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

In the absence of the Chairman, Mr. Farah (Somalia), Vice-Chairman, took the Chair.

AGENDA ITEM 25

(a) Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *(continued)* (A/8021, A/C.1/L.536, 542 to 544);

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

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

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

1. Mr. MICU (Romania) *(interpretation from French)*: For three years now the United Nations has regularly been pursuing its exploratory consideration of the complicated problems connected with the utilization and the exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction for exclusively peaceful purposes, in the interest of all mankind. At the end of this period, it is encouraging to observe that, as a result of continued and intensive efforts in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, as well as in this Committee, we are close to reaching the stage where more concrete questions and results will be within our grasp. The detailed wording of agenda item 25, which is the subject of the present debate, is evidence of what I have just said. Under agenda item 25 *(a)* this Committee is asked to concentrate on a draft declaration of principles designed to govern activities on the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction as the first step towards the establishment of an international régime for the area. Subitem *(b)* requests us to concern ourselves with the urgent search for measures designed to prevent marine pollution and other dangerous or harmful effects which might result from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof. Finally, agenda subitems *(c)* and *(d)* raise the important question of the convening of a new—which would be the third—international conference on the law of the sea in the context of the increasing attention which the United Nations is devoting to the implementation of one of these major tasks, namely, that of the codification of contemporary international law, the continued broadening of the juridical foundation governing relations among States in the world today.

2. With respect to the first point, the General Assembly, in its resolution 2574 B of 15 December 1969, called upon the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction to prepare for this session a draft resolution of principles.

3. Under the terms of that resolution the principles to be included in such a declaration should be those which can promote international co-operation in the field of the exploration and utilization of the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction and ensure the exploitation of the resources of that area for the benefit of mankind, having regard to the particular needs and interests of the developing countries. As is well known, the negotiations and consultations that have been held this year during and between the two sessions of the Legal Sub-Committee marked some further progress in the elaboration of a generally acceptable declaration without, however, these efforts being a complete success.

4. The new informal consultations that have recently been held here in New York on the initiative and under the able direction of Mr. Amerasinghe and with the assistance of the Chairman of the Legal Sub-Committee, Mr. Galindo Pohl, have culminated in the draft declaration which, although it does not represent the consensus of all the members of the Committee, is now before the Committee *[A/C.1/L.544]*.

5. The Romanian delegation will have an opportunity if it deems necessary to speak in more detail, on the content of this document during the discussions on the draft resolutions which have been and which will be submitted to our Committee. I should however like to avail myself of this opportunity to make two brief observations concerning the draft declaration which in all probability will be adopted during the course of this session.

6. I should like, first of all, to emphasize the special importance that Romania attaches to the question of the reservation of the sea-bed and ocean floor exclusively for peaceful purposes and therefore to the urgent negotiation of effective measures designed to prevent any utilization of this area for military purposes. There is no doubt that any possible extension of the arms race to the sea-bed and ocean floor would result not only in a considerable broadening of the arena of serious potential conflicts, inherent in the very existence of weapons and in particular weapons of mass destruction; such an eventuality which should be avoided at all costs, would practically rule out any plans for international co-operation in the exploitation of the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction for the benefit of all States. That is why we consider that the future international régime to govern this area should, as an indispensable element, provide for the complete prohibition of the utilization of the sea-bed and ocean floor for military purposes. The draft treaty prohibiting the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and ocean floor and the subsoil thereof, which was approved quite recently by this Committee, marks an important step towards this goal. The adoption of this treaty by the General Assembly and its entry into force will place upon the States Parties to this international instrument, as provided in article 5 of the treaty, one more obligation to spare no effort to bring about the total prohibition of the utilization of the sea-bed for military purposes.

7. My second comment relates to procedure. During the current debate it has frequently been asserted that although the draft declaration proposed is not completely satisfactory either to my own or to other delegations it is none the less acceptable. To be quite frank, I do not think that it is desirable for such an important declaration as the declaration of principles to have as its chief merit the fact that it does not fully satisfy anyone. But if that is the case, in our opinion it would have been worth-while to try to improve the text of this document further and thus to make it acceptable or more satisfactory to all delegations. This would certainly facilitate considerably future negotiations dealing with the elaboration of the international régime on the basis of the principles of the declaration that we are now completing.

8. Romania has followed with interest the misgivings expressed about the question of convening a new international conference on the law of the sea.

9. Last year the General Assembly, being anxious to make progress toward the establishment of an international régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction adopted resolution 2574 A (XXIV), whereby the Secretary-General was requested to inquire into the views of Member States on the desirability of convening in the near future a conference on the law of the sea. The primary purpose of such a conference, in accordance with the text of the resolution, was in particular "to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and the ocean floor which lies beyond the limits of national jurisdiction, in the light of the international régime to be established for that area".

10. This year the General Assembly has added to its agenda, at the initiative of the Soviet Union and a number of other States the item "Question of the breadth of the territorial sea and related matters" *[A/8047 and Add.1 to 4]*.

11. We view the question of the forthcoming conference from a twofold angle, namely, considering the need to arrive as quickly as possible at a clear, precise and internationally accepted definition of the area which should be used for the benefit of all mankind and the need to ensure the progressive development and the continuation of the work of codification of the law of the sea. Thus it seems to us that United Nations efforts should be directed toward the solution of the problems which remain unsolved or which have been settled inadequately by the United Nations Conferences on the Law of the Sea which were convened in 1958 and 1960 at Geneva.

12. In order to meet the primary goal laid down in General Assembly resolution 2574 A (XXIV), we consider that the forthcoming conference ought to examine problems such as the regulation of the breadth of the territorial sea and the establishment of more precise criteria to define the outer limits of the continental shelf over which the coastal States exercise jurisdiction.

13. In connexion with the question of the breadth of the territorial sea, the conference should also consider questions dealing with passage through international straits in respect of which there is no special convention, and with fishing in zones adjacent to the territorial sea in order to work out regulations that should satisfy both the interests of the development of international navigation and fishing and the interests of the coastal States as well.

14. With regard to the criteria serving to settle the boundaries of the continental shelf, it would be of interest to define clearly the special circumstances which are taken into consideration in certain instances in the delimitation of the continental shelf and to establish the conditions in which islands can be recognized as having a continental shelf of their own.

15. At the same time, we share the opinion that the conference should tackle questions concerning the elabora-

tion of an international régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction, as well as other questions on which we might reach agreement.

16. In the opinion of my delegation, an international conference devoted to the solution of still unresolved problems of the law of the sea or problems whose solution has been incomplete must of necessity be convened abiding by the principle of universality. In view of the very special importance of the problems that will have to be settled there, it seems to us indispensable to proceed in such a way that all States of the world will be invited to participate in the elaboration of the international instruments that we are proposing to draw up in the conference in order that these texts, by obtaining the adherence of the largest number of States, can really contribute to the promotion of peace, friendly relations and co-operation among nations.

17. We certainly share the view that, if the conference is to be in a position to achieve generally acceptable regulations which would therefore be effective, it must necessarily be well prepared.

18. The Romanian delegation reserves the right to express its views, if necessary, concerning the various draft resolutions with regard to the conference in question at a later stage of this debate. For the present, I shall confine myself to emphasizing that we feel it is important for the success of this conference to ensure that the sponsors of various draft resolutions, official or unofficial, should do their utmost to arrive at a common position so that the resolution that is adopted concerning the conference may enjoy the broadest possible measure of support in the General Assembly.

19. Mr. HELANIEMI (Finland): The question of the use of the sea-bed and the ocean floor is most significant for the future of the whole of mankind. The consideration of this question within the framework of the United Nations deserves indeed our serious attention. Early this year Finland requested observer status in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. My delegation has thus been able to follow the work of the Committee closely.

20. It is no wonder that the work of the Committee on the Sea-Bed has not moved forward very quickly during the past year; the tasks we have set for it are not easy to solve, in view of their complexity and fundamental nature. Nevertheless, the useful work of the Committee has already brought results: the opinions of different parties in regard to various problems have been registered and many interesting and constructive initiatives have been suggested. Therefore my delegation would like to pay tribute to the Committee on the Sea-Bed and to its Bureau. Special tribute is due to the Chairman, Mr. Amerasinghe of Ceylon. We received further proof of his skill when in recent weeks, after tireless consultations within the Committee, he succeeded in presenting a draft declaration of principles on the sea-bed.

21. It is most important to have this draft declaration *[A/C.1/L.544]* adopted by the General Assembly during the present session. My delegation joins in the appeal made by the representative of Norway to refrain from all formal amendments which could endanger the adoption of this valuable declaration.

22. It is evident that the Committee on the Sea-Bed should be given time to accomplish its very important work. After the elaboration of the declaration of principles, the main tasks of the Committee will be related to the future régime governing the exploration and exploitation of the resources of the sea, including appropriate international machinery. The Committee has already devoted much time to the consideration of this matter. It has been said that one of the most important events in the work of the Committee on the Sea-Bed this year has been the introduction of a draft United Nations Convention on the International Sea-Bed Area by the United States *[A/8021, annex V]*. We believe that that carefully prepared and comprehensive proposal, together with the working papers by the United Kingdom and France *[ibid., annexes VI and VII]*, will serve as a good basis when the Committee gets down to solving this problem. My delegation expresses the hope that at that time there will exist among the parties involved a sufficient political will to reach agreement on the various questions. Without that will, the progress of the Committee's work continues to be slow.

23. The first principle of the draft declaration declares that the sea-bed area and its resources are the common heritage of mankind. My delegation considers that this heritage should not be endangered or diminished during our deliberations. Therefore, in our view, a moratorium on national exploitation and claims in the sea-bed area beyond national jurisdiction is and will remain desirable. In spite of the moratorium adopted in resolution 2574 D (XXIV) some States have recently, without due reason, extended their territorial waters and made claims of jurisdiction over parts of the high seas. Finland has in each case stated that the claim cannot be considered to be in conformity with existing principles of international law. We also regret actions of this kind especially during a time when a review of the law of the sea even in this respect is about to be undertaken.

24. A question which is intimately related to the breadth of the territorial sea is the problem concerning fisheries and other living resources of the high seas. In our opinion, those coastal States that are dependent on fishing should be granted preferential fishing rights on the high seas adjacent to their coasts in order to safeguard their vital interests.

25. Questions which are sufficiently well prepared should be taken up at the future conference on the law of the sea. My delegation supports the proposal that the conference should be convened not later than 1973. In our view, the conference should concentrate on the most urgent problems that need to be solved and whose regulation by international instruments is timely.

26. Mr. ENGO (Cameroon): Mr. Chairman, as this is the first time I have had the privilege of participating in the work of this Committee at this session, may I crave your indulgence, even at this late stage, to pay my tribute to the able way in which our officers are conducting the work of this Committee.

27. The importance which the Cameroon delegation attaches to the subject matter involved under the present

item is considerable. Mine is a coastal State which derived its name from part of the resources of the sea. The seas and other water resources have brought our peoples valuable means of subsistence, especially from its living resources and the indigenous medical and other sciences developed from other resources therein. As a means of transportation, these water courses have sustained our mobility and trade from times when European explorers did not possess the knowledge that our planet was sound.

28. However, these God-given privileges have not been without their problems and tragedies. Adventurers from far off lands reached us from the seas, gained access to our lands, exploited our human and natural resources and took advantage of our benevolence to deprive us of fundamental freedoms.

29. Furthermore, the advancements in science and technology have opened new vistas of knowledge and possibilities–all necessary to equip our young nation to meet the grave challenges of our entry into the modern age. A great age indeed this is, in which a nation does not need to wait until it develops its own technology to exploit the natural resources within its jurisdiction. In a new relationship, it is now possible for us to invite others to enter into joint ventures for mutual benefit, without placing our hard-fought freedom in undue jeopardy. We are thus able to exploit oil and other resources in the depths of our seas and oceans, and to plan our development under the full assurance that our infant but developing technology is no serious handicap.

30. We have chosen these references in order to reveal the background to our thinking. It is much too often assumed that youth has neither knowledge nor wisdom and that young States may fit into the same or a similar characterization. In a commemorative year such as this, we must, as peoples of the United Nations, undertake a serious re-examination of our objectives as an Organization as well as a generation. The need for international peace is an indispensable element in economic and social development and is perhaps greater now than at any time in history.

31. The alarming gap between the so-called developed and developing nations is highly provocative of lewd amibitions, on the one hand, and of revolt on the other. It produces a potentially explosive situation to which the ideals of this Organization and its Charter are opposed. Those in whose hands temporarily lies the power to influence the course of history and to guide the destiny of man appear either reluctant or incapable of supplying the inspired leadership that is desperately needed today.

32. The prevailing sense of values produces an unfortunate sense of priorities. We thus find an undesirable dissipation of valuable financial and other resources on armaments and conflicts, whereas those resources could be applied much more fruitfully to the causes of international peace and development. In the process, a progressive step to institute a development decade in this Organization fails through lack of funds and political will.

33. History now offers us a new breath of life and hope with the advent of the oceanographic age. Without undue strain on any individual State, it presents vast opportunities of international co-operation for the achievement of economic development on a global scale. Surely the fact that it gives hope to the weak and poor and that it need not increase the obligations of the strong and rich should make the area of the sea-bed and the ocean floor the most welcome territory of all time. The concept of the common heritage of all mankind, applied to the area under discussion, is no more than a recognition of these facts. We have supported it because of our conviction that it is a great insurance for peace and development and, to ensure it, we fully endorse the statement made by the representative of Bolivia to the effect that nothing amounting to a scheme of aid or paternalism should be encouraged *[1783rd meeting]*.

34. Generally speaking, we agree with the analysis of the representative of the Netherlands on this issue *[1781st meeting]* that to adopt the idea of exploitation under the sovereign rights of the nearest coastal state, which is the system of the Geneva Convention on the Continental Shelf[1] would breed grave injustices to certain parts of the international community, especially the land-locked countries. As a coastal state, my nation would not be a loser in this state of affairs. Yet we are armed so strongly in the ideals of the Charter and in the knowledge of the lessons of history that we do not allow ourselves the luxury of short-sighted policies.

35. The exploitation of the sea-bed under the sovereign rights of the State which first undertook such exploitation would indeed introduce a new and more disastrous form of colonialism, which would be self-destructive for the international community. The reservation of the area exclusively for peaceful purposes and the exploitation of its untold resources for the benefit of mankind are accordingly indispensable. The best guarantee available is to vest control of the area in the international community as a whole.

36. The realities which emerge from past history are that no nation or group of nations can play the inspired role of placing the interests of the international community above all others, including their own. Besides, we must recognize that our age is plagued with distrust and miscalculation. It is difficult, therefore, to convince oneself of the desirability of placing the destinies of all peoples, especially the majority of them, in the hands of a few. This inevitably points to an appropriate régime with a strong enough machinery to allow of adequate participation by all, as well as induce the most practicable and meaningful co-operation among States. It will create an atmosphere of confidence and trust which in turn will enhance the realization of peace.

37. The details of our views on this philosophy have been expressed by us in the past, either through statements or through sponsorship of different draft resolutions. We do not wish to repeat them; we wish merely to express our views on the questions, both procedural and substantive, now before this Committee. We have shown, through our support for the draft declaration contained in document A/C.1/L.544, that our delegation is in favour of certain basic principles. In the view of our delegation, the contents represent the widest area of agreement that it is possible to achieve at this time, having due regard to the prevailing

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

circumstances. The urgency of the subject matter before the sea-bed Committee is such that failure to adopt a set of principles at this stage would have dangerous consequences to its work. It is, of course, a compromise, but not an unreasonable compromise. No one can suggest that it is likely at this time that a text could be achieved which would satisfy all schools of thought. The value of the draft declaration lies in the fact that it reflects all areas of agreement, on the one hand, and establishes a satisfactory compromise on the other. It thus presents a modest, but tremendously important, basis for the next stage of our work, that is, the elaboration of the régime and the machinery.

38. Previous speakers have already spoken at length on the merits of the provisions of the draft, and I shall not burden this Committee with a repetition.

39. I shall now turn to the question of the convening of a conference to consider a convention on the law of the sea. There are certain considerations that influence our thinking on this matter, and I shall attempt to summarize them.

40. The first is that such a conference is desirable; we are convinced of this. On a perusal of the existing conventions on the subject, it is easy to recognize immediately the absence of universality not only in the work that produced them, but also in the adoption and ratification of those documents. Compared, for instance, with the universal recognition of the Vienna Convention on Diplomatic Relations, which came into force on 24 April 1964 and to which there are now 96 parties, recognition of the various conventions on the sea is extremely limited. With your permission, Mr. Chairman, I shall try to prove this point by giving some details on the conventions as they exist.

41. The Convention on the High Seas,[2] which entered into force on 30 September 1962, has only 44 members of the international community as parties to it. The Convention on Fishing and Conservation of the Living Resources of the High Seas,[3] which entered into force on 20 March 1966, has only 30. The Convention on the Continental Shelf, which entered into force on 10 June 1964, has 44. Of course, the optional protocol of signature concerning compulsory settlement of disputes which arise from this has only 11 members who are parties to it.

42. The fact that a vast majority in the international community did not have the opportunity to participate, or simply did not participate, in their production reduces their effectiveness. My country does not even recognize the juridical existence of most of these conventions. As mentioned earlier, the 1958 convention in fact provokes situations of injustice and revolt.

43. We must also note the influence of developments in the political, economic, scientific and technological spheres. Thinking must necessarily respond to new demands. Technology, as we have pointed out, especially as far as the area under consideration is concerned, appears to be outpacing the intellectual development of our generation.

44. Secondly, we are of the view that the interrelationship between the various issues and questions to be considered demands a single conference–a comprehensive conference capable of co-ordinating and supervising all the efforts involved; this would make for continuity as well as for a satisfactory examination of all aspects of the problems under one controlling roof, as it were. We share the view that the conference ought to organize itself in order to ensure the effective treatment of the subject matters. It would, in our view, be undesirable to dictate the procedure which the sea-bed Committee should follow: for example, whether it should establish one, two or three sub-committees. There are legal, scientific and technical aspects of these problems which could be handled separately by as many subsidiary organs as might be deemed necessary by the Committee.

45. Thirdly, we are not opposed to the question of the enlargement of the sea-bed Committee, if this will satisfy the will of the majority. However, we would insist that any addition must duly reflect the principle of truly equitable geographical distribution.

46. We have listened with considerable interest to the suggestion that the Committee ought to set a rigid time-limit for concluding the work in this field. Under normal circumstances, the pressure produced by the setting of such a time-limit could be productive. We are persuaded, however, by prevailing circumstances to conclude that only a target date can be justifiable at this time–and that barely so. The complexity of the outstanding problems does not make the alternative advisable in this case. A time-limit should represent an intention, given proper political will, not an imposition inviting deadlock and disaster. My delegation has had some experience in the work of this Committee and we know what the extent of free political will has been as far as it has been made available to the Committees concerned.

47. Before we conclude we should like to think aloud, as it were, and to make a few comments on the timing of the conference. We are in favour of a speedy conclusion of the work that is outstanding. Realistically, we do not expect that the problem of priorities for items or subjects will be easily solved. There are those who consider that a resolution of the problem of delimitation of the area of national jurisdiction must receive the highest priority. Without underestimating its importance, which we do recognize, others, like my delegation, are of the opinion that in the atmosphere of suspicion and inequality which prevails, it would be far more desirable to work out a satisfactory agreement on the international régime and machinery first; before that is done, progress cannot reasonably be expected on the question of delimitation. No one can realistically expect a young, developing nation to give a blank cheque to an unknown institution, where there can be no guarantees of inspired leadership and good, progressive political will.

48. It would appear to us, therefore, that the work on both must be launched simultaneously, paying due regard, however, to the will of the majority concerning the question of priorities. I believe that this will is not a vain will; it is founded in certain basic fears of which, I believe, members of this Committee are by now aware.

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

3 *Ibid.*, vol. 559 (1966), No. 8164.

49. This calls for the highest understanding on the part of the technologically advanced countries. It is a sacrifice–if sacrifice it is–well worth making, if the entire community is to be encouraged to co-operate. If we all aim at the same goals, is it too much to ask of a minority that it exercise restraint and understanding?

50. Power and the possession of it may be sweet while it lasts; yet its relevance lies in the opportunity for its use. The possession of it is not in itself a guarantee of virtue. What this generation needs is inspired leadership on the part of those who possess the capacity to use power to achieve virtue.

51. Yet, let the warning go forth clearly that power used with arrogance and without a sense of justice will be lost–it leads to ruin. It has never been easy to recognize the silent processes of change in the balance of power throughout history, and less so in our age. Who tomorrow's great Powers will be is anyone's guess. I believe that history, with its effective process of rise and fall in the plight of nations, need not repeat itself in our time if, and only if, we refuse to give it identical conditions.

52. In conclusion, my delegation would like to pay special tribute to the Chairman of the sea-bed Committee, Ambassador Amerasinghe, for his dedication and tact, without which the draft principles, which represent a very important landmark in our work, would not have been possible. We wish also to recognize the tremendous efforts and the contribution of the Chairmen of the Sub-Committees. I wish to register here our profound gratitude.

53. Mr. KOMATINA (Yugoslavia): Our Organization has been concerned for years with the totality of problems relating to the sea-bed and the ocean floor underlying the high seas beyond the limits of present national jurisdiction. Interest in this problem is increasing proportionally with the growing importance of this area from the economic, military and political standpoint. The enormous riches hidden in the sea-bed, with the progress of science and technology, have become accessible to the creative work of man. The arms race has also not bypassed this part of the earth. Opportunities are being created whereby it will be possible in the not too distant future to live and work on the sea-bed. All these developments are opening a new page in international relations, while their impact is being more strongly felt upon the progress of the international community as a whole.

54. With the advancement of new technology and the discovery of as yet untapped resources, not only has the economic aspect emerged into the forefront, but the uncontrolled exploitation of mineral and other resources of the sea-bed is bringing economic development into question and is endangering the national security of coastal States as well.

55. All this makes imperative the adoption of new principles and new regulations spelling out clearly the rights and duties of the members of the international community in the exploitation of the sea-bed and the ocean floor resources.

56. In view of the present polarization tending to favour the developed countries, the deliberations on this question to date have unequivocally demonstrated that no solution which ignores the interests of other countries can be accepted.

57. There is a growing awareness in the world to the effect that it is essential to search for new approaches and to evolve new legal regulations and rules–in short, to explore new avenues for international co-operation in this field. However, owing to the conflicting political and military interests, the resolution of these problems is lagging behind because of new emerging obstacles and hesitations.

58. The international community has an opportunity to undertake the exploitation of vast natural resources in a more organized and rational manner for the benefit of all mankind. Every erroneous move could cost dearly. It is a matter either of permitting the repetition of the history of colonization, whose negative consequences are being felt even today, or else of finding new solutions clearly reflecting the democratization of international relations, the need of which we all feel and recognize.

59. During the August session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, a number of questions relating to this complex issue were discussed. A declaration of principles was and, in our opinion, should remain, in the centre of interest, not only because resolution 2574 B (XXIV) requested the Committee to treat it as such, but because the preparation and adoption of a declaration of principles would constitute a vital pre-condition to progress in solving other important issues relative to the international régime. It is obvious that it is not possible to proceed further in dealing with the complex problems pertaining to the sea-bed and the ocean floor without the formulation and adoption of principles upon which a solution should be based.

60. Judging by the work done so far and the consultations held to date, we have gained the impression, even the conviction, that the area of disagreement has been sufficiently narrowed to permit the adoption of a comprehensive and balanced statement of principles in pursuance of the aforementioned resolution of the General Assembly. We are also of the opinion that the proposed text *[A/C.1/L.544]* constitutes such a balance and compromise which could be acceptable. We are aware of the fact that that text does not fully satisfy the positions of all countries, but as a compromise it cannot be otherwise. In our opinion, the most important point is that the sea-bed and the ocean floor beyond the limits of present national jurisdiction, and its resources, should acquire such a legal status as would rest upon the concept of the common heritage of mankind. In short, this implies that the area in question should be utilized exclusively for peaceful purposes; that it cannot be an object of any national or private acquisition; that it should be utilized in the interest of mankind, that is, for the benefit of all States, whether land-locked or coastal; that in the exploration and exploitation of the sea-bed the special interests and needs of the developing countries be taken into account; that all States, whether land-locked or coastal, whether or not they possess the capacity to exploit the sea-bed, share on an equitable footing the proceeds and other benefits derived from the exploitation and participate, through an international

machinery, in the exploration and exploitation of the sea-bed and its resources.

61. The declaration also stresses that it is incumbent upon States to act in conformity with the principles governing relations among States, primarily in conformity with the principles of the Charter of the United Nations and the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations *[resolution 2625 (XXV), annex]*. Moreover, it is important that the rights of coastal States in respect of the activities which could infringe upon their legitimate rights should be adequately protected. Also, due attention has been paid to the prevention of pollution and contamination and other hazards to marine environment, including the coastlines, and interference with the ecological balance of the marine environment; protection and conservation of the natural resources of the area and prevention of damage to the flora and fauna of the marine environment.

62. The concept of "the common heritage of mankind" with its three vital elements, common wealth, common management and common and just share of benefits, constitutes a step further in international relations, as it professes a higher level of genuine equality. The acceptance of this concept constitutes not only a contribution to the progressive development of international law, but also has a wider meaning for democratization of international relations as a whole. It is encouraging to observe that this concept is being recognized by a majority of States, including an increasing number of the developed countries.

63. The non-aligned countries at the recently held Conference[4] also paid due attention to these questions, and in the resolution which they adopted pledged their support for such a concept of principles on regulating the sea-bed.

64. I should like to point out that my delegation attaches special attention to the principle of the sharing by all States of proceeds and other benefits derived from the exploration and exploitation of the sea-bed, since this constitutes one of the most vital elements of the entire system.

65. We are keenly interested in the establishment of an appropriate international régime for the promotion of the exploration and exploitation of the sea-bed and the ocean floor, which should also constitute an innovation in its approach and concepts. Such a régime, mindful of the interests of all countries, especially of the developing and coastal countries, would secure on a long-term basis a stable system of legal and technical standards regulating the rights and duties of all those directly engaged in the exploration and exploitation of the sea-bed. It would also ensure a system of rights and commitments of all States, especially of the developing countries, to share in an appropriate manner in the benefits derived from the exploitation of the sea-bed, as well as criteria for sharing in the benefits set aside for the international community.

66. The adoption of such a régime would constitute an effective measure for checking the tendency for only the technologically and economically strongest countries to acquire the resources of the sea-bed for their own advantage. The régime should reflect and further elaborate the concept of "for the benefit of all mankind", that is, it should cover the actual sharing in the proceeds and in the management.

67. The existence of a high degree of consensus favouring the establishment of appropriate international machinery for the implementation of the international régime is both positive and welcome. In our opinion, that machinery should be endowed with wide powers for regulating sea-bed activities. It is obvious that it cannot be reduced to the status of an international bureau for registering requests for exploitation, that is, only for issuing permits and collecting taxes; it must enjoy all the prerogatives of an authority in which all countries are represented on an equitable basis.

68. As for the conference on the law of the sea, as stated in my Government's reply *[see A/7925]*, my delegation considers acceptable the convening of such a conference to renew the régimes of the high seas, the continental shelf, the territorial seas and contiguous zone, and the fishing and conservation of the living resources of the high seas, in order to arrive at a clear, precise and internationally acceptable definition of the area of the sea-bed and the ocean floor lying beyond the limits of national jurisdiction, in the light of the international régime to be established for that area. In that connexion, we consider that the conference should deal primarily with questions directly related to the régime of the sea-bed and the ocean floor beyond the limits of national jurisdiction and that it is indispensable simultaneously to regulate the international régime of research, use and exploitation of the resources of the sea-bed. That means that the conference should be well prepared by one committee large enough to permit adequate representation of all regions and schools of opinion, and that it should deal with the questions of the sea-bed and the sea integrally; we would give priority to the adoption of a régime on which depends the solution of other related issues also.

69. I wish to avail myself of this opportunity 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[4] as an important decision without which it would hardly be possible to utilize the resources of the sea-bed. We should like to see that partial measure serve as an introduction to the full demilitarization of the sea-bed and the complete cessation of the arms race.

70. The pollution due to activities in the seas and the prospect of wider operations on the sea-bed also constitute problems of exceptional importance. In addition to day-to-day pollution there are even such occurrences as the dumping of nerve gas in the Atlantic, thereby further aggravating the political components of this question and at the same time promising serious consequences. There is also great danger in the uncontrolled disposal of nuclear waste on the sea-bed.

71. Under the circumstances, we are of the opinion that the regulation of all those problems should be undertaken urgently and with the utmost care with a view to preventing hazardous consequences.

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

72. The Yugoslav delegation attaches great importance to the question of the sea-bed and the ocean floor, and in particular to the need to channel available resources of the seas towards the solution of one of the key issues of international relations, the development of the developing countries and, by the same token, towards the promotion of international co-operation as a whole. Yugoslavia, as one of the States located on the Mediterranean–an area which traditionally and through the centuries has been an arena of confrontation and is once again becoming an increasingly sensitive area–is ready to participate actively in the solution of this complex of problems, which would contribute to making the sea a medium of rapprochement between different civilizations and economies.

73. I should like to thank the Chairman of the sea-bed Committee, Ambassador Amerasinghe, and the Chairman of the Legal Sub-Committee, Ambassador Galindo Pohl, for their efforts and work on the formulation of a draft declaration of principles which, in the opinion of my delegation, takes into account the interests of the international community as a whole.

74. Mr. BEESLEY (Canada): In our earlier intervention we made known the position of the Canadian Government on a number of issues pertaining to the sea-bed beyond the limits of national jurisdiction *[1779th meeting]*. I propose now to discuss the remaining subitems, which together raise the issue which might in our view be discussed at a third conference on the law of the sea. I do not propose to comment at this stage on any particular draft resolution, but I should like to reserve our right to do so when we begin to give consideration to the draft resolutions themselves.

75. It will be recalled that the Secretary-General, in a note verbale of 29 January 1970, requested the views of Governments concerning the desirability of convening at an early date a conference to review the régime of the law of the sea. The Canadian reply stated:

> "The Canadian Government is acutely aware of the need for the progressive development of international law in response to the new opportunities and problems created by increasingly rapid advances in technology, particularly those relating to the marine environment." *[See A/7925/Add.2.]*

There is, I think, no lack of evidence to support that statement. Grotius, writing some 360 years ago, observed that most things became exhausted by promiscuous use but that that was not the case with the sea: it could be exhausted neither by navigation nor by fishing, that is to say, in neither of the two ways in which it can be used. Traditional concepts of the law of the sea are, of course, founded upon the assumptions reflected in that pronouncement by one of the most learned publicists in the field of the law of the sea. Unfortunately, modern technology has radically altered the whole nature of the problems requiring regulation by the law of the sea, and the development of the law has not, in our view, kept pace with the advances of technology. Grotius can be excused, perhaps, for not being able to foresee the far-reaching implications for the law of the sea of modern technology, raising such new issues as whether nuclear ships and loaded supertankers can be capable of innocent passage, whether radioactive waste, nerve gas and other noxious agents may be dumped in the ocean on the basis of the principle of the freedom of the high seas, whether safeguards are required for off-shore drilling as an obligation under international law and, if so, what safeguards and whether fleets of modern fishing vessels vaster than the Spanish Armada can be left to fish the high seas at will. We cannot be excused, however, for ignoring the impact of modern technology upon rules designed for the days of sailing ships and ancient empires. The uses of the sea have multiplied since the time of Grotius. The sea now can be exhausted by promiscuous use, and it is incumbent upon us to develop new laws to prevent that catastrophe.

76. As was pointed out in our reply to the Secretary-General's questionnaire, Canada "has supported and participated in every effort of the United Nations to achieve agreed rules of law with regard to the uses of the sea". Our active participation in the 1958 and 1960 United Nations Conferences on the Law of the Sea–in which some delegations here present were unable to participate–is well known. But what may not be so well known are Canada's subsequent efforts, together with those of certain other States, to develop multilateral agreement subsequent to the 1960 Geneva Conference concerning those important issues left open by the conferences. For example, our efforts to bring about multilateral agreement on the "six plus six" formula were not successful, and it proved necessary for us to establish an exclusive nine-mile fishing zone in 1964 and, more recently, a twelve-mile territorial sea. Other States have found it necessary to take similar steps. Nevertheless, as was pointed out in our reply, we consider that, while progress has been made in the development of such rules, important questions are still unresolved and the existing law of the sea is marred by inadequacies which are a matter of serious concern to the Canadian Government. We all know that the 1958 and 1960 Conferences failed to agree on the breadth of the territorial sea and the nature and extent of jurisdiction of the coastal State over coastal fisheries. We have come some distance in these matters in the years since Geneva. There now appears to be a substantial measure of agreement on the need for new limits for the territorial sea. Similarly, it now appears to be widely recognized that the jurisdiction of the coastal State over coastal fisheries need not necessarily be tied to the sovereignty of the coastal State over its territorial waters. Yet we are still a long way fron unanimity on these questions. Some States consider that there need be no universal maximum limit for the territorial sea; they suggest instead regional solutions to the problem or propose that each State should be free to establish the limits of its maritime sovereignty on the basis of given criteria; some States wish to impose a single limit for both maritime sovereignty and all forms of maritime jurisdiction. The potential for conflict on these issues is only too obvious. Their early resolution at an international conference is important to the whole structure of the law of the sea and of relations among States in that field. In other important areas, the rules of law on which agreement was reached at Geneva have been overtaken by events. Old solutions have become inadequate and new problems have emerged.

77. It is necessary, however, in our view, to sound a note of caution in calling for the development of new law in

response to the new uses of the sea. As we pointed out in our reply to the Secretary-General's note:

> "The 1958 General Conference on the Law of the Sea resulted in a wide measure of agreement on many important questions, and the four conventions adopted at that Conference represent, in the view of the Canadian Government, a very substantial achievement. The Canadian Government believes that it would be inadvisable to prejudice this achievement by re-opening all the rules of law embodied in those conventions."

To do so could border dangerously on a reversion to anarchy and chaos. What is required, in our view, is the modernization and further development of a structure which has, after all, been painfully elaborated over the centuries, but not the rejection and destruction of that whole legacy.

78. I propose now to outline briefly some of the considerations which, in our view, should be taken into account in determining those issues which should be placed on the agenda of the third law-of-the-sea conference. In our view, the time has come to re-examine the rights and duties of States with regard to the conservation and management of the living resources of the sea, in the light of the increasingly rapid depletion of those resources as fishing has become virtually transformed from a harvesting to a mining process. It seems anomalous that, whereas international law has developed an effective system of management for the mineral resources of the continental shelf and the so-called sedentary species of fish on the shelf, it has not yet developed an equally effective system for the management of the "free-swimming" fish in coastal areas. It seems anomalous too that some States should have to invest heavily in measures designed to protect river-spawning fish such as Atlantic and Pacific salmon, and for the same purpose should also have to sacrifice the great economic benefits which might otherwise be obtained from developing the spawning rivers for hydroelectric and other purposes, only to have those same fish indiscriminately dredged up by the first comer when they migrate to sea. Canada believes that both the coastal fishing States and the distant-water fishing States of the world must realize that a rational system of fisheries conservation, management and exploitation is required in the common interests of all concerned. There are only two alternatives, in our view, to the development of such a system. One is the sort of fisheries conservation which theoretically might be achieved under the law of diminishing returns; since it would be unprofitable to rake the last fish from the sea, it might be hoped that the last fish and perhaps a few others would be left where they were. The more likely alternative, however, is the possibility of international conflict as the States of the world respond to international inaction by national action. To avoid that chaos and conflict and to conserve the living resources of the sea it is essential, in our view, that the countries of the world should agree, first of all, to make adequate provision for the special rights and responsibilities of the coastal States, and second, to join together in a new legal régime for high-seas fisheries which will reconcile the need for both equitable distribution of benefits and rational exploitation of resources. It is clear that the present situation is unsatisfactory and dangerous and that it should be reviewed at a law-of-the-sea conference.

79. The traditional law of the sea has also proved wholly inadequate in its provisions for the rights and duties of States with regard to the preservation of the marine environment and the prevention of its pollution or degradation. While some progress has been made in controlling various forms of oceanic pollution, the threat to the marine environment looms larger than ever, both because we now know more about that environment and see more clearly how it is endangered, and because the mixed blessings of technological development have brought with them new possibilities for catastrophe. The sea is being dangerously abused, both accidentally and deliberately, in ways which may threaten its capacity to regenerate itself and could even effectively destroy its living resources. In our view, this subject, too, clearly requires some examination at a law-of-the-sea conference, wherever else it may also be discussed.

80. A good deal has already been said in this debate concerning the problem of the definition of the continental shelf. There is no single aspect of the law of the sea which perhaps so graphically illustrates the relationship between law and technology as the definition of the continental shelf in the relevant Geneva Convention.[5] There seems to be general agreement, however, that the definition of the continental shelf must be given greater precision, and that this matter too should be considered at a law-of-the-sea conference.

81. A new aspect of the law of the sea which has been receiving the concerted attention of the international community for several years is the exploration and exploitation of the natural resources of the sea-bed beyond the limits of national jurisdiction, and the elaboration of an international régime and machinery to govern such exploration and exploitation. We attach particular urgency to intensifying and expediting the studies of the sea-bed régime being pursued in the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. Only in this way would it be possible, as we see it, for a conference on the law of the sea to address itself simultaneously to the question of the sea-bed régime and the precise definition of the continental shelf.

82. As has been indicated by a number of previous speakers, the issues facing the current session of the General Assembly with regard to the proposed law-of-the-sea conference are: the scope of that conference, its timing and the machinery for its preparation. I have taken this time to review certain problems of the law of the sea precisely because the scope of the proposed conference may be the fundamental issue and the one which may more than any other determine the success or failure of the conference. We recognize that there are differences of views not only on the substance of the problems I have mentioned but also on their relative urgency, as well as on the desirability of including some of them on the agenda of the proposed conference.

83. There is, however, in our view, considerable common ground to the effect that the conference should be broad in

5 Convention on the Continental Shelf (United Nations, *Treaty Series*, vol. 499 (1964), No. 7302).

scope and that it should examine all outstanding law-of-the-sea issues without re-opening the whole of the 1958 Geneva law-of-the-sea conventions. If we were able to reach general agreement along these lines on the agenda of the conference, that alone would be a substantial achievement and would represent the first essential step forward.

84. Having regard to the views of other States on this matter and not just our own view, Canada believes that the best possibility of taking that step forward lies in the adoption of an agenda which would include all the issues to which various States or groups of States attach importance, namely, the breadth of the territorial seas; transit through international straits; the nature and extent of jurisdiction of the coastal State over coastal fisheries; the rights and duties of States with regard to the conservation and management of the living resources of the sea, including in particular the special interests of the coastal States; marine pollution; scientific investigations; the precise definition of the outer limit of the continental shelf; and the international régime, including machinery, for the sea-bed beyond national jurisdiction. I might say that the order in which we have listed these items carries no suggestion as to their relative urgency or importance.

85. One of those items, namely, the problem of marine pollution, perhaps requires further comment. It is important that we ensure co-ordination of action on that issue and avoid duplication. Pollution will figure prominently in the discussions of the 1972 United Nations Conference on the Human Environment in Stockholm. In addition, a conference on this subject will be convened by the Inter-Governmental Maritime Consultative Organization (IMCO) in 1973; the sea-bed Committee is examining the question of pollution arising from activities on the sea-bed; other interested organizations in the United Nations system have jointly established a group of experts on scientific aspects of marine pollution; and the Economic Commission for Europe will be sponsoring a symposium on problems relating to environment in Prague in 1971. While we have an open mind as to the most appropriate manner in which responsibility might be assigned for specific forms of action on particular aspects of marine pollution, we should like to offer a few general observations on that issue.

86. With respect to marine pollution in particular, Canada views the Stockholm Conference as offering an opportunity to achieve a meeting of minds and the development of a political consensus on the basis of which there could be established a general framework and broad objectives for international co-operation and co-ordination in the protection of the marine environment. One interesting suggestion as to the role of the Stockholm Conference with regard to marine pollution is to confine itself to land-based pollution. We have an open mind on that question and would like to give its implications further thought.

87. The extent to which that framework and objective for the protection of the marine environment might be translated into actual international conventions at Stockholm must itself, we think, remain an open question at this stage. However, in so far as the problem of marine pollution is directly related to other aspects of the law of the sea–such as, for instance, freedom of navigation, the right of innocent passage and the international régime to be established for the sea-bed beyond national jurisdiction–to that extent the problem of marine pollution should, in our view, also be considered and dealt with in the context of the law of the sea. Thus, the Stockholm conference could be seen as an opportunity–which should be fully utilized–to prepare and lay the groundwork for the discussion of marine pollution at the proposed conference on the law of the sea.

88. The purposes and functions of the Inter-Governmental Maritime Consultative Organization are related essentially to technical matters affecting shipping in international trade. The 1954 International Convention for the Prevention of Pollution of the Sea by Oil, as amended in 1962 and 1969,[6] is an example of the very important and constructive way in which IMCO can discharge its technical functions in the field of marine pollution. Similarly, the IMCO Convention on Civil Liability for Oil Pollution Damage, negotiated at Brussels in 1969,[7] also falls appropriately within that Organization's terms of reference and represents a step forward in the development of remedies for damage suffered as a result of pollution of the sea.

89. A more fundamental issue, however, was involved in another Convention concluded in 1969 under the auspices of IMCO, the Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties,[7] namely, the right of a coastal State to take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to its coastline or related interests from pollution or threat of pollution of the sea by oil, following upon a maritime casualty or acts related to such casualty, which may reasonably be expected to result in major harmful consequences. That Convention represents a welcome recognition of the rights of coastal States to protect themselves against the threat of marine pollution; but the right in question, in Canada's opinion, is not one which is or should be restricted to cases of oil pollution. The further elaboration of the basic principle recognized in the IMCO Convention should be on a broader basis, as was noted by the Joint Group of Experts on the Scientific Aspects of Marine Pollution in its report of 1970. This is the matter which should, in our view, properly be referred to a general conference on the law of the sea as a whole. At the same time the Inter-Governmental Maritime Consultative Organization, for its part, might direct special attention to the development of international rules relating to routing, dumping, construction of vessels, traffic rules and other safety measures intended to prevent accidental pollution of the sea by shipping. The vacuum in the law in this respect is well known.

90. In sum, the law of the sea conference could provide the international community with an appropriate forum in which to define the fundamental legal principles concerning the rights and duties of States with regard to the prevention of marine pollution deriving from a wider range of sources and should lay down general guidelines. The Stockholm

6 United Nations, *Treaty Series*, vol. 327 (1959), No. 4714. For the amendments of 1962, see *ibid.*, vol. 600 (1967), No. 4714; for the amendments of 1969, see resolution A.175 (VI) of the Assembly of the Inter-Governmental Maritime Consultative Organization.

7 See Inter-Governmental Maritime Consultative Organization publication, Sales No.: IMCO, 1970.3.

Conference, meanwhile, could examine the problem of marine pollution in its relationship to the total environment. Its broader mandate could possibly lead to action in areas which are not within the scope of the other conferences in question, while also developing the political consensus which would ensure appropriate action in those areas within the scope of those conferences.

91. With reference to the timing of the conferences, as was indicated in the Canadian reply to the Secretary-General, Canada is convinced that the paramount consideration in approaching the conference is to ensure that it is carefully and thoroughly prepared in order to maximize the possible benefits. The possible consequences of failure to reach agreement are really too serious for us to embark on this venture without some reasonable assurance of success. The timing of the conference is, therefore, a matter of some considerable importance.

92. There appears to be wide-spread agreement that 1973 should be fixed as the year for actual decision-making by the conference. Canada would support 1973 as a target date, but we believe that it would be preferable not to commit ourselves to a rigid schedule which might only be met by sacrificing careful and thorough preparation. A delayed conference, in Canada's view, would be better than a failed conference. It should be remembered that the United Nations Conference on the Law of the Sea of 1958 was preceded by more than eight years of preparation by the International Law Commission as well as by the International Technical Conference on the Conservation of the Living Resources of the Sea, convened in Rome under the auspices of FAO in 1955. Without suggesting that any such lengthy period would be required in this case, but taking these considerations into account, it would be wise, in our view, to provide for a reference back perhaps to the twenty-seventh session of the General Assembly to confirm what at this stage can only be a target date.

93. The choice of preparatory machinery for the conference is obviously another factor which could profoundly affect its outcome. There appears to be general agreement that a preparatory committee of some sort will be required, and Canada supports this view. As to the mandate of the preparatory committee, in our view it might be both procedural and substantive; for instance, the preparatory committee might devote the first year of its deliberations to studying and preparing recommendations on the precise issue of the conference agenda and the procedures of the conference—no small task in itself—and in the second year move to substantive consideration of the issues and the preparation of draft articles. We have an open mind on this question, which will undoubtedly be considered further when we all move on the consideration of the draft resolution.

94. Another question relating to the mandate of the preparatory committee is whether it should include the study of some items relating also to the sea-bed question. In Canada's view, the question of the outer limit of the continental shelf, for instance, is one which would properly fall within the mandate of the preparatory committee rather than the sea-bed Committee, which is specifically restricted to the sea-bed beyond national jurisdiction and thus in its present terms of reference cannot extend to the definition of an area within national jurisdiction, that is to say, the definition of the continental shelf. As we have made clear in our earlier statement, however, we recognize that many proposals will undoubtedly link these two issues which are so organically related. On a matter connected with this, it is obvious that provision will have to be made for the closest co-ordination between the work of the preparatory committee and that of the sea-bed Committee.

95. With regard to the size of the preparatory committee, the essential consideration, in our view, is that it be made large enough to provide adequate and balanced representation for all points of view. Our position with regard to the size and composition of the preparatory committee is flexible. One interesting possibility which has been discussed in this connexion is the reconstitution of the sea-bed Committee as a general preparatory committee for the whole range of issues to be examined at the proposed conference on the law of the sea. This possibility might profitably be examined in the event of the composition and mandate of the preparatory committee giving rise to major difficulties.

96. Another proposal has been made for the establishment of a preliminary or preparatory conference leading up to the actual decision-making conference. This suggestion has certain attractions, particularly in that, as set out in the United States draft resolution *[A/C.1/L.536]*, it would involve all Members of the United Nations at an early stage in the preparations for the conference. On the other hand, it might have certain disadvantages in that a preparatory conference in 1972 might be premature and prove divisive, since it would leave very little time for adequate preparation by the conference preparatory committee. We think it should be possible, however, to settle these questions on the basis of common sense, since there are no doctrinal issues involved.

97. In concluding my statement, I only wish to emphasize Canada's profound conviction that the international community has reached a crucial turning point as regards development of the law of the sea. Effective and early international action is demanded to prevent the degradation of the marine environment and the threatened destruction of the living resources that constitute the real wealth of the sea; to ensure an orderly and equitable régime for the exploitation of sea-bed resources beyond national jurisdiction for the benefit of mankind as a whole; and to provide for a just accommodation between coastal interests and global interests in the uses of the sea. While awaiting such action, States cannot and should not neglect their responsibility to prevent pollution of the sea and to institute regulatory measures for the conservation of its living resources. Similarly, States should not neglect their responsibility to co-operate on a bilateral and multilateral basis for the fulfilment of these purposes. Beyond such interim measures, if the international community delays taking action or fails to agree on a new order for the law of the sea, States will be forced, as they have been in the past, to take steps in advance of existing law.

98. There have been a number of references during our debate to the relative merits of unilateralism as compared to multilateralism as a method of developing the law of the sea.

99. The Canadian position on this issue is well known. In brief, we do not consider multilateral action and unilateral action as mutually exclusive courses; they should not, in our view, be looked on as clear-cut alternatives. The contemporary international law of the sea comprises both conventional and customary law. Conventional or multilateral treaty law must, of course, be developed primarily by multilateral action, drawing, as necessary, upon principles of customary international law. Thus multilateral conventions often consist of both a codification of existing principles of international law and the progressive development of new principles. Customary international law is, of course, derived primarily from State practice, that is say, unilateral action by various States, although it frequently draws in turn upon the principles embodied in bilateral and limited multilateral treaties. Law-making treaties often become accepted as such not by virtue of their status as treaties, but through a complex, gradual acceptance by States of the principles they lay down. This complex process of the development of customary international law is still relevant and indeed, in our view, essential to the building of a world order. For these reasons we find it very difficult to be doctrinaire on such questions. The régime of the territorial sea, for example, derives in part from conventional law, including in particular the Geneva Convention on the Territorial Sea and the Contiguous Zone,[8] – which itself was based in large part upon customary principles–and in part from the very process of the development of customary international law. During the period–if ever there was such a time–when it was possible to say that there existed a rule of law that the breadth of the territorial sea extended to three nautical miles and no further, that principle was created primarily by State practice, and as a consequence can be altered by State practice, that is to say, by unilateral action on the part of various States, accepted by other States and thus developed into customary international law. How then can we be dogmatic about the merits of either approach to the exclusion of the other? Unilateralism carried to an extreme and based on differing or conflicting principles could produce complete chaos. Unilateral action when taken along parallel lines and based upon similar principles can lead to a new regional and perhaps universal rules of law. Similarly, agreement by the international community reached through a multilateral approach can produce effective rules of law, while doctrinaire insistence upon the multilateral approach as the only legitimate means of developing the law can lead to the situation which has prevailed since the failure of the two Geneva Conferences on the Law of the Sea to reach agreement on the breadth of the territorial sea and fishing zones.

100. In no other field of law is the interpenetration of national and international law so evident. It is our view that this organic relationship of law on the national and international planes is not to be feared but to be welcomed, since it prevents us from being bound by strait jackets fashioned in the distant past to contain pressures which can no longer be ignored. What is required, in our view, is a judicious mix of the two approaches taking into account the complex set of interrelated and sometimes conflicting political, economic and legal considerations, both national and international, and based also upon the imperatives of time itself. The seriousness of the problem can determine the urgency of action, which in turn can sometimes dictate the means chosen.

101. It is important also, we think, to be clear concerning just what we mean when we speak of the undesirability of unilateral action. Are we referring to extensions of the territorial sea or the exercise of various limited forms of jurisdiction by coastal States to manage and conserve fisheries resources or to control pollution, or are we referring to such acts as the unilateral appropriation, however temporary, of vast areas of the high seas for the purpose of conducting dangerous experiments for scientific and military purposes? Do we refer to the widespread practice of dumping various noxious agents into the sea? Has not the law of the sea, particularly with regard to the prevention of pollution and the conservation of living resources been characterized by the principle of *laissez-faire?* And is *laissez-faire* not systematic unilateralism? What factors must be taken into account in making value judgements on the kinds of acts I have referred to? We intend no criticism of any State in posing these questions. We do suggest, however, that we cannot proceed on the basis of the premise that, while all unilateral action is equal, some is more equal than others. These questions are the kind we should be attempting to answer in 1973. It is at that conference and in our preparations for it that we must attempt to seek out the basis for meeting the needs of the international community without doing violence to the interests of any State or group of States. Coastal States cannot speak for land-locked States. Developed countries cannot speak for developing countries. Shipping States cannot speak for coastal States with no merchant marine. Distant-water fishing States cannot speak for coastal offshore fishing States. Great military Powers cannot speak for small non-nuclear Powers. It follows from this that there must be a process of negotiation, of give and take, of mutual concessions in seeking generally acceptable accommodations.

102. What is required is that we search together for generally acceptable principles, respecting one another's points of view without attempting to substitute our judgement for that of any other State, working together in the common interest. Canada stands ready to participate in all such efforts.

Mr. Aguilar M. (Venezuela) took the Chair.

103. The CHAIRMAN *(interpretation from Spanish):* Before we adjourn, I should like to say, first of all, that the Democratic Republic of the Congo and Zambia have joined the sponsors of draft resolution A/C.1/L.543.

104. I understand also that the representative of the Democratic Republic of the Congo would like to make a short statement at this time.

105. Mr. IDZUMBUIR (Democratic Republic of the Congo) *(interpretation from French):* My statement will be rather brief. It has to do with a practical matter but one that is important, that is, the translation of documents.

106. For some time my delegation, by the force of circumstances, has had to look into the translation of its

8 United Nations, *Treaty Series,* vol. 516 (1964), No. 7477.

statements, especially into English, since that is the only text that we can look at. We had a rather unfortunate surprise when we saw that the English translation of the statement of the leader of our delegation had him saying the exact contrary of what he had said in French.

107. According to my information, the original text of the declaration of principles is in English, and the French text is only a translation. However, after comparing these two texts, I should like to state that the French translation is not very good.

108. As an example, I should like to refer to two paragraphs, first to paragraph 5 and then to paragraph 9. The English text of paragraph 5 says: "The area shall be open to use exclusively for peaceful purposes by all States . . .". The French text says: *"La zone pourra être utilisée à des fins exclusivement pacifiques par tous les Etats . . ."*. The expression *"pourra"* in the French text, which is after all a statement of principles which should be respected by all States, gives the impression that the area could also be open to uses that would not be exclusively peaceful. I should prefer a translation more in keeping with the English word "shall", instead of the word *"pourra"*, which in any case would be in contradiction with paragraph 8, which says "shall be". In French the word is *"sera"*.

109. The next remark concerns paragraph 9. In the second sentence of the English text we have the words: "equitable sharing by States". The French text says: *"assurera la répartition équitable par les Etats"*. The English text speaks only of an equitable sharing among States, but the French text goes much further and affirms that it is the States which must effect this sharing.

110. These are only examples, and it would certainly be desirable for translation to take into account not only the words but also the ideas expressed.

111. The CHAIRMAN *(interpretation from Spanish):* I wish to assure the representative of the Democratic Republic of the Congo that the Secretariat has taken careful note of his statement.

112. Miss MARTIN SANE (France) *(interpretation from French):* I should like to associate myself with what has just been said by the representative of the Democratic Republic of the Congo. We for our part have also noted a few slight differences between the English and the French texts of the declaration of principles and in fact we have handed the Secretariat some comments on this point. In the case of a text as important as this, it is certainly vital to ensure that all the texts, and not only the French and English texts, are reviewed with the greatest care to ensure that later there will be no divergencies of interpretation as between these texts.

113. The CHAIRMAN *(interpretation from Spanish):* I think it would be an excellent idea if the delegations which use the various languages would submit any comment or observation they may have on the translation to the Secretariat.

114. Mr. MORAN (Spain) *(interpretation from Spanish):* In the Spanish text also there are considerable differences as compared to the English text. For instance the word "shall" is repeatedly translated by *"deberá"* in various paragraphs. As you, Mr. Chairman, and the members of the Committee know very well, the usual legal phraseology in Spanish always uses the future tense instead of introducing the word *"deber"*, which detracts from the strength and does not correspond exactly to the sense of the declaration.

115. The CHAIRMAN *(interpretation from Spanish):* The Secretariat has duly noted the observations that have been made and will also take account of any other observations concerning translations which may be made by other delegations.

The meeting rose at 12.50 p.m.

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