Having said that, I should also like to announce that the delegations of Chile, Cyprus, El Salvador, Guatemala, Liberia, Morocco, Nicaragua and Peru in co-sponsoring the draft resolution as amended.

74. We have made these concessions willingly, and with pleasure, since our intention had always been to achieve the adoption by the Committee, and subsequently by the General Assembly, of a resolution which, as I said, would mean some progress.

75. Before concluding, I should like to express my sincere gratitude to all the delegations which took part in the consultations we initiated and which showed a spirit of conciliation, understanding and co-operation that has enabled us to reach the happy solution I have just announced on behalf of my fellow sponsors. I should also like to thank all the delegations which have lent us their assistance at the

last moment, an assistance as precious and as fully appreciated as that extended to us from the beginning.

76. The CHAIRMAN: I request the Committee to add Swaziland to the list of additional co-sponsors, as read out by the representative of Kuwait, of the draft resolution in document A/C.1/L.477 and Add.1-3 as amended.

77. Mr. SAMUELS (Guyana): My delegation wishes to address itself to the draft resolution contained in document A/C.1/L.473/Rev.2, introduced by the delegation of Malta, and the amendments contained in document A/C.1/L.475/Rev.3, introduced by the representative of Trinidad and Tobago. My delegation wishes to compliment the delegation of Trinidad and Tobago upon its able introduction of these amendments. In our intervention we shall confine ourselves to considering the merits of the substance of the proposals before us. Before doing so my delegation wishes to compliment the delegation of Malta on its continuing initiatives in this field of international endeavour, and particularly on the draft resolution contained in document A/C.1/L.473/Rev.2.

78. My delegation also wishes to recognize in this Committee the spirit of co-operation which that delegation has shown in the informal discussions in connexion with that draft resolution. The essence of the draft resolution tabled by the delegation of Malta is contained in operative paragraph 1 which requests the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference particularly for the purpose of arriving at a clear, precise and internationally acceptable definition of the area of the sea-bed and the ocean floor and their subsoil which lies beyond national jurisdiction.

79. Compare with that the proposed amendment contained in document A/C.1/L.475/Rev.3, which

“Requests 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 national jurisdiction . . .”

80. It will be noted that both have the same ultimate objective, that is, determining the desirability of an early conference, the ultimate outcome of the work of which will result in a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond national jurisdiction. The difference lies in the area upon which attention is to be concentrated.

81. The draft tabled by the delegation of Malta suggests that attention should be focused directly and primarily upon the ultimate objective, that is, a definition of the sea-bed and ocean floor outside of national jurisdiction, examining indirectly the relevant provisions of international law, while keeping the ultimate objective in the forefront of our considerations. The amendment introduced in document A/C.1/L.475/Rev.3 proposes that the conference on

the law of the sea to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, and all the rest that follows after it, should be the primary focus of international attention, and, through a review and settlement of those régimes, arrive at the ultimate goal.

82. It is not necessary for me to state in this Committee the ancient uncertainties affecting the various areas of the sea over which States have claimed rights. The general dissatisfaction with those uncertainties and the serious incidents to which they have given rise on occasion are well known to members of this Committee. It must be admitted even by those who advocate the approach proposed by the delegation of Malta that delimitation of the sea-bed and ocean floor outside of national jurisdiction would require that rights extending far out into the sea which States claim would have to be settled before any definition could be achieved. My delegation believes that even if it were possible to formulate the definition without settling questions relating to the contiguous areas of the sea, the results would be short lived.

83. The proposal in operative paragraph 1 is either that we draw an inner circle without touching upon areas within the outer circle which are not clearly indicated, or, that we proceed to mark out the various areas within the outer circle, beginning with the inner. Since the undefined areas upon which the inner circle must not touch are the very areas in which the interests of States are firmly entrenched, settlement of their competing claims in those areas will be necessary before any progress can be made—in which case we shall have to embark upon the very course proposed in the amendment to operative paragraph 1.

84. In spite of the fact that we finally come to use the same method, regardless of the area upon which we decide to direct our attention, my delegation, believing that speed and economy are essential considerations, maintains that the approach from mid-ocean will result in delays and dyseconomies. We believe that our task of ascertaining the area outside of national jurisdiction will be made easier through determining what is within national jurisdiction, and settling the rights States exercise in the waters above the sea-bed and ocean floor will also enable us to work out an appropriate régime.

85. My delegation, therefore, supports the proposed amendment which suggests we begin from the shore rather than sail out to sea to begin to mark out our areas as we sail back to shore.

86. My delegation has examined the merits of operative paragraph 1 only, because we believe the need for a second preambular paragraph suggested in document A/C.1/L.475/Rev.3 becomes clear once the merits of operative paragraph 1 are established.

87. Mr. AMERASINGHE (Ceylon): The delegation of Ceylon would like to make some observations in regard to two draft resolutions of which it is a co-sponsor. I shall first deal with draft resolution A/C.1/L.480/Rev.1 and Add.1, which has been introduced by the representative of Mexico [*1683rd meeting*]. It is necessary to state the purpose of this draft resolution and to refer particularly to some of the objections that might be raised in regard to its operative paragraph.

88. The Committee on the sea bed and ocean floor has been required by the General Assembly to make recommendations on the exploitation of the area of the sea-bed and ocean floor beyond the limits of national jurisdiction. One of the indispensable prerequisites for the orderly exploitation of this area is the establishment of an international régime. But before we can do even that we must be clear in our minds as to what the area is that falls within the sea-bed Committee's purview. There is at present a serious ambiguity in the law, an ambiguity which can encourage States who are so minded to take extensive claims to this sea-bed in order to exercise some restraint or such activity that this draft resolution asks the General Assembly to endorse in the first instance the principle of what has been described perhaps inappropriately as a moratorium, but really is the principle of the exercise of self-restraint.

89. We realize that in these matters we cannot eliminate all problems at one step. This is merely the first step. The operative paragraph of this draft resolution in subparagraph (a) calls upon States and persons, physical or juridical, to refrain from all activities or exploitation of the resources of the area beyond the limits of national jurisdiction. The objection might well be raised regarding the purpose of such an appeal if the area in which self-restraint is to be exercised is itself not clear. But, as I noted, we seek, first of all from the General Assembly an endorsement of the principle of exercising self-restraint until the sea bed Committee has had time to consider the type of international régime that is necessary and also until the international community has been able to agree upon the precise limits of national jurisdiction.

90. In other words, the effect, at the moment, is purely psychological. This draft resolution will have no legally binding effect whatsoever. If a moratorium is finally to be established, the step would have to be taken to draft a convention or an international agreement.

91. We hope that this explanation will enable those who have doubts arising purely out of the vagueness of the terms of the expression "limits of national jurisdiction" to vote in favour of this draft resolution.

92. The other draft resolution on which I wish to say a few words is A/C.1/L.477 and Add.1-3 on which the representative of Kuwait has spoken. We are very fortunate that we have been able to secure agreement on the amendment proposed by the representative of Kuwait to the first sentence of operative paragraph 1. The objection has been raised to the original draft resolution that it limited the study to a particular type of international machinery: by requesting the Secretary-General to prepare a study on various types of machinery we remove that objection, we hope, while retaining the requirement that the study should be directed particularly to the status, structure, functions and powers of an international machinery, having jurisdiction over the area and having the power to regulate, co-ordinate, supervise and control all activities, etc. The advantage of that particular and specific type of machinery is that it is a most comprehensive type and the General Assembly, when it receives the study, will be able to decide how much of that it would be prepared to accept, if it is not prepared to accept the whole of it.

93. With this amendment we hope that those who had reservations on this question will be able to withdraw those reservations and vote in favour of this resolution.

94. Mr. ROSSIDES (Cyprus): I refer to the amendments in document A/C.1/L.476/Rev.1 in relation to the draft resolution presented by Malta in document A/C.1/L.473/Rev.1.

95. The original amendment of Cyprus [A/C.1/L.476] had as its purpose the elimination of the part of the operative paragraph 1 which refers to ascertaining the views of Member States on the extent of the area of the sea-bed and the ocean floor lying beyond national jurisdiction. That part was satisfied by the first Maltese revision. But in that revision the representative of Malta introduced another element to which my delegation again objected. That was that the conference to be convened on defining the area and on reviewing the Convention on the Continental Shelf would have to deal, at the same time, in a sense, with the régime, because it contained the words that the conference would also be for a second purpose: to agree on an equitable international régime for the area beyond national jurisdiction. This placed upon the conference the duty to deal also with an international régime. Therefore, Cyprus introduced another revision of its own amendment [A/C.1/L.476/Rev.1] by which this part was altered so that it would appear that the two efforts for the definition and the international régime would be parallel. The second Maltese revision in A/C.1/L.473/Rev.2 also satisfies these aspects by speaking of—and this appears in the third revision too—"the prospective establishment of an equitable international régime for the use of this area for the benefit of all mankind, which the United Nations Committee on the Peaceful Uses of the Sea-Bed is elaborating in accordance with the provisions of resolution 2467 A (XXII)". This part is again consonant with the revised amendment of Cyprus. Therefore, in view of these revisions by the Maltese delegation, I do not think I should press my amendment to the vote.

96. However, having followed the discussion and the various views expressed, I find that there is another aspect which requires attention. The draft resolution by Malta and my amendment to it were confined to the revision of the continental shelf. However, in the progress of the discussion it appears that the territorial waters are equally important—the extent of the territorial waters is equally important as an element of ascertaining the area to be reserved for the benefit of mankind and for which an international régime is to be established.

97. This makes it closely related because there are States which claim territorial waters and rights to the sea-bed of those territorial waters to the extent of 200 miles. Therefore, whatever is the area of the continental shelf agreed upon, if territorial rights to territorial waters to the extent of 200 miles continue, then that might probably, if not certainly, interfere with the area which is to be reserved for the benefit of mankind. Therefore, my delegation would like to see the Malta draft introduced the concept of the conference also dealing with the territorial waters. These two are closely related to the area to be reserved for

the benefit of mankind, and, therefore, a review of both these Conventions⁶ should be undertaken.

98. In this respect, the amendment [A/C.1/L.475/Rev.3] introduced by the representative of Trinidad and Tobago and co-sponsored by a number of delegations deals with this because it contains the continental shelf, the territorial sea and contiguous zone, and it goes beyond that into fishing and conservation of the living resources of the high seas, which, in my delegation's view, is not necessary for the purpose of ascertaining the area of the sea-bed and the ocean floor to be reserved for mankind.

99. Therefore, my delegation would be happy if either the Maltese draft resolution [A/C.1/L.473/Rev.2] or the amendment by Trinidad and Tobago and the other sponsors [A/C.1/L.475/Rev.3] included the continental shelf and territorial sea, and not the other aspects which are not necessary and which might complicate the whole question. However, that is put as a suggestion; I do not propose to make any formal amendment. I therefore withdraw my first amendment with regard to the definition of the area as it is satisfied by the Maltese resolution.

100. With regard to my second amendment in document A/C.1/L.476/Rev.1, I believe that a new paragraph should be added which would state:

“3. *Recommends* that all States should refrain from claiming or exercising jurisdiction over any part of the sea-bed or the ocean floor, or the subsoil thereof, beyond a depth of 200 metres or beyond the limits of the national jurisdiction they at present exercise, whichever is further from the coast, pending the clarification of the extent of national jurisdiction, without prejudice to any rights or claims concerning the limits of the relevant national jurisdiction.”

101. When that part was introduced, there was no reference in a draft resolution to the aspect of “freeze”. My delegation feels it would be best to introduce it in connexion with the definition, as the two subjects are very closely related. There cannot be a “freeze” unless there is a defined area. We therefore considered it appropriate to keep the two together.

102. Since there is now a separate draft resolution [A/C.1/L.480/Rev.1 and Add.1] concerning the “freeze”, which is very extensive and deals with the matter fully, I do not believe it is necessary to make an amendment to the Maltese draft resolution on the question of the “freeze”. Therefore, I withdraw that amendment.

103. The CHAIRMAN: I should like to inform the Committee that there are additional co-sponsors to draft resolution A/C.1/L.477 and Add.1-3 as amended. They are Ecuador, Togo, Senegal, Turkey, Barbados, Honduras and the Maldives. With regard to draft resolution A/C.1/L.475/Rev.3, Morocco and Swaziland have joined as co-sponsors.

104. We have thus concluded the debate on the draft resolutions. I call on the representative of Belgium in explanation of vote before the vote.

⁶ Convention on the Territorial Sea and the Contiguous Zone, United Nations, *Treaty Series*, vol. 516 (1964), No. 7477, and Convention on the Continental Shelf (*ibid.*, vol. 499 (1964), No. 7302).

105. Mr. DENORME (Belgium) (*translated from French*): I should like to explain briefly the considerations by which my delegation will be guided in the vote on the various proposals which will conclude our examination of item 32 of our agenda.

106. I have in mind four texts or groups of texts, draft resolutions and amendments. The first of these requests the Secretary-General to make a survey of the desirability of convening a conference for the purpose of arriving at a clear, precise and international acceptable definition of the area of the sea-bed and the ocean floor which lies beyond national jurisdiction. The second takes note of the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and gives it instructions regarding its future work. The third requests the Secretary-General to prepare a study in depth on a specific type of international machinery. Lastly, the fourth comprises proposals for a moratorium on claims and exploitation activities in this domain pending the establishment of an international régime.

107. In principle, Belgium is in favour of the first three groups of texts, which are based on the very conclusions reached in the course of this year by the Committee on the Sea-Bed and the Ocean Floor.

108. The texts in the fourth group are inspired by the readily understandable fear, expressed in the course of that Committee's work, that by the time the international régime is established, the area to which it will apply may have been greatly reduced and that exploitation activities may already be taking place in it. If the limits of national jurisdiction were clearly established, the moratorium on territorial claims would be fully in line with the principle of non-appropriation; but so long as the definition of the continental shelf is subject to extension, such a principle is meaningless. Prohibition of exploitation activities, too, may have only the effect of causing the coastal States to give an increasingly broad interpretation to the Convention on the Continental Shelf, an interpretation which, I must say, is legally tenable in the light of the text of that Convention alone.

109. The Brazilian representative said that the lack of a precise definition was not a valid reason for paralyzing the efforts of the United Nations. My delegation endorses that remark, even as it understands the explanations given by the representative of Ceylon, Chairman of the Committee on the Sea-Bed and the Ocean Floor. Nevertheless, my delegation fears that, for the reasons I have explained, a moratorium might be harmful to the common interests of mankind, thus defeating its own purpose. It fears that the proposal may be in contradiction with the last preambular paragraph of resolution A/C.1/L.480/Rev.1 and Add.1, and consequently cannot support it. On the other hand, the proposal for a survey on the desirability of convening a conference which would review the Convention on the Continental Shelf and, more particularly, the definition of the continental shelf, is very timely, and my delegation will support it. Belgium has already stated that its main interest was to see the United Nations review the Convention on the Convention on the Continental Shelf. It has been suggested that the scope of the conference should be broadened. In my delegation's view, these suggestions not merely go

beyond item 32 of the agenda, but are also superfluous: the draft resolution submitted by Malta [A/C.1/L.473/Rev.2] says that the conference is to be convened not exclusively but “particularly” for the purpose of arriving at a clear definition of the limits of national jurisdiction. Governments may, if they wish, add that the conference should also review the régimes of the high seas, the continental shelf, the territorial sea and the contiguous zone, fishing and conservation of the living resources of the high seas, etc. Incidentally, my delegation regrets that reference to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction has been deleted from paragraph 2 of the draft resolution.

110. That Committee’s report states specifically that the importance of the problem of defining the limits of the area to be studied by the competent body had been discussed, so that the Maltese proposal is directly relevant to the work done by that Committee this year; we therefore believe that the reference to the Committee in paragraph 2 was justified.

111. The proposal that the Secretary-General should carry out a supplementary study on international machinery was adopted unanimously by the Committee on the Sea-Bed and the Ocean Floor. In paragraph 19 of its report, the Committee said that the Secretary-General should be requested “to continue in depth the study of the establishment in due course of appropriate international machinery, concentrating on the following areas: (a) status of the machinery; (b) structure of the machinery; (c) powers and authority to be given to this machinery; (d) activities and functions of the machinery”.

112. Consequently, my delegation is in principle in favour of the draft resolution introduced by Kuwait [A/C.1/L.477 and Add.1-3]. While it regrets that this text is not based on the unanimous recommendation of the Committee which I have just mentioned, it will support the proposal in view of the amendments made, owing to which the text no longer prejudices the type of machinery to be established. I wish to pay a tribute to the spirit of conciliation manifested by the sponsors of this draft resolution. It seems to me that the large increase in the number of its sponsors shows that the amendment accepted by the representative of Kuwait on behalf of the sponsors has found great favour in our Committee.

113. Taking into account the views expressed by a very large group of delegations, my delegation has revised the draft resolution dealing directly with the work done by the Committee on the Sea-Bed and the Ocean Floor and the instructions issued to it [A/C.1/L.474/Rev.1 and Add.1 and 2]. I shall merely explain briefly why my delegation has been unable to accept amendment A/C.1/L.482, which is entirely acceptable to several other sponsors of the draft resolution.

114. It will be remembered the General Assembly resolution 2467 A (XXIII) contains a preambular paragraph which explicitly states:

“*Convinced* that such exploitation should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, taking into account

the special interests and needs of the developing countries”.

115. My delegation felt that, in the circumstances, it should not be essential for the General Assembly to repeat this formula once again in the present draft resolution. It did state at the time that:

“the fact that no explicit reference is made here to the identical interests of coastal and land-locked States, or to the special needs and interests of the developing countries should not be interpreted as a change in attitude on the part of the General Assembly in connexion with resolutions adopted previously, which are in any case, recalled in the preamble of this draft” [1681st meeting, para. 196].

116. My delegation is not in the least opposed to the idea expressed in the amendment, but it does not think that it would be appropriate here, firstly, because a text whose sole purpose is to give a general listing of the principles that should be formulated should confine itself strictly to the terms of reference of the Committee in question, and secondly, because in that text the General Assembly requests the Committee to expedite its work of preparing a “comprehensive and balanced” statement of principles. Would it be logical to enunciate a particular principle in operative paragraph 3? In my view, that principle can only be set down within a comprehensive and balanced text. Lastly, the wording itself, although it appears in many documents, is not too happy and gives rise to difficulties. Not only does it seem questionable to equate all of mankind with “States”; but the term “geographical location” is not clear enough to establish a distinction between land-locked and coastal States. The delegation of Afghanistan has drawn attention to this ambiguity and asked that the wording should be revised to mention the equal interests of land-locked States.

117. For these reasons, I shall abstain on the amendment if it is put to the vote. For the same reasons, I have prepared a compromise wording, to be inserted as an additional preambular paragraph reading as follows:

“*Reaffirming* that the exploration and exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction should be carried out for the benefit of mankind as a whole, taking into account the special interests and needs of the developing countries and bearing in mind that the land-locked countries have the same interest in this regard as the coastal countries”.

118. I should like to explain the advantages of this wording. To begin with, it is clearer and, I think, should be acceptable to the delegation of Afghanistan; it should provide additional material for the Committee to work on next year when it formulates a comprehensive and balanced statement of principles. Secondly, it does not impinge on the wording used last year for a general description of the principles to be prepared. Thirdly, it will be not an operative paragraph taken out of the context of a comprehensive and balanced statement, but a general directive for the Committee’s work as a whole. Fourthly and lastly, it states quite explicitly that the General Assembly intends to continue its work in that spirit.

119. My delegation regrets that the sponsors of the amendment have been unable to accept this constructive proposal, which would have ended all controversy with regard to the draft resolution.

120. The CHAIRMAN: Before I give the floor to the next speaker, I should like to inform the Committee that the following countries have become additional sponsors of draft resolution A/C.1/L.477 and Add.1-3: Lebanon, Gabon and the Democratic Republic of the Congo.

121. Mr. ZEGERS (Chile) (*translated from Spanish*): My delegation wishes to explain its vote on the draft resolutions submitted to the First Committee under item 32 prior to the voting.

122. If the draft resolution submitted by Malta [A/C.1/L.473/Rev.2] is put to the vote as it stands, we shall vote against it for the following reasons. First, the draft resolution is outside the scope of the item, which refers to an area presumed to be well known: the area beyond current national jurisdiction. There is consequently no call to discuss under this item the desirable or possible scope of national jurisdiction. Secondly, it seeks to initiate a conference on the sea dealing with only one area of the marine environment—the ocean floor—and one item—the limits of the ocean floor. Not only would this not be in line with the views of the International Law Commission and of many scholars, but it would not be in line either with two General Assembly resolutions which clearly state that the problems of marine space are inseparable. One fails to comprehend how it would be in the general interest to alter existing law and the practice established at the two United Nations Conferences on the Law of the Sea.⁷ Thirdly, it gives priority to the establishment of the limits of the sea-bed over the establishment of a régime for it, although that is the sole urgent task which the international community has decided in General Assembly resolutions 2340 (XXII) and 2467 A (XXIII) to carry out in the interests of mankind. Fourthly, adopting what one might call a piecemeal approach to the Conferences on the Sea and seeking to give limits priority over the régime would not, in the opinion of my delegation, be in the interest of mankind or, in particular, in the interest of the developing countries.

123. My delegation will vote in favour of the amendments to the draft resolution [A/C.1/L.475/Rev.3], because they improve the text submitted by Malta considerably and are generally in line with what the international community has agreed upon in the interests of all mankind, particularly the developing countries. They advocate a conference covering all the problems relating to the law of the sea and state quite clearly that, as regards the sea-bed, the régime has priority over the limits.

124. We shall vote in favour of these amendments on the clear understanding that they request the Secretary-General to consult Governments on the desirability of convening a conference on the law of the sea along the same lines as those held in 1958 and 1960. We understand that this

decision would not extend the scope of the item defined by resolution 2340 (XXII) or the terms of reference given to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction by resolution 2467 A (XXIII). Finally, we should like to state that it is our understanding that the terms of the resolution cannot change or prejudice existing international law or sovereign acts freely decided on by States. We should like these reservations to be clearly and faithfully recorded.

125. We shall vote in favour of draft resolution A/C.1/L.474/Rev.1 and Add.1, which we have sponsored.

126. We shall also vote in favour of draft resolution A/C.1/L.477 and Add.1-3 which requests the Secretary-General to prepare a further study, in addition to the one contained in document A/7622, annex II, on international machinery, as suggested by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. As Ambassador Khanachet of Kuwait has already told the Committee, we too are sponsoring that draft resolution as revised by him. If we consider the vital importance of such machinery in the context of the international régime, this study acquires particular relevance.

127. We are pleased that an agreement has been reached with the delegation of Afghanistan, because it emphasizes the indisputable necessity for the participation of land-locked countries.

128. We shall vote in favour of draft resolution A/C.1/L.480/Rev.1 and Add.1, which recognizes a situation that exists under present international law: that exploitation of the resources of the sea-bed shall not be allowed so long as there is no international régime governing such resources. This solemn declaration is essential in order to prevent a fait accompli in the area beyond the jurisdiction of States. Equally important is the repetition of another declaration already contained in the report of the sea-bed Committee: no rights of property or use shall be recognized over the area beyond the limits of national jurisdiction and, as the representative of Brazil said a few moments ago in a statement with which we fully agree, activities in that area shall not create rights.

129. Finally, we shall vote in favour of the amendment in document A/C.1/L.482, because we feel it complements and improves the original proposal.

130. Mr. ROSENNE (Israel): My delegation did not take part in the general debate on this important item. I shall therefore indicate as briefly as possible some of the considerations which will guide us in voting on the draft resolutions before us.

131. We would, however, be remiss if we did not take this opportunity to express our appreciation to the Chairman, Rapporteurs, and distinguished members of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, as well as to its two important Sub-Committees, the Legal Sub-Committee and the Economic and Technical Sub-Committee, for the extremely valuable reports [A/7622 and Corr.1 and Add.1] which they have submitted to us this year. These docu-

⁷ The first Conference was held at Geneva from 24 February to 27 April 1958. The second Conference was held at Geneva from 17 March to 26 April 1960.

ments will continue to require very close study before final views on all the questions can be reached. But we have found them most helpful in the present discussion.

132. As almost every speaker who took part in the general debate has emphasized, the subject is vast, complex, has a number of highly technical elements, and is extremely delicate. Nor can the many legal facets be easily glossed over. All experience of the activities undertaken in the past by the organized international community on the broad question of the oceans and the régime under which they are placed goes to show how speed can be the enemy of a generally satisfactory end product. At the same time the urgency of our current examinations is appreciated, and if time and tide wait for no man, we are sure that legitimate requirements can in due course be reconciled, whether through the instrumentality of the sea-bed Committee, or in some other manner.

133. Next year however, we should like the Committee to keep in mind that it is particularly important for those Member States which do not participate actively in its work—and they are the majority—to receive the final report in good time. I am sure that the Secretariat will be able to make the necessary dispositions in advance to ensure this.

134. My delegation will vote in favour of the revised text of draft resolution A/C.1/L.474, submitted by Belgium together with its co-sponsors, and so ably introduced to us at the 1681st and 1683rd meetings by the representative of Belgium, whose absence from the future work of the sea-bed Committee we, like other representatives here, will regret.

135. We have taken careful note of his remarks when introducing the draft resolution and particularly his explanation that it is a basically procedural resolution, which is intended to permit the sea-bed Committee to continue its work during 1970 along the lines that the Committee itself is contemplating.

136. We shall also support the idea in the amendment contained in document A/C.1/L.482. Similarly, and for very much the same reasons, although we abstained in all the votes on the drafts that became resolution 2467 C (XXIII), we recognize the value of the conscientious work that has been undertaken by the Secretary-General in the study that appears as annex II of the Committee's report and the general interest that the study should be deepened.

137. Therefore, as a procedural matter and understanding that questions of substance are not prejudiced, we are prepared to support this year the draft resolution contained in document A/C.1/L.477 and Add.1-3, as amended this morning by different sponsors.

138. Both these votes are to be understood in their procedural context and, as was in effect indicated by the sponsors would be the case, our position on all issues of substance is entirely reserved until the time comes to discuss those issues on their merits.

139. With regard to the proposal by Malta, contained in document A/C.1/L.473/Rev.2, my delegation wishes to

state that, without fully accepting all the considerations appearing in the preambles, we see in the second revision a considerable improvement in the proposition and, not without hesitation, we find it somewhat preferable both as to the original idea and as to the text of the second amendment in document A/C.1/L.475/Rev.3, which goes altogether too far, although we have carefully noted what the representative of Trinidad and Tobago said this morning when introducing it. If that amendment should be adopted, my delegation would simply have to abstain in the vote on the draft resolution as a whole.

140. Neither on the basis of the report of the sea-bed Committee nor on a more general basis has my delegation been satisfied that the case has yet been made for convening a broad conference on the régime of the sea or for directly or indirectly setting in motion the complicated process for the revision of the Convention on the Continental Shelf of 29 April 1958,⁸ and even less of the other conventions on the law of the sea adopted in Geneva on the same occasion, or of the whole régime that was then set up, and we understand the proposal of Malta as being more limited in scope.

141. At the same time, we share the views of other delegations that have expressed some doubt on whether the type of inquiry that the different proposals are envisaging might be conducted by the Secretary-General would be productive in terms of furnishing us with meaningful enlightenment about the desirability or feasibility of convening such a projected conference, and regarding what kind of conference is envisaged or would be useful. Moreover, should the question of the revision of the régime, or part of it, set up by the various Geneva Conventions of 1958, be pursued further in the Committee on the Peaceful Uses of the Sea-Bed, in our view, that Committee would, *inter alia*, have to examine the matter very closely in the light of the conclusions of the United Nations Conference on the Law of Treaties⁹ and the Vienna Convention on the Law of Treaties¹⁰ of May this year.

142. Finally, the votes that we will cast on the procedural issue of the inquiries to be conducted by the Secretary-General would be without any prejudice to any replies we would wish to send him in due course.

143. The first amendment in document A/C.1/L.475/Rev.3 draws attention to the juridical as well as the physical link between all the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf and the superjacent waters. We share some of the sentiments that motivated the sponsors in that regard, which, in the past, has guided the General Assembly in dealing with the questions concerning the sea. If that amendment should be voted upon separately, we would be able to support it.

144. With regard to the proposal for a moratorium, which now appears in document A/C.1/L.480/Rev.1 and Add.1, we accept the underlying premise that there would be advantage, so to speak, in freezing the present situation both as regards claims and activities so as to prevent the

⁸ United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.

⁹ Held in Vienna, 9 April to 22 May 1969.

¹⁰ Document A/Conf 39/27 and Corr.1.

possible frustration of generally acceptable recommendations should they be made in future. On the other hand, interim measures of this character—if they are interim measures—should, in our view, subsist only pending due determination of the various complicated issues that arise and should not dispose of them in advance.

145. Having regard to the character of the present debate, which is taking place at an intermediate stage of the examinations, and of the interim character of all the resolutions that will follow from it, we regret that we cannot positively support the moratory proposal in the form in which it now stands, and we shall therefore abstain in the voting on that draft resolution.

146. Finally, on the wider problem of the standing of the coastal States in relation to the continental shelf and the sea-bed, my delegation has noted the important observations which appear in various annexes of the report of the Conference of the Committee on Disarmament¹¹ and finds itself in sympathy with much that is contained therein.

147. Mr. MENDELEVICH (Union of Soviet Socialist Republics) (*translated from Russian*): My delegation had an opportunity to state its general views on this question earlier, and will now merely explain its votes on the various resolutions and amendments.

148. I shall comment on the resolutions in the order of their submission, and consequently in their numerical order. The Maltese draft resolution [A/C.1/L.473/Rev.2], relating to the definition of the outer limits of the continental shelf of coastal States, touches, in my opinion, on an important and vital aspect of the entire question of the sea-bed and the ocean floor now being considered by the General Assembly and the First Committee.

149. My delegation is in entire agreement with the basic idea of the Maltese draft resolution—that there is a need to define more precisely the limits of the continental shelf of coastal States, i.e., the limits of that area of the sea-bed and the ocean floor which lies beyond the limits of national jurisdiction and with regard to which we can elaborate rules of law and other means of regulating the activities of States for the exploration and exploitation of marine natural resources for peaceful purposes.

150. My delegation took part in the consultations on the Maltese draft and put forward its views and amendments. However, the Maltese delegation was unable to take account of them all, so that we still have reservations even with regard to the second revised text submitted by Malta.

151. While my delegation holds that the limits of the continental shelf should be precisely defined, it feels that the time is not yet ripe to consider the convening of a conference for this purpose. At the present stage it seems to us unwise to prejudice the best method of finding a solution to this urgent problem. We believe that the next step should be to solicit the considered views of States with regard to the limits of the area of the sea-bed and ocean floor lying beyond the limits of national jurisdiction and the views of

the parties to the 1958 Convention on the Continental Shelf with regard to the desirability of defining the present bounds of the continental shelf and the manner in which this should be done.

152. For these reasons, my delegation will abstain in the vote on the Maltese draft resolution.

153. A large group of countries has submitted amendments [A/C.1/L.475/Rev.3] to this draft resolution. My delegation has the gravest doubts regarding these amendments.

154. To begin with, they invite the First Committee to examine and take a decision on purely legal questions, which go far beyond the item on its agenda. As we all know, while considering the question of the sea-bed and the ocean floor, we do not and cannot deal with the law of the sea as a whole, particularly as this is the prerogative of other General Assembly Committees which are qualified to consider such matters, and which do consider them when the need arises. My delegation believes that, strictly speaking, the First Committee is not entitled to rule on the desirability or undesirability 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, etc. That is a very broad range of questions, and it can hardly be dealt with when considering the sea-bed and the ocean floor.

155. Moreover, my delegation cannot agree in principle with the approach taken in the amendments. Such linking together of all questions relating to the law of the sea, including the law applicable to the sea-bed and the ocean floor, must inevitably result in retarding a solution of all those questions on the one hand, as they will have been greatly complicated, and on the other—and this we regard as particularly undesirable—it may weaken the existing provisions of the law of the sea, since the amendments cast doubt on them. Yet those provisions are based on international treaties and conventions now in force and there is no reason to question their legality or the fact that they are binding on all States.

156. For those reasons, the USSR delegation will vote against the amendments in document A/C.1/L.475/Rev.3 and, if they are accepted, will regretfully be compelled to vote against the Maltese draft resolution as amended. Yet, as I said before, my delegation is on the whole in agreement with the underlying idea of the Maltese draft resolution and feels that, if it had been phrased somewhat differently, it would have merited unqualified approval.

157. I now turn to draft resolution A/C.1/L.474/Rev.1 and Add.1 and 2, submitted by Belgium and a large number of other States. This text, which deals with the future work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, is also the result of lengthy consultations in which my delegation took part, and I note with satisfaction that some of its comments were duly taken into account. My delegation still has some doubts regarding operative paragraph 6 of the draft resolution, in which the General Assembly requests the Committee to formulate recommendations regarding the economic and technical

¹¹ *Official Records of the Disarmament Commission, Supplement for 1969, document DC/232.*

conditions and the rules for the exploitation of the resources of this area in the context of the régime to be set up. In our view, the matter is covered in the preceding paragraphs of the operative part and does not need special emphasis.

158. Nevertheless, despite this reservation my delegation is prepared to vote for draft resolution A/C.1/L.474/Rev.1 and Add.1 and 2.

159. At the same time, my delegation has serious doubts with regard to the amendment to the draft resolution contained in document A/C.1/L.482. This amendment, submitted by a number of countries, singles out and appears to sanction at this early stage one of the legal principles in question—the principle that the special interests and needs of the developing countries must be taken into account. My delegation fully agrees that this principle, like the other rules of law governing the activities of States on the sea-bed and the ocean floor, should be very carefully examined by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, and it has taken and intends to take an active part in this study, with a view to the preparation, if possible for the twenty-fifth session of the General Assembly, of a declaration of legal principles governing the activities of States on the sea-bed and the ocean floor.

160. However, to single out one legal principle from an entire body of legal principles at this stage strikes us as a kind of discrimination towards the other principles, which are also to be examined by the Committee and which must also be included in the declaration.

161. Consequently, the USSR delegation will abstain in the vote on amendment A/C.1/L.482. If the amendment is adopted, I must say here and now that we shall have to ask for a separate vote on operative paragraph 3 of the draft resolution, as adoption of the amendment will radically change the draft resolution. We shall not ask for a separate vote on operative paragraph 3 unless the amendment is adopted.

162. I now pass to the next draft resolution, contained in document A/C.1/L.477 and Add.1-3 and dealing with international machinery.

163. My delegation has from the outset had a number of doubts concerning this draft. I will not restate at length the considered position of the Soviet Union with regard to the creation of such international machinery, but I would say that, in our view, if this question were to be studied at all, it should be studied in an organized, concentrated and realistic manner. We have before us the Secretary-General's report on international machinery [*A/7622 and Corr.1, annex II*]. This report has not been thoroughly studied by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, nor has it been examined by Governments, because it was submitted too late. Lastly, it did not receive detailed consideration in this Committee, during the general debate on the present item.

164. It therefore seems premature to us to request the Secretary-General to do further work on the matter. We could, however, accept this proposal if it merely requested

the Secretary-General, as has been agreed in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, to pursue a more detailed study of the question of international machinery and to submit a supplementary report thereon. My delegation would not object to this and might even be able to support such a resolution, providing, of course, that it would be purely procedural and would in no way prejudice the Soviet Union's final position on the advisability or inadvisability of setting up any international machinery.

165. The draft resolution before us, however, goes much further. In it, the Secretary-General is requested to prepare a further study on the status, structure, functions and powers of an international machinery, and specifies a very definite type of international machinery, having jurisdiction over the peaceful uses of the sea-bed, ocean floor, and the subsoil thereof, including the power to regulate, coordinate, supervise and control all activities relating to the exploration and exploitation of their resources, for the benefit of mankind as a whole, etc. In other words, the Secretary-General is being invited to work out a certain very specific kind of international machinery. For reasons which it has expounded at length and which I deem it unnecessary to repeat at this point, my delegation vigorously objects to this particular type of international machinery.

166. Today's proposal by the representative of Kuwait to amend operative paragraph 1 merits attention. The Secretary-General would now be asked to prepare a report on various types of international machinery. My delegation regards this as a definite improvement.

167. Thus, if the draft resolution had not been amended, my delegation would certainly have voted against it. Now that it has been, I would ask for a separate vote on that part of operative paragraph 1 beginning with the words "having jurisdiction over the peaceful uses of the sea-bed".

168. I am asking for a separate vote on that passage. My delegation regards this kind of international machinery as undesirable, objects to it, and will oppose special attention being drawn to it.

169. I also request a separate vote on the words "particularly a study" in the change made today by the Kuwait representative.

170. I shall vote against those words also.

171. If those words and the passage I have mentioned in operative paragraph 1 are deleted, my delegation will be able to vote for the draft resolution. If they remain, it will have to abstain on the draft resolution as a whole. With regard to this abstention, I would make the further reservation that my delegation does not have instructions from its Government on this point. My delegation would abstain today, but this does not prejudice its final position during the vote in the General Assembly. It will have to review that position in the light of additional instructions from its Government.

172. Let me now comment on the last draft resolution, the one submitted by Brazil, Ceylon, Chile, Ecuador, Guatemala, Kuwait, Mauritania, Mexico, Trinidad and

Tobago, and a number of other countries [A/C.1/L.480/Rev.1 and Add.1] and freezing the exploitation of submarine resources beyond the limits of the national jurisdiction of coastal States. My delegation has objections to this text, for it raises questions which must be comprehensively and carefully studied by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor before any agreement can be reached on them among States. Moreover, the operative part is so phrased that it can be interpreted as infringing the freedoms of the open seas sanctioned by international law. We also object categorically to the inclusion in the second preambular paragraph of the provision for the creation of an international régime which would include appropriate international machinery.

173. Whereas the Kuwait draft resolution in its present form is procedural, and provides merely for the study of the question of international machinery, this draft resolution actually prejudices that question. This is something we cannot agree to.

174. For all these reasons, my delegation will be compelled to vote against this draft resolution.

175. The CHAIRMAN: Before adjourning, I shall give the floor to the representative of Mexico who wishes to speak on a point of order.

176. Mr. GARCIA ROBLES (Mexico) (*translated from Spanish*): I shall be very brief. I merely wish to state that

the delegation of Afghanistan has asked the sponsors of the amendment in document A/C.1/L.482, whether they would be prepared to agree to the inclusion in the amendment of the same words that it was today proposed should be included in draft resolution A/C.1/L.477 and Add.1-3.

177. My delegation has consulted all the other sponsors of the amendment and I am now in a position to announce that we agree to reply in the affirmative to the question of the representative of Afghanistan. The amendment is therefore revised and should continue, after the words "developing countries", with a comma followed by the words "whether land-locked or coastal" as in document A/C.1/L.477 and Add.1-3.

178. The CHAIRMAN: I shall like to inform the Committee that Chad and Mauritius have requested to be added to the list of co-sponsors of the draft resolution in document A/C.1/L.477 and Add.1-3. The delegation of Chad has also requested to be shown as an additional co-sponsor of the draft resolution in document A/C.1/L.474/Rev.1 and Add.1-2, and Mauritius has asked to be added as a co-sponsor of document A/C.1/L.482. In view of the lateness of the hour the next meeting will be held at 3.15 p.m. today.

The meeting rose at 1.30 p.m.