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

## AGENDA ITEM 25

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

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

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

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

1. Mr. GALINDO POHL (El Salvador) *(interpretation from Spanish):* The First Committee is studying a draft declaration of principles on the sea-bed and the ocean floor beyond the limits of national jurisdiction *[see A/C.1/L.542]*, which represents the culmination of two years of work on the part of the Committee on that subject and one year of work on the part of the *Ad Hoc* Committee. This draft declaration is supported by a large number of members of the Committee but so far has failed to obtain the desired unanimity. A document of such importance calls for some comments from my delegation, since it is the result of great efforts in which El Salvador has participated with the greatest interest over a period of three years.

2. The report of the Committee on the sea-bed *[A/8021]* does not reflect the degree of agreement arrived at in Geneva, because since that agreement was reached at informal meetings, some delegations contended that it could not be included in the report, as each of the elements depended on the others; and, since some points were in abeyance, those delegations suspended or withheld the consent they had given provisionally in the course of the negotiations. That fact strengthens the view that, in order to interpret the present draft declaration, not only should we apply the rule of interdependence and multilateral conditioning of all parts of the document, which is generally acceptable in the case of international instruments, but also the negotiating conditions and the background of the preparation of the document should also lead to the same end.

3. The text was widely negotiated and represents the conciliation of divergent interests, but it has a balanced, coherent structure based upon the interdependence of its component parts. The fact that some delegations have asked that no amendments be submitted also reveals a feeling of unity with regard to the draft, from the point of view of the political will that upholds it, but at the same time reveals the fragile balance that exists among the component parts.

4. It is not the best of declarations, but it is the only declaration acceptable to a goodly number of delegations. If its clauses were to be examined there would probably be no delegation that would not doubt certain parts, but it is still the common denominator and it represents the degree of sacrifice that each of the parties concerned felt it possible to make while maintaining its own position. Although it is the result of the confrontation of interests and represents the, at times careful, readjustment of doctrinary and political positions, it is coherent and understandable and is in keeping with general as well as juridical logic. The problems of interpretation to which it may give rise will not be any greater than those which normally arise in regard to any international agreement and, in general, any legal text.

5. At Geneva, where the Committee on the sea-bed held its summer session, the following problems were still left in

abeyance: the principle of the common heritage of mankind, the participation in the benefits, the limits and the peaceful uses. With regard to responsibility, there was an argument about the measure of responsibility, but it was felt that, if the other points were adequately resolved, the problem of responsibility might also be considered solved. Something similar occurred with the peaceful settlement of disputes which confronted a reference to Article 33 of the Charter and the establishment of a more specific method of solution, such as binding arbitration.

6. The principle of the common heritage of mankind gave rise to two positions: that of those who wanted its categorical inclusion and that of those who stated that there was no need to mention it so long as certain specific results were evident, such as the sharing in the benefits, since this principle has a bearing on others. Opinions varied between mention of the principle in the preamble, its inclusion in the operative part and its complete omission—in the last case because of the presence of other principles it would have led to implicit recognition of the principle in the declaration. The developing countries, consistently and with determination, advocated the inclusion of that principle in the operative part as it now appears in the draft declaration.

7. No one categorically objected to co-participation in the benefits, but some delegations wanted better definition of its terms in order to know the scope or the extent of the commitments that were envisaged and therefore preferred that it speak of participation when the régime was established or that greater study be given to the ways in which it would operate.

8. With regard to peaceful uses, the point at issue was whether we could or should declare that military use of the sea-bed for offensive and defensive purposes is prohibited, or whether we were merely describing the peaceful uses, in which case purely defensive uses, such as the installation of means of identification of miltary instruments or vehicles, would be permitted. The draft declaration leaves to other groups, particularly to the Conference of the Committee on Disarmament which is competent in the matter, the question of the negotiation of wider agreements or covenants, particularly concerning the total demilitarization of the sea-bed. That total demilitarization, which would considerably reduce the areas of confrontation and strategic deployment of the nuclear Powers, would have to be studied at the Conference of the Committee on Disarmament.

9. With regard to the limits of the international area, the discussions led to the submission of a number of formulas. Some delegations wanted a specific commitment that the limits should be defined by international agreement, whereas others felt that it was sufficient to take note of the present position in the sense that the exact limits of the international area are still to be determined. This last view finally gained acceptance by the majority and therefore appears in the preamble to the draft.

10. In some cases limits were defined by unilateral decisions. In specific circumstances unilateral declarations can be the source of international law. In other cases the limits were based upon ratification of the Geneva Convention on the Continental Shelf of 29 April 1958.[1] They can also be defined by regional agreements such as those that apply to the sea-beds of the Baltic Sea, the North Sea and the Adriatic Sea. At other times they may be founded on international custom, and doubtless the countries that invoke traditional rights are referring to this. Agreement, based on the express and direct consent of States which constitutes the contractual source of international law, is another and perhaps in this case the most desirable method.

11. The draft declaration, as now constituted, takes note of present-day international realities where it states that the international area of the sea-bed has limits that are yet to be determined. It does so because, except in the case of those countries that have defined the limits unilaterally in accordance with the bathimetric—or distance—criterion, the Geneva Convention on the Continental Shelf does not define with precision the limits of that part of the shelf that is under national jurisdiction nor, as a result, does it define the international area since, in addition to the 200-metre isobath, it also declares as under national jurisdiction those areas whose natural resources are exploitable. Therefore, the limits of the platform under national jurisdiction shift with the progress of technology. Hence it is correct to say, considering the terms of the aforesaid Convention that the exact limits of the international area are yet to be defined. That statement is also correct in view of the fact that there is no agreement between the different expressions, national and regional, when applied to the limits.

12. Furthermore, the reference to limits appears in the preamble because it is not a principle but a prior concept that will define the legal object to which the declaration of principles is to apply.

13. With regard to limits we must point out that the interests of some of the maritime Powers lead them to prefer reduced national jurisdiction, for this would increase the international area where they can bring to bear their resources and their technology. On the other hand, the developing countries can only expect to develop those zones that are relatively close to their own coasts. Since even this would be a costly procedure, their freedom to exploit more distant areas would be sheer fantasy. They would obviously hold a certain right, but one that they could not exercise through lack of technology and resources. As some jurists contend, they would possess a heritage but a heritage devoid of reality.

14. We cannot deny that the Geneva Convention does protect those exploitations of the continental shelf carried out beyond the 200 metres depth. Many interpret the Convention to mean that with the progress of technology, the entire sea-bed would gradually come under national jurisdiction. But if the limit of national jurisdiction were to advance to the point where the entire international area was included, we would then refute the premises that form the basis and the condition for the undefined norms of the treaty itself. Therefore, and in the light of the controversies to which the application of that Convention can give rise, it is urgent for the international community to draft international norms that will limit the area over which the régime shall apply. Furthermore, it is common knowledge

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

that the majority of the members of the international community have not as yet acceded to or ratified that Convention.

15. I think it might be helpful to stress that which the draft declaration is not and is not intended to be. First of all, it must be clearly understood that in the eyes of my delegation that draft is not and is not intended to be a provisional régime governing the exploitation of the sea-bed. Thus we must recognize that this understanding loomed large in all our negotiations; it was accepted by all parties independent of the positions they may have taken on the problems of maritime law. Therefore, the declaration is a first step toward that régime, but it is not yet the régime. In itself the declaration is therefore incomplete and the sea-bed Committee will not have fulfilled its mandate until it can submit to us a draft international régime.

16. With regard to that régime, the necessary treaties will have to be framed through which international obligations will be more clearly defined. The declaration which is to emerge from the General Assembly, apart from the more or less categorical and emphatic expressions in which it may be couched, will possess the authority befitting that type of declaration of the General Assembly, but, of course, those who support it must obviously be deemed to be prepared to abide by its content in good faith and to ensure that the régime will be consistent with those principles. If adopted, the declaration will represent the joint and clear opinion of the international community concerning the peaceful use of the resources of the sea-bed located in that area that lies beyond national jurisdiction.

17. From the context of a number of paragraphs of the declaration it is obvious that we are not agreeing to a provisional régime. Paragraph 3, in fact, states that no State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international régime to be established. Therefore, a right which is acquired over the zone and its resources is subject to its non-incompatibility with the international régime to be established and that principle can therefore only be fulfilled when the régime has been established.

18. Along the same lines, paragraph 4 states that all activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime to be established. Again, that article—and the same applies to all the articles in the declaration—must be interpreted as part of a system and as such its true meaning cannot be extracted and considered in isolation.

19. The draft declaration constantly refers to the régime in the future tense in order to reflect the present situation, which is that the régime has not as yet been established; but this does not mean that the declaration can replace such a régime even provisionally, for that was not the intention of any of the parties concerned with it. That point was made very clear in the course of the extensive informal negotiations held this year. It must be recalled that there is no official record of those negotiations, because they were informal. But I think it is right to stress that fundamental agreement at this time and to allow those countries that do not support it to express their views in the First Committee, before a vote is taken on the draft declaration.

20. Nor does the draft declaration endorse or undermine the so-called moratorium that was the subject of a General Assembly resolution at its twenty-fourth session. In the course of the negotiations, conflicting interests were reconciled in the sense that the declaration of principles would be neither of two things: either a provisional régime or a restatement of the moratorium. On these points the draft declaration reflects a clear desire to be neutral.

21. The draft declaration defines the region by calling it simply the "area". It might have called it the "international area", but here again the brevity of wording was the result of the clash of opinions and interests. As far as my delegation is concerned, that area cannot be anything other than an international area, one of the reasons being that it is an international authority that will ensure the effective implementation of the principles (paragraph 9), that the exploration and exploitation of the resources will be carried out for the benefit of mankind as a whole (paragraph 7), in other words, not only for the benefit of those directly concerned with exploitation, but also of those people who may not be involved in the exploitation at all, and further, that the area shall not be subject to appropriation by any State or person, nor can States claim sovereignty over it. Only an international area can be subject to such principles which frankly are an innovation concerning everything that we have thus far known in international affairs.

22. The clear-cut intention of the declaration is to establish, with respect to the sea-bed, completely different rules from those that international custom has authorized for the utilization of the living resources of the high sea. Paragraph 5, if considered separately, might suggest a different interpretation, because it states that the area shall be open to use exclusively for peaceful purposes by all States. But there is another condition, part of the same paragraph 5, according to which that free use shall be in accordance with the international régime to be established. Some might ask whether the term "use" excludes utilization of resources. Normally, "use" is intended to mean technical and research activities as well as others but that it does not include exploration and exploitation, because when this document refers to "exploration and exploitation", it does so in so many words. In the normal sense "use" of the area is different from its "exploration and exploitation" since different articles deal with those two aspects. But it does not grant freedom for anyone, on his own initiative and without prior requirement, to use the international area. Therefore, we are not moving towards a régime of the free use such as we now have for the living resources which, it is true, was established when technological development was still in its initial stages and which nowadays, with the new fishing methods, is seriously threatening the ecological balance of the seas and is threatening even to wipe out certain marine species altogether.

23. Unconditional use, understood as exploitation of resources, would be incompatible with the very foundations of the declaration, *inter alia,* the healthy development of the world economy and the reduction to a minimum of the different economic effects caused by fluctuation of prices

of raw materials (paragraph 6 of the preamble). Again, this is one article that many delegations would have preferred to see appear in the operative part, but its presence in the preamble was the result of a compromise. Yet, its presence there is highly significant, because in the preamble we lay down on the one hand certain basic facts, and on the other, the aims and goals of the declaration; and it is obvious that the scope and meaning of all the operative articles are subject to the goals and objectives defined.

24. Paragraph 6 refers to the applicability of international law. It was made clear in the course of the negotiations that present international law was obviously insufficient to govern the sea-bed, but that some of its principles were applicable, particularly those that concerned the rights and duties of States.

25. It was also made clear that the régime of the high seas was not intended to cover the sea-bed and applied only to the waters; by the same token, that which concerns the sea-bed does not affect the legal status of the superjacent waters nor the airspace above them—I refer here to paragraph 13. Those principles again stress the fact that the freedom of utilization by the first-comer, which covers the living resources of the sea, is not specifically what we are outlining as the possible future régime for the sea-bed but that any activities in the international area would be channelled through the régime to be agreed upon and established, and would be subject to the processes of application to be entrusted to an international organization which, perhaps somewhat improperly, in paragraph 9 is termed "the international machinery". In Spanish, at least, "international machinery" is a misnomer.

26. Paragraph 5, when related to paragraphs 6 and 13, is intended to declare quite simply that all States without discrimination shall have equal access to the use of the sea-bed—not, of course, in such a manner as to extend it to the superjacent waters but in accordance with the régime to be established.

27. The draft declaration of principles points out that the international machinery—or, as we would prefer it in Spanish, an international organization—will rationalize exploitation, receive royalties and appropriately distribute the benefits of exploitation among development programmes. All that is inherent in the words of paragraph 9, according to which an international régime applying to the area and its resources and including appropriate international machinery to give effect to its provisions shall be established by an international treaty of a universal character.

28. The draft declaration takes into account the specific interests of the coastal States and the adoption of measures to avoid contamination of the waters. It also establishes responsibilities for any activities in the international area, and particularly for damage they may cause. However, it does not spell out whether responsibility shall in that case be subjective or objective. We would have preferred a decision in favour of objective responsibility. But that point was not expressly agreed upon and has therefore been left for later agreement when the régime is established.

29. Paragraph 15 refers to the Charter of the United Nations concerning the peaceful settlement of disputes. Article 33 of the Charter is insufficient in the case of the peaceful settlement of disputes arising from the exploration and exploitation of the sea-bed, and my delegation feels it will be indispensable for the international régime to set forth more precise and binding procedures for the solution of controversies that may arise. Of course, paragraph 15 opens up a road to that end, since it speaks not only of the Charter but also of such procedures for settling disputes as may be agreed upon in the international régime to be established.

30. The declaration does not mention, nor does it bar, the normative plurality concerning the régime, and my delegation has for some time in the Committee on the sea-bed been making known its view that normative plurality permits equity in international matters and that geographic, economic, technical and other circumstances call for different norms.

31. The assumption of the Geneva negotiations was that of the consensus. The assumption that led to the draft declaration, as the Assembly knows, was that of the large majority which is more restricted but has been shown to be more effective so far as results are concerned. In all, it would be desirable, in order that the draft declaration be given as much strength as possible—within the limiting juridical and political circumstances of which we are all aware—for those delegations that feel that they are as yet unable openly to support the draft declaration only to abstain upon it.

32. The draft declaration of principles has one key provision that towers over its entire contents and constitutes a very valuable instrument for the interpretation of all its provisions. That key part of the document appears in paragraph 1, according to which the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind. That principle endows the international area with a peculiar character, and with this declaration the United Nations is now innovating in international law. If the draft declaration is adopted, for the first time a region, zone or area of the planet will be subject to a régime in which all peoples of the world would be partners and whose resources would contribute to the development of all countries.

33. That declaration, if adopted, would in the most serious and forceful fashion proclaim the maturity and progress of the international community through the interdependence of interests and the rationalization of ties. The fact that participation in its benefits would be equitable and that particular account would be taken of the interests and needs of the developing countries would constitute notable and promising progress concerning international fair-play in the distribution of resources and would establish a valuable precedent for the future type of justice that would, we trust, lead to the solution of the problems of underdevelopment on a world-wide scale. However Utopian that may appear at the moment, we must recall that today's Utopia is tomorrow's reality; or, if not tomorrow's, the reality of the day following. That principle in the draft declaration represents the dawn of a new kind of international justice in the distribution of resources. And we must stress that among the factors we are told will be

taken into account are not only interests but needs. That also blazes a new trail, and an extraordinarily important one, because heretofore—except in humanitarian matters—needs have had little or no bearing on international regulations. The draft declaration has been conceived from the viewpoint of a new kind of even distribution, since it agrees with participation in its benefits on the grounds not only of interest—such as investment—but also of need, measured within the world-wide curve of development.

34. Furthermore, the draft declaration confirms that despite obstacles which at times, we must confess, appear almost insuperable, it is possible for the international community to devise a wide common denominator through a true spirit of conciliation and particularly through a reasonable analysis of the interests and opinions of others, and, what is even more important, of the definite and obvious awareness that there are interests in the international community itself which co-ordinate national interests.

35. The experience obtained will allow us to cover the next stage in the work of the sea-bed Committee, that is, the negotiation of a universal treaty establishing a régime for the sea-bed and applicable to the international area.

36. My Government fully supports the draft declaration that Mr. Amerasinghe, Chairman of the sea-bed Committee, has presented to this Committee. I feel that we must express our thanks to Mr. Amerasinghe for his indefatigable and enlightened work which allowed us to present to this session of the General Assembly the text of this draft declaration. I should like also to take this opportunity to thank whole-heartedly the many delegations that have expressed feelings of friendship to the delegation of El Salvador, and to me personally, for our work in presiding over the Legal Sub-Committee of the sea-bed Committee. But these expressions of thanks are reciprocated by my delegation, for we feel that without the goodwill and trust of those delegations and without their understanding and reasonable attitude it would never have been possible to proceed with the work of the Sub-Committee or of the Committee itself.

37. My Government's support of the draft declaration relates to the text presented by Mr. Amerasinghe. If amendments were submitted to that draft, we would have to reconsider that support and even the sponsorship which we are ready to give to the draft declaration.

38. Mr. SEN (India): When 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 use of their resources in the interests of mankind, and allied subjects connected with these matters, were introduced three years ago, the régime of the oceans was seen as some sort of a critical laboratory exercise. I promise I shall not refer to that long and unwieldy title in the rest of my statement.

39. Some have spoken in terms of the new frontiers of science and the need for regulating the unprecedented role of science and technology in a fresh structure under international law. Some others have emphasized the necessity of new co-operative endeavours for the enrichment and betterment of all. Yet others have stressed that we should discard age-old quarrels and difficulties arising out of competing national and economic interests. My delegation accepts these generalizations even as we respond to the exhortations literally to take the tide of fortune. However, to those who have expressed distress at the lack of progress in these matters, I should give our perspective as a developing country.

40. The representative of Brazil pointed out two days ago that the complex problems relating to the exploration, exploitation and use, management and conservation of the ocean space and its resources are new to the experience of most States in the United Nations *[1777th meeting]*. To them, the reshaping of their societies and Governments to meet the rising expectations of their own peoples is a duty which taxes to the utmost their energies, both human and material. Secondly, where the technological capabilities of advanced countries are applied to oceanic areas, with all their strategic, economic, social, political and cultural consequences, the reaction of the developing countries is, understandably, one of circumspection. Memories of exploitation consequent on the industrial revolution ruling the waves do not fade easily. Furthermore the scarcity of land-based resources which further encourages the application of science and technology to ocean areas and the sea-bed is easily relevant in the context of nations with the most advanced consumption standards and not as yet for those struggling to attain basic minimum and decent standards of living. Viewed in that perspective, the crux of the matter is really the equitable distribution of the benefits of an interdependent technology coming to all, not just the advanced few.

41. These are not justifications for retarding progress, but rather an attempt to take into account the realities of the situation. It is in this light that my delegation supports fully the draft declaration of principles forwarded to the Chairman of the First Committee by Ambassador Amerasinghe, the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. If I were not so good a personal friend of his, I would have paid much more handsome compliments, but I do not want to embarrass Mr. Amerasinghe or myself. This draft declaration has been circulated in document A/C.1/L.542. We are grateful to Ambassador Amerasinghe and to Ambassador Galindo Pohl for their skill and understanding. With magnificent patience they have built up areas of agreement bit by bit, thus enabling the sea-bed Committee to fulfil the mandate given to it by the General Assembly under resolution 2574 A (XXIV).

42. My delegation has decided to join in sponsoring any draft resolution which will embody the draft declaration of principles. In doing so, we endorse the views expressed by Ambassador Amerasinghe that the draft declaration represents a compromise commanding wide support and reflects the highest degree of agreement attainable at the present time. The nature of these compromises and their validity have been well expressed by other delegations, and I do not wish to repeat them.

43. We are all aware of the manner in which the draft declaration has been developed point by point, keeping in

mind the paramount interests of the international community, as well as matters of special concern to various groups and States. The foundations of the draft declaration of principles lie in the recognition of the existence of the area of the sea-bed, and in the solemn declaration that the area and its resources are the common heritage of mankind. The implications of these are indicated in articles 2 to 7. The draft declaration emphatically prescribes that the area shall be reserved exclusively for peaceful purposes. It provides that, on the basis of the principles, an international régime which could apply to the area and its resources and which would include appropriate international machinery shall be established by an international treaty. The nature of the régime to be established is also suggested, even if tentatively, in the declaration. The cumulative effect of these provisions would be to emphasize the urgency of developing a régime to regulate the exploration and exploitation of the resources of the sea-bed.

44. We should never overlook that these are basic principles on which a binding treaty is to be built up. By themselves, they are not commitments of a kind which cannot be discussed. It is in this that the skill of the authors of the document is particularly noteworthy.

45. The draft declaration further deals with allied and important questions of international co-operation in scientific research, prevention of pollution and contamination, protection and conservation of the natural resources of the area, and protection of the rights and legitimate interests of coastal States. It also deals with the question of responsibility arising from activities in the area to ensure that they conform with the international régime to be established and that damage caused by such activities shall entail liability. Finally, the declaration contains provisions regarding the settlement of disputes.

46. It will thus be observed that the draft declaration embodies a comprehensive and balanced statement of principles and should be recognized as the essential first step towards a comprehensive régime for the sea-bed. It is in that spirit that I join other representatives who have spoken to urge that the draft declaration should be taken as a whole and that no attempt should be made to modify or amend it and thereby to affect its basic thought, content, direction or compromise. It should be accepted as an act of political faith and courage in fashioning the rule of law pertaining to an area which has been declared the common heritage of mankind and whose use shall be for the benefit of all States, land-locked or coastal.

47. In the context of ensuring the peaceful uses of the sea-bed, my delegation would like to welcome the draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof. We fully realize that this is a purely collateral measure and that the legal reality is that, juridically, it subjects fixed installations to a different régime than that applying to mobile operations. To be effective in its entirety, a treaty covering the ocean floor would have to be integrated with provisions covering superjacent waters also. Ultimately, it is only by promoting the peaceful and beneficial uses of the oceans that it will be possible to advance a peace system in which the arms race in relation to the waters simply will have no place.

48. I turn now to the report of the sea-bed Committee *[A/8021]*. As my delegation participated in its endeavours, I should like to draw particular attention to the conclusions contained in paragraphs 67-69 of that report, from which I quote the following:

> "In their study of the problems connected with the sea-bed and ocean floor over the past two years, the members of the Committee have become increasingly aware of the complexity and range of the issues involved. . . .
>
> ". . . the basic consequence has been to articulate the issues in greater detail . . ."

49. My delegation would like to pay tribute here to the delegation of the United States of America for the very valuable working paper which it furnished at the Geneva session *[ibid., annex V]*. My Government views it as a document deserving careful study, as it ranges over all the possible issues—understandably from the standpoint of the United States. I should further like to express the hope that the draft declaration submitted by the United States will be improved to take into account the comments which have been or will be made in the course of the elaboration of the régime by all countries, especially those of the developing countries, above all on questions concerning the trusteeship concept, methods of licensing, distribution of benefits, governance and voting procedures in the administering authority and so forth.

50. My delegation will also study the working papers submitted by the Governments of the United Kingdom and France *[ibid., annexes VI and VII]* as well as the criteria indicated in a preliminary manner in the statements of the delegations of Australia *[1777th meeting]* and Canada *[1779th meeting]*. In so far as they relate to their experience, they provide valuable material.

51. We note with gratification that the Economic and Technical Sub-Committee feels that it has made an encouraging start in its work and that the value and the importance of its work have been confirmed in the Committee's report. My delegation would like to pay tribute to all those who have directed the labours of the sea-bed Committee and its Sub-Committees.

52. I should now like to turn to questions in subitems *(c)* and *(d)* of agenda item 25. Between 1967 and 1969 those two subitems were separated; they were combined by decision of this Committee and of the General Assembly expressed last year in resolution 2574 A (XXIV). They have again been separated as a result of the initiative taken by some States. As our discussions now show, they should be combined; whether in the light of the discussions here or the discussions still to take place in the proposed conference of plenipotentiaries, we are convinced that these two subitems will eventually have to be combined.

53. The questions of the breadth of the territorial sea, the régime of international straits and the coastal rights in fisheries have been extensively discussed over the last three

years on the initiative of the United States and the Soviet Union and of several other countries. Concrete draft proposals have been considered by a large number of States. Their efforts were necessary because those questions were either left unsettled by the United Nations Conferences on the Law of the Sea held at Geneva in 1958 and 1960 or were not adequately covered by the provisions of the relevant Geneva convention. An international legal conference was also envisaged for dealing with these limited and specific questions.

54. At the same time, the question of the sea-bed and the establishment of an appropriate international régime for the exploration and the exploitation of its resources has been discussed in this Committee and in the General Assembly since 1967. It became clear that the régime would be finally drawn up in the form of a convention and that a plenipotentiary conference would be necessary for that purpose after the necessary basic work had been completed by the Committee on the sea-bed. At that stage the question of the review of the law of the sea was combined with the question of establishing the definition of the area of the sea-bed, in the light of the international régime to be established for that area. That was done by General Assembly resolution 2574 A (XXIV), to which I have already drawn attention, and as a result the views of Member States were ascertained about the desirability of holding such a conference *[see A/7925 and Add.1-3]*. Later, proposals were made to separate the subject-matter of subitems *(c)* and *(d)*; however, finally, the decision was rightly taken to combine all items under agenda item 25.

55. The question before us is how we should proceed further. We have listened carefully to the views expressed by the representatives, most of whom have emphasized the urgency of taking speedy action. We must keep in mind the rapid advance made in marine technology, both in finding oil and natural gas in places far away from the coast and at ever greater depths of water. The possibility of commercial exploitation of manganese nodules and other minerals within the next two or three years is also relevant. Some delegations have warned that, if urgent steps are not taken within the next few years to regulate activity relating to the sea-bed and its resources, there will be a scramble which might establish rivalry among flag States, on the one hand, and rob the international community of its wealth and resources, on the other.

56. My delegation would not like to work in panic. We are convinced that, with the increase in our knowledge of the resources of the sea-bed and with their proper utilization, we have the means of bringing about rapid economic and social advancement for all, and more particularly for the developing countries. If that is to be done, we must proceed in this direction patiently and systematically. We have tried to build up this process through agreement on the draft declaration of principles. We can now proceed towards this goal in a constructive and co-operative mood, step by step. After we have adopted the draft declaration of principles, let us then try to evolve an international régime for the sea-bed within the next year or two. We should plan a conference of plenipotentiaries on the law of the sea for 1973 and utilize 1971 and 1972 for accumulating basic proposals for such a conference, ensuring that these basic proposals are evolved through the application of expert knowledge and through a search for a proper balance between the essential interests of coastal and other States and the paramount interests of the international community as a whole. That approach should apply to all matters relating to the resources of the sea-bed and to the fisheries and those relating to navigation and commerce.

57. It is against this background that my delegation considers that subitems *(c)* and *(d)* will again be combined at the final consideration of the conference of plenipotentiaries in 1973.

58. First, there has to be agreement on the approximate date of the conference; then there should be broad agreement on the subjects to be dealt with at that conference, if that is possible; finally, there has to be agreement on the procedure for preparing the basic texts for the consideration of the conference, whether by enlarging the present Committee on the sea-bed and authorizing it to establish sub-committees to undertake those tasks, or by establishing a new preparatory body.

59. When my country offered its views to the Secretary-General in response to General Assembly resolution 2574 A (XXIV) in July 1970 *[see A/7925, Add.1]*, we suggested the establishment of an expert committee, first, to consider the subjects which would come up before the plenipotentiary conference and secondly, to prepare draft articles on those subjects which might serve as basic proposals for that conference. Our intention in making that suggestion was primarily to ensure functional efficiency in dealing with a number of important issues. We were of the view that the existing sea-bed Committee would have its hands full with the question of the evolution of the international régime of the sea-bed and should not be overburdened with new issues.

60. I should like to add, however, that my delegation must take note of the large number of States that have expressed a wish to be associated with our future work. Therefore, it would follow that, while our original suggestion was based on what we might consider efficient discharge of these various functions, we cannot overlook the political importance of a large number of States being associated with our work.

61. If the basic texts can be prepared efficiently by an enlarged sea-bed Committee, we would have no difficulty in accepting that course of action and could support it. The terms of reference of the enlarged sea-bed Committee, of course, would have to be appropriately modified, and its working methods so devised as to ensure that the drafts of basic texts on the various subjects entrusted to its care may be ready by early in 1972. Those drafts should then be circulated among Governments for their comments. If necessary, the sea-bed Committee could meet later in 1972 to consider those reactions, and finalize the draft proposals before the end of the year. The conference of plenipotentiaries may be convened some time in 1973; the precise dates could be determined by the General Assembly at its session in 1971, depending upon the progress achieved by the sea-bed Committee during the intervening period.

62. I shall speak on the detailed aspects of the agenda for the conference and on other related matters in subsequent discussions, should this become necessary.

63. Before I conclude, I should simply point out that a great deal has been done on this important subject, but we are yet not in sight of our goal. While we shall make comments and discuss details we should constantly keep in mind that we, all of us, shall have to review the several substantive problems in the coming months. We shall continue to study those problems in a receptive and constructive mood, in the general interest of all of us.

64. Mr. NJENGA (Kenya): My delegation has asked to speak in order to express its views on the momentous issues raised by agenda item 25: the questions connected with the sea-bed beyond national jurisdiction, the related problems of marine pollution and other hazards, and the proposed conference on the law of the sea. These are issues to which the delegation of Kenya attaches the greatest importance, as indeed do all other States, whether coastal or land-locked, but especially those which are referred to euphemistically as the developing countries.

65. As many delegations have remarked, the sea-bed represents the last frontier for mankind, and what is done with it will determine whether we believe what we have all stated, that the sea-bed and the ocean floor beyond national jurisdiction constitute the common heritage of mankind. The "common heritage of mankind" concept does not imply that we inherited it from anyone. It does not mean that the sea-bed and the ocean floor belonged to someone who bequeathed it to the United Nations or to the international community. It is simply a convenient phrase meaning that the sea-bed and the ocean floor belong to the international community, every member of which is entitled to an equitable share of its benefits, irrespective of whether that member is technologically advanced or not, whether it is coastal or land-locked, whether it is an old or a new State.

66. It is from this point of departure that my delegation has always participated in the deliberations of the sea-bed Committee, of which it is a member, and in the General Assembly. It has never felt intimidated by the superiority enjoyed by the developed countries by reason of their technological capacity, the remarkable advances of which we have heard so much about during the debate in the First Committee. We are not here to negotiate for charity or any other form of assistance. We are here to ensure that our rightful interests and the satisfaction of our needs are safeguarded; and not only that the immense wealth of the sea-bed and the ocean floor are exploited for the benefit of mankind as a whole, but also that those benefits are shared in a fair and equitable manner in the interests of all mankind and not merely of those who are in a position to start another scramble for the depredation, for their own purposes, of what constitutes the common patrimony of mankind.

67. To achieve these goals, my delegation has always insisted that the exploration and exploitation of the sea-bed and the ocean floor have to be conducted within the framework of an international machinery with comprehensive powers, which will be directly involved in all forms of activity on the sea-bed, that is, from exploration to exploitation and the sharing of the proceeds derived from the sea-bed. We have rejected any machinery restricted to registering claims or licensing activities in the area, and issuing royalties "for the benefit of mankind, of developing countries particularly", and have insisted that the machinery must also have powers for direct involvement in exploration and exploitation of the sea-bed and, above all, for ensuring the equitable sharing of the benefits from the sea-bed. It should, moreover, have regulatory powers to ensure that activities on the sea-bed are carried out in a responsible manner and do not become a source of destruction of the legitimate interests of mankind.

68. Such machinery can exist only within the context of a sea-bed régime based on a balanced set of legal principles, which the sea-bed Committee was instructed to prepare under the terms of General Assembly resolution 2467 A (XXIII), of 21 December 1968. Since then, the sea-bed Committee has been engaged in that task, unfortunately without making any significant progress, despite the willingness and co-operation displayed by many States and particularly by developing countries. The last meeting of the sea-bed Committee in Geneva proved to be no exception and we ended up without a draft declaration of principles, despite the urgency of the matter which was clearly underlined by resolution 2574 A (XXIV).

69. It is therefore no mean feat that during this session Mr. Amerasinghe has managed to formulate a draft declaration of principles governing the sea-bed and the ocean floor, which he recently presented to the First Committee in document A/C.1/L.542 and which, I believe, commands a wide measure of support both in the sea-bed Committee and here; it is true, as he observed, that that document has no single author and

> "is the product of a common endeavour and common desire and it belongs to those many delegations which, in the full knowledge that it did not satisfy individual delegations in all respects, have nevertheless in a spirit of compromise and mutual accommodation indicated their readiness to support it without any material change". *[1773rd meeting, para. 40.]*

70. Nevertheless, without the indefatigable energy of Ambassador Amerasinghe and members of the Ceylon Mission, especially Dr. Pinto, that compromise text could never have materialized, particularly given the pessimistic mood generated in Geneva; to them and to the Chairman of the Legal Sub-Committee, Ambassador Galindo Pohl, its Rapporteur, Mr. Abdel Halim Badawi, and the Chairman of the *ad hoc* drafting group, Mr. Alexander Yankov, who have all worked on the draft declaration with enthusiasm and tenacity—to all of them—I offer my delegation's most sincere congratulations.

71. My delegation continues to believe that the fairest and most balanced set of principles is the one prepared by a number of developing countries, including Kenya, and contained in document A/AC.138/SC.1/L.2, which is reproduced as appendix I of annex I to the report of the sea-bed Committee *[A/8021]*. Nevertheless, we shall not be the ones to stand in the way of a compromise text, though it does not meet all our justified demands. It is in this spirit that we negotiated in Geneva and it is also in this spirit that my delegation has offered its fullest co-operation in the formulation of the present compromise text.

72. But in all compromises a time must inevitably come when there is no more that can be surrendered without compromising one's basic interests. Beyond that point it is no longer compromise but capitulation. My delegation is of the view that the present compromise text is indeed that point beyond which no amendments can be entertained without jeopardizing the whole delicate and fragile balance it represents. While we promise to make no amendments ourselves, we expect every other delegation to display exactly the same sense of self-restraint.

73. To those who would wish to follow a different course of action, I should like to recall what Ambassador Amerasinghe himself said in introducing the draft:

> "I should like to assure all delegations here, as I have already assured the members of the Committee on the sea-bed and the ocean floor, that in these informal consultations conducted by me or on my behalf, every single proposal made by delegations, every single objection raised by them, every single idea communicated to me or to members of my staff, was fully canvassed, received the fullest consideration and was communicated to and discussed in great detail with groups of delegations and individual delegations, members of the sea-bed Committee, which appeared to have different views." *[1773rd meeting, para. 36.]*

74. The question that remains, therefore, is what could get the support of the overwhelming majority, and I would appeal to all delegations to avoid setting us in reverse by reviving ideas already found unacceptable.

75. On the draft declaration itself I shall not say much, particularly after the very brilliant elaboration of it and of what went on before in Geneva by Mr. Galindo Pohl, the distinguished Chairman of the Legal Sub-Committee. Though my delegation would have preferred some ideas to be presented more positively, we shall support the draft declaration as it is, as a compromise.

76. With your permission, Mr. Chairman, I should now like to express briefly my delegation's views on the desirability of convening at an early date a conference on the law of the sea. The Kenya Government has already informed the Secretary-General that it considers it desirable to hold such a conference and that in its view such a conference should be comprehensive and cover all outstanding problems, particularly those connected with the sea-bed *[see A/7925/Add.3]*.

77. My delegation does not share the view of those who argue that certain questions are "ripe for settlement on their own". It is often forgotten that the majority of the developing countries were not represented in the 1958 and 1960 United Nations Conferences on the Law of the Sea, at which most of the issues on the law of the sea were settled. No doubt those who were represented resolved the issues in what they considered to be the best interests of the international community as it then existed. But, just as "it is the wearer who knows where the shoe pinches", it is only the developing countries which know what are their "best interests", and the majority of them did not participate in those conferences. When a new conference is held they will be entitled to put on its agenda all the issues on the law of the sea which they consider should be reconsidered and on which their interests were not adequately taken into account.

78. On the procedural aspects my delegation is convinced of the necessity to make very careful preparations to ensure that the conference, when held, will be a success. Those preparations will deal with all the issues on the law of the sea which are likely to be considered at the conference, such as the régime of the high seas, the breadth of the territorial waters, international straits, fisheries and conservation measures and, of course, the régime of the sea-bed and ocean floor beyond national jurisdiction, including the related problem of pollution. We consider these issues to be so closely related and intertwined that it is impracticable to suggest any "manageable package" which does not include all of them. The Kenya Government is convinced that, with goodwill and co-operation on the part of all States, coupled with adequate preparations, all these issues can be satisfactorily settled at the future conference.

79. It is the conviction of my delegation that, due to the indivisible nature of the issues involved, the preparation for the conference must be made under one committee. Otherwise there will be unnecessary duplication and confusion, which will tend to delay the date on which the conference will be convened—and my delegation does not want to see that happen. The success achieved by the committee in the preparation will necessarily determine the date on which the conference can be held. Consequently, it is not possible here to fix any firm and rigid date on which the conference will be held.

80. I should like to underscore the urgency of resolving those issues as soon as possible before the matter gets out of hand. The representative of the United States recently informed us that "A few weeks ago, a producing oil well was brought in at more than 300 metres of water, and new technological developments will extend this frontier further." *[1774th meeting, para. 12.]*

81. We were also reminded by the representative of the United Kingdom that "The advancing tide of technology is . . . inexorable and cannot be stayed by words" *[1775th meeting, para. 53]*. Developing countries are not endowed with the necessary technological skills to compete in these areas, but it is idle to imagine that they will sit still and watch their common heritage being whittled away, particularly when that poses hazards of unimaginable magnitude to them directly through possible marine pollution, which can wreck their beaches and annihilate the fauna and flora within their territorial waters.

82. They are entitled to take necessary measures to protect themselves in self-defence, whether such measures are unilateral or not. By rejecting General Assembly resolution 2574 D (XXIV) on a moratorium on national exploitation and claims in the area beyond national jurisdiction, those countries who did so have initiated the first unilateral action, which will lead to others unless those States can now display the political will—so sadly lacking in Geneva—to find realistic solutions, particularly to the issues on the sea-bed.

83. My delegation cannot accept the use of technological advances as pressure to impose basically discriminatory

solutions, as for instance the stipulation in the United States draft proposals *[A/8021, annex V]* that the international sea-bed area should begin at the 200 metres isobath. That clearly discriminates against the African and Latin American continents which have a very narrow continental shelf. The concept of a trusteeship zone near the 200 metres isobath and after the continental margin is unacceptable for similar reasons.

84. To conclude, I would say that with goodwill and willingness to compromise the issues before us are not insoluble. My delegation will not be found wanting on either count.

85. Finally, I reserve the right of my delegation to speak again on the specific proposals and draft resolutions on this subject as they may be presented.

86. Mr. ANAS (Afghanistan): The representative of Bolivia in the General Assembly *[1849th plenary meeting]* and the representative of Austria in the First Committee *[1776th meeting]* have already made interesting observations regarding the interests of land-locked States under agenda item 25.

87. There is no doubt that land-locked States share with all other States the right to equality on the high seas and the sea-bed beyond the limits of national jurisdiction. The problem which has historically faced the international community is how to give practical effect to this theoretical equality.

88. There are two aspects to the rights of land-locked States which cannot be denied: one is the right of participation; the other is the right to benefits.

89. The right of participation means that the land-locked States must be represented in all decisions regarding the development of rules and institutions for the oceans. Although the land-locked States have been slow to recognize this right, they can and must now make it clear that no group of States–either the maritime or the coastal States–can effect changes in the law of the sea without the participation of the land-locked countries. Accordingly, any theory which purports to justify unilateral changes in the oceanic balance of rights and interests–particularly unilateral claims–inherently and necessarily violates the right of participation of land-locked States. Since most land-locked States are also developing countries, including a large number of newly independent countries in Africa, they naturally share the view of the great majority of developing countries that the law of the sea is in need of revision and modernization. However, they must insist that this revision and modernization can be effected only through international agreement with the participation of land-locked countries, and that any new international institutions established must also ensure such participation.

90. The question of the right of the land-locked countries to benefits is a more complex one. It is perhaps sufficient to say that if their right of participation is protected, the necessary skill and goodwill will be forthcoming in a manner which will give practical effect to the right to benefits.

91. It is necessary at this juncture to distinguish between classic problems and new opportunities. Everyone is aware of the classic problem of access to the sea. The Convention on the High Seas[2] of 1958 deals with this matter in general terms, and the New York Convention of 1965[3] gives more explicit treatment to the subject. It is perhaps unfortunate that the New York Convention has not been widely accepted by nations; it is equally unfortunate that some of the more forward-looking arrangements on the European continent have not been copied elsewhere. Nevertheless, it must be recognized that whatever the basic legal rules may be–and there can be no doubt regarding the right of access to the sea–implementation of the right of access must necessarily involve local and regional understanding.

92. Important as the question of access to the sea may be, let it not divert our attention from the immense opportunity afforded us of bringing a new order of justice to the oceans by creating a new international régime for the sea-bed, beyond the limits of national jurisdiction. A general conference on the law of the sea should decide not only what the rules will be but should also establish the international machinery to ensure the effective and immediate implementation of the rules.

93. In addition to the right of participation already referred to, such a régime must ensure the right to use the sea-bed and the right to share in the proceeds from the exploitation of its vast mineral resources. The existing legal régimes do not satisfy these criteria, nor indeed would any legal régime which established technical legal equality but did not provide practical means of implementing these criteria. Accordingly, a new international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction must be established quickly and must bring a new and just order to the broadest possible area. Land-locked States cannot permit all of the benefits to be enjoyed by coastal States, nor by technologically advanced maritime Powers. The régime must be truly equitable in fact and must take into particular account the needs and interests of developing countries.

94. It should also be remembered that where the sea-bed is concerned, it is not only the land-locked States which will be denied justice by unilateral action. Around the world there are a number of enclosed seas which are so shallow that the natural resources of the sea-bed beneath them are clearly subject to the régime of the continental shelf. The North Sea, the Baltic Sea, the Persian Gulf, the Gulf of Siam and certain portions of the East and South China Seas are examples. How will the States whose coasts face on to such seas derive equity if the riches of other sea-bed areas are to benefit only those States which face the open oceans?

95. Moreover, there is every reason to believe that a significant proportion of the rich petroleum and gas deposits in the sea-bed are located in the continental margins off the coasts. A quick look at the map will demonstrate that only a few States enjoy the double blessing of a very long coastline and very wide continental margins. Every developing country should remember that

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

3 Convention on Transit Trade of Land-Locked Countries (United Nations, *Treaties Series*, vol. 597 (1967), No. 8641).

among those very few, one finds virtually every developed coastal nation in the Northern Hemisphere. It is a sad but true fact that as the limits of national jurisdiction are extended the rich get richer.

96. It is clear, then, that the new international régime will be equitable in fact only if the overwhelming majority of coastal nations which do not enjoy the blessing of very long coastlines and wide and large continental margins also share in the benefits. Let us recall that if technology is to be harnessed and used in a way that promotes progress and development–if technology is to be exploited and not act as exploiter–then all nations, rich and poor, must join together to harness technology for the benefit of all their peoples. Against this background, it is not very difficult to decide what we must do now.

97. This general agreement must recognize that all have a right of participation, that many are now being denied that right, and that a new law of the sea conference must be called now to ensure it. The conference must deal with the major outstanding issues–it must deal with the breadth of the territorial sea and related matters, it must establish a new régime for the sea-bed beyond the limits of national jurisdiction, including a definition of the area to which that régime would apply, and it must ensure the protection of the marine environment from pollution. Preparation for the conference should be concluded as quickly as possible so as not to prejudice the right of States which are not protected today. Accordingly, we cannot heed the concerns of those who would propose an agenda so broad and vague that it would take a decade to prepare, for there will be scant satisfaction in attending such a conference if, in the meantime, we are presented with unilateral faits accomplis.

98. With this in mind, it should be possible to support draft resolution A/C.1/L.536. It clearly represents a compromise that should be acceptable to all. We should recognize that different delegations attach different priorities to the various questions involved and, therefore, there should be no priority for any of the issues, even if, as a technical matter, some of these issues could be resolved more quickly than others. The draft resolution reflects the need to ensure broad participation, not only in final decisions, but in preparatory stages, and therefore seeks to moderate the problem of committee membership by providing for a preparatory session of the full conference. Most importantly, it does not launch a ship without a destination; it deals, as we must, with the question of when that ship is expected to arrive by ensuring firm conference dates.

99. The French representative has already given a cogent summary of the arguments in favour of establishing firm conference dates *[1778th meeting]*, and I shall not repeat those arguments now. However, it seems to me that without fixing such dates at this session of the General Assembly we would be seriously remiss in our responsibility to ensure that an equitable régime for the sea-bed comes into being as soon as possible.

100. Mr. DOSUMU JOHNSON (Liberia): The Liberian delegation has given considerable thought to all aspects of the sea-bed item before this Committee. We have listened attentively to all the views thus far advanced for and against the three draft resolutions before us. Our thanks are due to the architects of the draft declaration *[A/C.1/L.542]* and draft resolutions *[A/C.1/L.536, 539 and 543]*. Significant as are the economic and technical aspects, this question is first and foremost a political question. Viewed together, these draft resolutions present a modification of obsolete political conceptions and habits of thought that led to colonialism and imperialism. They call upon all nations to reassess their national interests and redefine their roles in the changing world of today. In the politics of our times, as empires have been dismantled and new States created by the carload, the only constant is change–change to fulfil the hopes and demands of the poor nations and ensure justice to the disadvantaged and land-locked.

101. To exploit the resources of the seas and oceans and straits for the benefit of all mankind is the greatest humanitarian undertaking of our era. But time is of the essence if we are to avoid the pitfalls that accompany the conquest and partition of one fourth of the earth's surface without regard for the inhabitants. We must endeavour to avoid by all the forces at our command the blind compulsion, avarice, bestiality and national selfishness that characterized the exploits of Prince Henry, Pedro da Cintra, Vasco da Gama, Drake, Frobisher, Hawkins and other freebooters. We must not think of what they in their circumstances did, but what they in our circumstances would have done. A conference without delay is therefore both necessary and imperative.

102. Modern man is both a social and a rational creature. His chief objective should be to make this new world a better and happier place for all mankind. The highly industrialized nations must bear the infirmities of the developing nations by the sharing of skills. The great industrial nations should take counsel from the incalculable destruction and bloody history of the past and set aside the corrosive national rivalries of their politics. We are being summoned by this item to rule out the possibility of industrial autocracy and arbitrariness in the sea-bed and oceans. This implies a form of organization to ensure order and equality and at the same time to negotiate limitations of jurisdiction of the sea.

103. The millions of people liberated from colonial dependence with bitter disappointing and frustrating experiences, some of them weak and poor but all seeking self-respect, world recognition and better standards of living for their peoples, cannot afford to take chances with the escapades of the great Powers. They expect those who command the lion's share of the world's goods to show a measure of wisdom and prudence in the acceptance, under subitem *(a)* of item 25, of "The declaration of principles governing the sea-bed and the ocean floor and the subsoil thereof, beyond the limits of national jurisdiction", without modification or reservation. A line must now be drawn between the creative and the disruptive tendencies of power politics. In the past nations thought only of themselves; today they must think in terms of their creative capacity to extend the good life and bring order out of the confusion of selfish impulses and ambitions.

104. One of the most instructive and cheering testimonies in human annals is the idea of co-operation. At this time all nations need to co-operate when discussing the sea-bed.

This Committee, and through it the United Nations, is being called upon to rewrite the history of the world in a new frame of reference: the concept of universal brotherhood. Harnessing the resources of the sea for the benefit of all mankind within a common co-operation shared by all would be one of the surest means of bringing peace to the world. It would encourage international trade and ensure the coexistence of States with different political systems. We should not let this opportunity slip out of our hands. To make the sea the legal possession of the 127 Member States of this Organization would be the greatest achievement of this century.

105. It would be superfluous for me to add words to what has been said in favour of the draft declaration of principles; but, fearful lest its proponents construe our actions as diminution of zeal or lack of grateful regard for their efforts and those of Mr. Amerasinghe, let me say that the Liberian delegation is in favour of the draft declaration of principles and agrees with those who have spoken in favour of it that we should all accept it as the starting point of a great undertaking in the interest of all mankind. Read with discrimination, the draft declaration will cover all the points that should be set forth to allay the suspicions of a community of 127 States of varying culture complexes and political behaviour patterns. It will preserve the territorial integrity and sovereignty of States, protect the flora and fauna of the marine environment from the dangers of pollution and ensure compensation for any infractions. It is the harbinger of an international régime or machinery that will give effect to the modalities of the implementation of the declaration. The Liberian delegation will join in sponsoring it and vote in favour of it; we implore the Committee to adopt it unanimously.

106. At Lusaka[4] the Liberian delegation joined other delegations in calling for an early conference on the sea. Because of the importance we attach to such a conference, we are inclined to discuss subitems *(c)* and *(d)* as a package. In passing a resolution recently banning nuclear weapons within a twelve-mile limit of national jurisdiction we implied the necessity of an early conference to negotiate the breadth of the territorial sea and related matters.

107. Nothing in the 25 years of the United Nations should fill Members with greater eagerness than exploring and exploiting the sea-bed and the ocean floor in the interest of mankind. In our opinion, to analyse the question with any degree of objectivity we must proceed in the light of our experience of land politics so as to avoid the pitfalls of nationalism and its concomitants of avarice, rivalry, hatred, self-interest and war, the pawns of colonialism and imperialism. Unless we take all steps now without delay, we may soon find ourselves with a "hydrospace" gap. Technological advance will not wait for us to take years to make up our minds on a conference, and those with the technical know-how are already busy at work on the exploration and exploitation of the sea. It is said that we must wait so that studies may be made before we decide upon a conference. My delegation does not share that view: all sorts of studies have been made on the ocean. We can draw information from research already conducted by several agencies, including the United Nations Educational, Scientific and Cultural Organization, which last year held an oceanographic conference; I am sure the records of that conference are available to members of this Committee. There is therefore no need to delay unless we want the great industrial nations to do with the sea what they did with Africa, Asia and the Americas in the days of freebooting, without consulting anyone, in which case, as you know, they will employ all kinds of weapons to protect their claims. And we, the small nations, have no way of telling what sort of weapons they have under there. We can obviate this possibility by a conference now. We must not allow the selfish interests of a few States to jeopardize the welfare of the many.

108. We need a strong United Nations agency or corporation in which all the Members will share, to plan, co-ordinate and develop the oceans. Such an agency will pool the resources available in all States to enable them to participate effectively in the project. But without a conference now those who have been the leaders in space will again become the leaders in the ocean, to the exclusion and detriment of all small States. We should keep all this in mind as we proceed to think of these things.

109. With a conference as proposed in document A/C.1/L.536 we shall be able to develop in short order an integrated oceanographic programme with definite goals and thus stop the super-Powers from doing as they will. The conference is a priority; once established it will make all States sufficiently interested to work for the achievement of its objectives. The longer we delay, the greater the promiscuity in determining the individual national breadth of the territorial seas and related matters.

110. The small States face the problem of information development–to develop what we know and what we want to know about the oceans–and this conference will prepare the groundwork for such knowledge. The explorative efficiency of small States will be increased at little national cost and will guard against duplication of efforts if we begin now.

111. As I speak, the competent departments of the big Powers are at work exploiting the resources of the oceans. We cannot afford to fractionate our efforts now. By beginning work on a conference with a view to a régime, we can allay the fears of developing nations and make them an effective part of any programme of exploration and exploitation of the sea-bed and oceans under agreed criteria for decisions and understanding. Fears, our fears, are aggravated by the fact that some States may not be able to protect their waters if we delay; they may not be able to protect their shores from pollution; they may lack power or jurisdiction to enforce their sea laws and to protect their continental shelves; they may not be able to protect their rivers and seas and even the rights, duties and privileges of their citizens on the high seas.

112. The moment we begin a conference of the sea we shall have automatically internationalized the ocean under United Nations authority. Such a conference will set up goals and programmes to develop them.

113. Time is not on our side. The great Powers are just waiting for us to delay action; they are just waiting for us

4 Third Conference of Heads of State or Government of Non-Aligned Countries, held at Lusaka from 8 to 10 September 1970.

to delay action so that they can put the blame upon us. Already they are using the oceans for food, science, mining and national defence. They have command control between submerged vessels; they have installations and ships on the surface of the sea to work with these submerged installations. Great scientific projects are already being conducted under the seas and oceans.

114. *The New York Times* of 2 November 1969, under a United Nations dateline, said—I am paraphrasing and not quoting—that the largest array of search buoys ever to be moored in the ocean is credited to the ingenuity of a certain great Power. There are 17 buoys set in an "L" shape north of the Equator, near the Canary Islands, equipped with instruments to measure oceanic currents at 11 levels, from 10 to 3,000 metres below the surface of the sea. Its petroleum industry in the ocean has assumed fantastic proportions. There are about 8,600 oil wells on the ocean bottom now and there are about 100 companies in 60 nations active in the field. About $20,000 million has already been invested in exploring and exploiting the resources of the sea. They have discovered bromine, magnesium, gold, copper, cobalt, diamonds and several other things. Some farming is already going on under the sea. Unless we work fast the next few years may shut off all the small States from participating as equal partners.

115. The United Nations is more or less for the benefit and protection particularly of small States. It is therefore incumbent on us to put it to work at this crucial hour of sea exploration. Draft resolution A/C.1/L.536 offers an ample guideline for carrying out the Lusaka mandate for an early conference. With some modifications we can adopt it as a follow-up to the declaration of principles contained in document A/C.1/L.542.

116. Whatever your feelings, the Heads of State at Lusaka want a conference now—and all members of the non-aligned group are committed to the Lusaka declaration. They do not want to wait until 1971, 1972, 1973. We must begin now. A stitch in times saves nine. If you tell us to wait until 1973, you will do everything and we will be outside, "behind the 8-ball".

117. With some modification the United States draft resolution can furnish us the guidelines. By the Committee's vote on A/C.1/L.542 and 536 for an early conference, the Committee enhances or frustrates the effectiveness of this Organization as an operative mechanism. The Committee is either with the developing States or against them. A vote against a conference now is not in the interests of small States, and certainly against the Lusaka declaration. I implore the Committee to please vote for this draft resolution so that we can begin consideration for a conference now.

118. It is our understanding that the conference will study the question of the sea-bed in general before delineating its particular aspects. And when the international régime has been established, it will take into consideration, in the convention or treaty that may emerge, all matters involved in the four subitems of agenda item 25.

119. It is within this framework that my delegation will vote on the other draft resolutions which I have not mentioned.

120. Mr. FACK (Netherlands): This commemorative year is the fourth year in a row in which the General Assembly has taken up the question of the sea-bed and the ocean floor beyond the limits of national jurisdiction. This year, however, the agenda item in question is divided into four subitems. In the general remarks I should like to address to the Committee today, I shall touch on all of them in an effort to deal with the problem as a whole.

121. Beginning with the question of a third conference on the law of the sea, it seems fair to state that there is a wide consensus abroad and in this Committee that the time is ripe for convening such a conference. Much remains to be worked out, of course, for instance, when exactly such a conference is to be held, how it is to be prepared and what are to be its terms of reference. For our part, we are hopeful that it will be possible to reach agreement on these and other points during the present debate.

122. Since the failure of the last United Nations Conference on the Law of the Sea in 1960, developments have taken place underscoring the importance and urgency to be attached to concerted action on the part of all nations. In the face of the apparent impossibility of drawing up an agreement on the limits of the territorial sea—to broach another subitem before us—a large number of States have taken unilateral action in claiming an extension of such limits. The three-mile limit traditionally recognized under international law has been replaced in some national legislations by limits of up to and even beyond 200 miles.

123. At the same time it should be recognized that the Convention on the Continental Shelf,[5] drawn up at the first Conference on the Law of the Sea in 1958, is outdated to the extent that it does not contain—either explicitly or implicitly—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. Technological developments related to the growing possibilities of exploration and exploitation of the sea-bed and the ocean floor have made the definition of that area a matter of utmost importance.

124. Then there are questions directly related to the preservation and protection of the marine environment. Harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor might compound the ocean pollution existing already, and might thus seriously endanger what in former days was called *mare liberum*, but what is now often referred to as the common heritage of mankind.

125. The Netherlands, to which the sea has been a friend and a foe for centuries, is fully aware of the complexity and urgency of these matters which, in our opinion, are all closely interrelated.

126. In a memorandum which the Netherlands Government submitted to the Secretary-General of the United Nations in 1968 *[see A/AC.135/1]*, in pursuance of resolution 2340 (XXII), it was stated that theoretically three different ways were open for regulating the exploitation of the natural resources of the sea-bed beyond the

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

continental shelf: first, exploitation under the sovereign rights of the nearest coastal State, which is the system of the Geneva Convention on the Continental Shelf; second, exploitation under the sovereign rights of the State which first undertakes such an exploitation; and third, exploitation under the supervision of the United Nations as the agent of the community of nations.

127. The first system would obviously be unfair to a considerable number of countries, including all the land-locked nations; the second system would introduce the law of the jungle on the sea-bed and the ocean floor and would benefit only the strongest and technologically most advanced countries. We in the United Nations should be united in our rejection of such systems, which, in the words of the representative of the United States: "can create out of our oceans and their sea-beds new colonial empires". *[1774th meeting, para. 18.]*

128. It is our conviction that the exploitation of the sea-bed and the ocean floor should be for the benefit of all mankind, taking into particular consideration the interests and needs of the developing countries. We in the Netherlands are convinced that that exploitation will undoubtedly add a new dimension to the development strategy in the present and coming decades. Therefore, my Government has opted for the third possibility: exploitation under the supervision of the United Nations.

129. In our memorandum of 1968, my Government took the view that the resources of the sea-bed and the ocean floor were to be explored and exploited in the interest of all mankind and we have developed the theory that a system based on that view should have the following main characteristics: first, a rigid limit should be set to the area in which the coastal State has rights under the Geneva Convention on the Continental Shelf; second, a double-concession system for exploitation beyond the shelf area should be set up, so that the United Nations would give concessions to States which would act as a sort of administering authority in respect of any exploitation concession they might grant to enterprises; third, some provision should be made for certain priorities, privileges or special rights or titles of the nearest coastal State or States, where exploitation concerns areas relatively near a coastal State or States.

130. We have noted with great interest and satisfaction that the characteristics I have mentioned are basically also the principles underlying the working papers which have been submitted by various Member States to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, and which appear as annexes to the report of that Committee *[A/8021]*. We want to stress that in our view any international régime envisaged should be set up within the framework of the United Nations.

131. From what I have said it will be clear that my Government is in favour of the early convening of a new conference on the law of the sea, provided its chances of a successful outcome are judged to be favourable. At this juncture I want to point out my delegation's opinion that the principles forming the basis of the 1958 Geneva Conventions should in no way be affected and that any changes in the texts of those Conventions should be made solely in so far as they are of any consequence to any new rules to be agreed upon. Many new rules could, of course, be regarded as supplementing and elaborating existing rules. Following that method, we shall avoid jeopardizing what has already been achieved with painstaking efforts.

132. I now come to the question of when such a new conference is to be held, how it is to be prepared and what its terms of reference should be. On those points, we have studied with great interest the draft resolutions of the United States *[A/C.1/L.536]* and of Brazil and Trinidad and Tobago *[A/C.1/L.539]*. We have also listened very carefully to all the pertinent remarks and statements made by so many previous speakers. We are happy to note from the draft resolutions I have just mentioned that there is no difference of opinion as to the close interrelationship of all the problems under discussion. We are also happy to note that there is agreement on the necessity of thorough preparation for an eventual conference. We share those views. Going one step further, we think the General Assembly would be well advised to take certain decisions on the date and scope of the conference. My delegation was deeply impressed by the Secretary-General's statement in this Committee on 25 November, which he concluded as follows:

> "I would be the last person to minimize the necessity for careful preparatory work, so that the agreed measures adopted are really effective. It all takes time. But if we are to prevent the seas around us and their soil from becoming a factor which divides, and which may generate new international frictions, rather than a factor that unites, then we must put in train now a course of action that will lead us to our desired goal." *[1773rd meeting, para. 6.]*

133. My delegation wholeheartedly agrees with that conclusion. We feel that the General Assembly's attitude to procedures and time-tables should be both ambitious and businesslike. Our approach to the matter before us should be comprehensive, taking into account, of course, what has been done and is being done in other organs of the United Nations family in this regard. Marine pollution, for instance, is under active consideration by the Food and Agriculture Organization of the United Nations and will also be dealt with by the United Nations Conference on the Human Environment to be held in Stockholm in 1972.

134. We were happy to note from the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction that the extent of agreement within the Committee may be judged to have increased over the past two years and, although progress has been slower than the Committee had hoped, it has nevertheless been sufficient to maintain confidence in the emergence of the general agreement necessary to elaborate the basis and determine the requirements of the international régime that would finally take the form of a treaty. We are even happier to see that in the meantime the Chairman of the Committee has been in a position to draft a declaration of principles *[A/C.1/L.542]* governing the sea-bed and ocean floor that commands wide support among the members of the Committee. We have

transmitted that draft to our Government, and we hope to be able to comment on it before long. At this juncture, however, I want to state that we believe it extremely useful that the First Committee's attention has now been focused on one document, even if it does not represent a consensus of all the members of the Committee on the sea-bed.

135. In conclusion, I want to emphasize my Government's willingness to contribute actively and constructively, as we have done from the very outset, to further these extremely important matters. Whatever decisions will be taken on the procedural questions before us, the Netherlands is prepared to play its part in future deliberations on all matters pertaining to the sea-bed and the ocean floor.

136. I wish to reserve my delegation's right to speak at a later stage when the draft resolutions before this Committee are being debated.

***Organization of work***

137. The CHAIRMAN *(interpretation from Spanish):* Before adjourning this meeting, I would remind members of the Committee that at its 1776th meeting, on Monday, 30 November, the Committee decided to postpone consideration and voting on draft resolution A/C.1/L.537/Rev.1, concerning item 27, in view of the fact that negotiations and consultations were taking place on that draft. I am now in a position to inform the Committee that as a result of those consultations a revised text of the draft resolution has been prepared and circulated in document A/C.1/L.537/Rev.2. I would draw attention to the fact that this revised draft will be considered by the Committee and put to the vote at the beginning of tomorrow afternoon's meeting.

*The meeting rose at 5.40 p.m.*

Litho in United Nations, New York

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