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PROVISIONAL VERBATIM RECORD OF THE SIXTY-FIRST MEETING

Held at Headquarters, New York,
on Monday, 20 November 1989, at 10 a.m.

<u>President:</u>	Mr. GARBA	(Nigeria)
later:	Mr. JAYA (Vice-President)	(Brunei Darussalam)
later:	Mr. GARBA (President)	(Nigeria)
later:	Mr. ABULHASAN (Vice-President)	(Kuwait)

Adoption of a convention on the rights of the child [108]

- (a) Report of the Third Committee
- (b) Report of the Fifth Committee

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 108

ADOPTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

(a) REPORT OF THE THIRD COMMITTEE (A/44/736)

(b) REPORT OF THE FIFTH COMMITTEE (A/44/743)

The PRESIDENT: I call upon the Rapporteur of the Third Committee, Mr. Wilfried Grolig of the Federal Republic of Germany, to introduce the report of the Third Committee.

Mr. GROLIG (Federal Republic of Germany), Rapporteur of the Third Committee: I have the honour to present the report of the Third Committee on agenda item 108, entitled "Adoption of a convention on the rights of the child", allocated to the Third Committee for consideration by the General Assembly.

I should like to draw attention to paragraph 12 of the report for a technical remark. In that paragraph Zimbabwe should be included among those countries on whose behalf the delegation of Zambia gave an explanation of vote.

The Third Committee recommends the adoption of the draft resolution in paragraph 13 of its report.

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

It was so decided.

The PRESIDENT: Statements will therefore be limited to explanations of vote.

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

- Adoption of the agenda and organization of work [8] (continued): sixth report of the General Committee

- Law of the Sea [30]
 - (a) Reports of the Secretary-General
 - (b) Draft resolution

(The President)

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

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

The Assembly will now take a decision on the draft resolution recommended by the Third Committee in paragraph 13 of its report (A/44/736). The report of the Fifth Committee on the programme budget implications of this draft resolution is contained in document A/44/743.

The Third Committee adopted the draft resolution without a vote. May I take it that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 44/25).

The PRESIDENT: Before calling on members to explain their position, may I remind delegations that in accordance with General Assembly decision 34/401 such explanations are limited to 10 minutes and should be made by delegations from their seats.

Mr. ABOUL HASSANI (Islamic Republic of Iran): Although my delegation attaches great importance to the convention on the rights of the child, I should like to place on record our reservation on any article that would contradict Islamic beliefs and values.

Mr. AL-MURHAINI (Oman) (interpretation from Arabic): In spite of the fact that my country endorsed the convention we have some reservations, which we shall announce later.

Mr. HAMADNEH (Jordan) (interpretation from Arabic): We are pleased at the adoption by consensus of the convention on the rights of the child, and we extend our thanks and appreciation to the Commission on Human Rights and to the working group for the efforts made over 10 years to prepare the draft convention.

We should like to place on record our interpretation of three of the articles of the convention.

First, our understanding of article 14, particularly where it deals with the right of the child to freedom of religion, is that it means that the child has the right to practise his religion, not to choose the religion or the belief. If the intention of the article is in contradiction with our understanding we would like our reservations to be placed on record.

(Mr. Hamadneh, Jordan)

Secondly, our understanding of the provisions of articles 20 and 21 is that they are not mandatory for countries that do not legalize the system of adoption tabanni. Therefore, my country, whose system legalizes only the system of bond - kafalah - in consonance with the Islamic sharia, does not feel obliged to act in conformity with the adoption provisions with regard to our children, whether inside or outside the country. If the intention of these two articles is in contradiction with this understanding, we should like to record our reservations.

Mr. DJOUDI (Algeria) (interpretation from French): My delegation is delighted at the adoption of the Convention on the Rights of the Child on this very symbolic day, which is the thirtieth anniversary of the Declaration of the Rights of the Child and the tenth anniversary of the International Year of the Child. However, my delegation wishes to make an interpretative statement about some of its provisions to explain why it went along with the consensus adoption of the Convention.

With regard to the fifth paragraph of the preamble, which refers to the concept of the family, we interpret this in the light of the definition of the family as established in our code on the family, article 2 of which provides as follows:

"The family is the basic cell of society and is composed of persons united by ties of marriage and kinship."

With regard to article 1 of the Convention, which relates to the age of a child, my delegation interprets this provision in accordance with paragraph 2 of article 40 of the Algerian civil code, which fixes the age of majority at 19 years.

We interpret paragraph 1 of article 14 in accordance with article 2 of the Algerian Constitution, which provides that Islam is the State religion, and

(Mr. Djoudi, Algeria)

article 35 of that text, which states that freedom of conscience and opinion are inviolable.

Regarding article 20, on the protection of a child temporarily or permanently deprived of his or her environment, my delegation interprets this provision in conformity with our national legislation, in particular article 62 of the family code, which states:

"Custody" - hadana - "consists in the care, schooling and education of the child in the religion of the father and the safeguarding of his or her physical and moral well-being, and the guardian must fulfil this responsibility."

As regards article 21, which deals with adoption, we have to state that Algeria is not bound by this provision, since article 46 of the Algerian family code states:

"Adoption" - tabanni - "is forbidden by the sharia and the law."

The protection and care of the child until majority is guaranteed within the framework of the application of the kafalah in Islamic law.

Mr. URIARTE (Chile) (interpretation from Spanish): Last week in the Third Committee we adopted by consensus the convention on the rights of the child, at which time the alternate Permanent Representative of my country made a long statement in explanation of vote and said that we would, of course, sign the convention. We requested that the explanation of vote be made part of the record.

The PRESIDENT: I call on the Secretary-General.

The SECRETARY-GENERAL: Today our Organization has taken a most important step towards the realization of our common purpose of promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. Thirty years after the adoption of the

(The Secretary-General)

Declaration of the Rights of the Child the United Nations has given the global community an international instrument of high quality that protects the dignity, equality and basic human rights of the world's children.

This achievement, of which we can be justly proud, rests on more than 10 years of hard effort by the Working Group of the Commission on Human Rights, by Governments and non-governmental organizations, and by specialized agencies and the United Nations Children's Fund (UNICEF). The drafting of the Convention was no easy task. In the years since the Declaration of the Rights of the Child was adopted many perceptions have changed and many concepts have evolved, and the Convention had to be shaped accordingly. The process of its drafting was a model of how our Organization can and should strive to achieve common goals.

Unproductive political confrontations were set aside while delegates from countries with different social and economic systems representing the various cultural, ethical and religious approaches to life worked together with non-governmental organizations in a spirit of harmony and mutual respect and with the best interests of the child as their paramount objective. I should like to pay a special tribute to the Government of Poland, which first proposed the drafting of the Convention, and to the Chairman of the Working Group, Professor Adam Lopatka.

The Convention the Assembly has just adopted constitutes an instrument of far-reaching significance, as visionary as it is timely. First, it addresses the needs of those who are humanity's more vulnerable, as well as its most cherished resource. It is axiomatic that they should be afforded special attention. Secondly, it calls for the development of children through access to information, education, play, leisure and cultural activities, and the right to freedom of thought, conscience and religion. And, thirdly, it seeks to ensure the entire spectrum of the rights of the child and the direct involvement of children in the

(The Secretary-General)

exercise of their rights, while recognizing the equal worth of the diverse cultural values of the human community.

One of the cardinal lessons of the Convention is that the child is not alone. The Convention recognizes the primary role of the family and parents in the care and protection of children, as well as the need for special protection of those who are without families or separated from them. But it also recognizes the role, when necessary, of the community and the State and the crucial contribution that international co-operation and international organizations can make in bringing about conditions in which each child can fully and harmoniously develop his or her personality. Above all, the Convention attempts to provide a framework within which the child, in the light of his or her evolving capacities, can make the difficult transition from infancy to adulthood. It also acknowledges that children are particularly vulnerable to certain kinds of exploitation. In a series of important articles it seeks to protect the child from attacks so prejudicial to his or her welfare as child labour, drug abuse, sexual exploitation and sale, trafficking, and abduction.

The need to furnish the world's children with a means of assuring their fundamental rights is felt with increasing urgency every day. At this meeting the Assembly has taken the first, seminal step. The adoption of the Convention places on the international community, and especially the United Nations, the heavy burden of helping States to implement the promise of the Convention. I wish today to call for States from all regions to ratify the Convention, so that support for the Convention itself and for the committee to be elected by States parties will reflect the wide economic, social and cultural diversity of our membership.

(The Secretary-General)

I wish to assure the Assembly of the Secretariat's full commitment to assisting in the implementation of the Convention to the maximum extent allowed by the resources available. I also wish to inform members that during the month of January 1990 there will be a ceremony at which States will be able to sign the text of the Convention.

I congratulate members and urge that we move on to make of the Convention's principles a living reality for each and every child on Earth. In so doing, we shall not only secure the rights of coming generations; we shall also strengthen the foundations of justice, peace and freedom in the world of the future.

The PRESIDENT: Thirty years ago today the General Assembly adopted the Declaration of the Rights of the Child, which in its preamble affirmed that "mankind owes to the child the best it has to give" (resolution 1386 (XIV)). The 10 principles laid down in that Declaration have served as guideposts and objectives for the work of our Organization since then in promoting and protecting the rights of children throughout the world.

Today, with the adoption of the Convention on the Rights of the Child, the Assembly has taken a new and decisive step along the road towards ensuring respect for the dignity and rights of the child; for the rights of the child have now gone from a declaratory statement of purpose into what will become a binding piece of international legislation.

The Convention is an important achievement by the United Nations and shows the positive and constructive results which international co-operation can yield. It protects a wide range of basic human rights, deals with situations of special concern to children, such as reunification with parents, adoption and foster care, and protects the child from such abuses as exploitation for child labour, sexual purposes and sale, trafficking and abduction and all other forms of exploitation prejudicial to the child's welfare.

(The President)

The Convention we have adopted here today is the result of 10 years of dedicated effort, and I wish to express my profound thanks to all who have contributed to this success - Government representatives, those of specialized agencies and the United Nations Children's Fund and the non-governmental organizations.

The task before us now is to give reality to the promises of the Convention by bringing it into force and applying it world-wide. In this way we can respond and give effect to the statement of the Declaration that mankind owes the child the best it has to give.

We have now concluded our consideration of agenda item 108.

AGENDA ITEM 8 (continued)

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK: SIXTH REPORT OF THE GENERAL COMMITTEE (A/44/250/Add.5)

The PRESIDENT: The sixth report of the General Committee concerns a request by the Secretary-General for the inclusion in the agenda of the current session of an additional sub-item entitled "Financing of the United Nations Observer Group in Central America".

The General Committee decided to recommend to the General Assembly that the sub-item be included in the agenda. May I take it that the General Assembly decides to include in its agenda the additional sub-item entitled "Financing of the United Nations Observer Group in Central America"?

It was so decided.

The PRESIDENT: The General Committee decided also to recommend to the Assembly that this item be allocated to the Fifth Committee. May I take it that the General Assembly decides to adopt this recommendation?

It was so decided.

The PRESIDENT: This report also concerns a request by the Secretary-General for the inclusion in the agenda of the current session under an additional sub-item entitled "Election of the United Nations High Commissioner for Refugees" and for the amendment of the title of agenda item 16 to read "Elections to fill vacancies in subsidiary organs and other elections".

The General Committee decided to recommend to the General Assembly that the sub-item be included in the agenda and that the title of agenda item 16 be amended accordingly. May I take it that the General Assembly decides to include in its agenda an additional sub-item entitled "Election of the United Nations High Commissioner for Refugees" and also to amend the title of agenda item 16 to read "Elections to fill vacancies in subsidiary organs and other elections"?

It was so decided.

The PRESIDENT: The General Committee also decided to recommend to the Assembly that this sub-item be considered directly in plenary meeting. May I take it that the General Assembly adopts that recommendation?

It was so decided.

AGENDA ITEM 30

LAW OF THE SEA

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

The PRESIDENT: If there is no objection, the list of speakers in the debate on this item will be closed today at 1 p.m.

It was so decided.

The PRESIDENT: I request those representatives wishing to participate in the debate to inscribe their names on the list as soon as possible.

I call on the representative of Cape Verde, who, in his capacity as Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, wishes to introduce the draft resolution in the course of his statement.

Mr. JESUS (Cape Verde), Chairman of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea: One of the most remarkable achievements of the international community in the field of codification and progressive development of international law is undoubtedly the new legal régime applicable to the oceans established in the 1982 United Nations Convention on the Law of the Sea. The negotiations that led to the adoption of the Convention remain a monument to co-operation and the willingness of States to settle their conflicting interests by peaceful means.

Complex as it is, the Convention strikes a balance of different interests of States in the use and exploitation of the oceans' resources. It is this equilibrium of different interests, reflected in the Convention as a whole, that explains the fact that many national legislations are being enacted or updated to take the Convention's provisions into account although it is not yet in force.

At a time when co-operation and peaceful relations among States seem to be a fundamental and an unavoidable driving force in modern-day international politics, to preserve the integrity of the Convention and to strengthen the prospect of its full and effective implementation are, in our view, the obligation of all nations really interested in shaping a modern world based on co-operation, fairness and peaceful sharing of the planet's resources.

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

As the number of ratifications of the Convention on the Law of the Sea increases, its entry into force, it seems, will be a reality in a matter of a few years from now.

Having in mind the enormous contribution of the Convention in establishing agreed rules of conduct for the peaceful use and orderly exploitation of the oceans' resources among States, it is incumbent upon all of us to take all necessary steps to ensure that, by the entry into force of the Convention, all States and the international community in general will lend their support to what has been considered one of the most important multilateral legal instruments ever negotiated.

In this regard, the work of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea is of paramount importance. The effectiveness of the Convention goes hand in hand with the work of the Preparatory Commission - so much so that, as we see it, a failure in the implementation of the Preparatory Commission's mandate would immensely jeopardize that effectiveness and would even give grounds for the proliferation of different and conflicting national interpretations of the provisions of the Convention.

The Third Conference on the Law of the Sea, in its resolution I, decided that all possible measures should be taken to ensure the entry into effective operation without undue delay of the Authority and the Tribunal and that all necessary arrangements be made for the commencement of their functions and also decided "that

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

a Preparatory Commission should be established for the fulfilment of these purposes*.

It is with this in mind that I, as Chairman of the Preparatory Commission, together with the Chairmen of the four Special Commissions, have taken steps to organise our work in the Preparatory Commission in such a way as to enable us to finish our mandate before the entry into force of the Convention, for I strongly believe that the successful and timely conclusion of our work in the Preparatory Commission would immensely strengthen the prospect for an early and universal adherence to the Law of the Sea Convention.*

* Mr. Jaya (Brunei Darussalam), Vice-President, took the Chair.

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

It is my firm conviction that within the time-frame available to us we can properly deal with and solve all issues before us. I say this because past experience in our work in the Preparatory Commission has shown that the pragmatic approach to the ongoing negotiations and the spirit of flexibility have made progress in our work possible.

In effect, not only have we made substantial progress in drafting rules, regulations and procedures that will enable the Sea-Bed Authority and the law of the sea Tribunal to start their functions upon the entry into force of the Convention, but also we have already taken important decisions that led to the registration of France, India, Japan and the Soviet Union as pioneer investors, and to the designation of reserved sites for the Enterprise - decisions that are to be seen as landmark achievements in the Preparatory Commission's continuous effort to implement its mandate.

The work of the Preparatory Commission thus augurs well for the future of the Convention. Admittedly, there are difficult issues at hand - difficult yes, but not impossible to deal with if in fact there is a genuine desire to solve them. As Chairman of the Commission, I can assure all members of the Assembly that I shall spare no effort to make sure that by the end of our mandate all issues are addressed and, in the language of resolution I, "all possible measures" are taken to ensure full, effective and universal implementation of the Convention on the Law of the Sea.

In the light of the expressed willingness of States to find solutions to our existing problems, I intend to do whatever it takes to help. I am fully confident that with the understanding and co-operation of all we shall find a way. I have no doubt that the success of our collective endeavour in this regard will, in the end,

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

have to rely on a convergence of co-ordinated efforts. Therefore, in the search of solutions to our difficulties, any action or step the nature of which tends to contradict those co-ordinated efforts should be avoided.

Let me seize this opportunity to thank all those who have extended their co-operation to me as I carry out my functions. My country and, surely, the whole of Africa, on whose behalf I hold the post of Chairman of the Preparatory Commission, appreciate that co-operation very much.

In connection with the item now under consideration, I should now like to introduce draft resolution A/44/L.42, on behalf of its original sponsors: Australia, Austria, Bahrain, Bangladesh, Cameroon, Canada, Cape Verde, Chile, China, Denmark, Fiji, Finland, the German Democratic Republic, Iceland, Ireland, Jamaica, Liberia, Malaysia, Mexico, Myanmar, Nepal, New Zealand, Norway, Oman, the Philippines, Portugal, Romania, Saint Lucia, Samoa, Sri Lanka, Sweden, Trinidad and Tobago, the United Republic of Tanzania, Uruguay and Vanuatu. The following countries have also become sponsors: the Byelorussian Soviet Socialist Republic, Guinea-Bissau, Indonesia, Mauritania, Pakistan, Singapore, the Ukrainian Soviet Socialist Republic, and Zambia.

In the preparation of this draft resolution, account has been taken of the text of past resolutions adopted by the Assembly on this item. I shall therefore sum up in order to save the Assembly's time.

In the preamble to the draft resolution, the Assembly would recall all the resolutions adopted on this item since the thirty-seventh session of the General Assembly; and would recognize that the problems of ocean space are closely interrelated and need to be considered as a whole.

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

The Assembly would also state - in the third preambular paragraph - that it is important to safeguard the unified character of the Convention and related resolutions and should apply them in a manner consistent with that character and with their object and purpose. Although maintaining the underlying idea in the equivalent paragraph of last year's resolution, this paragraph has been redrafted to reflect a positive approach in the language.

In the preamble, the Assembly would furthermore emphasize the need for States to ensure consistent application of the Convention as well as the need for harmonization of national legislation with the Convention; recall that the Convention provides the régime to be applied to the Area and its resources; welcome - in a new paragraph - the expressions of willingness to explore all possibilities of addressing issues, as referred to in the statements made at the end of the summer meeting of the Preparatory Commission, in order to secure universal participation in the Convention; recognize the need for co-operation in the early and effective implementation of resolution II; note with satisfaction the registration of the four pioneer investors as well as the designation of reserved areas for the Authority; and note the increasing needs of countries for information, advice and assistance in the implementation of the Convention.

In another new paragraph of the preamble, the Assembly would express concern, owing to the lack of resources, are as yet unable to take effective measures for the full realization of the benefits of the comprehensive legal régime established

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

in the Convention; and also in a new paragraph, would recognize the need to enhance and supplement the efforts of States and international organizations to enable developing countries to acquire technological capabilities.

Still in the preamble, the Assembly would recognize that the Convention encompasses all uses and resources of the sea; and - in a new paragraph - would take note of the Secretary-General's initiative in convening inter-agency consultations on ocean affairs and the law of the sea. It would express deep concern at the current state of the marine environment; and - again in a new paragraph - would point out the importance of the Convention for the protection of the marine environment.

In another new paragraph of the preamble, the Assembly would note with concern the use of fishing methods and practices which can have an adverse impact on the conservation and management of marine living resources.

I turn now to the operative part of the draft resolution.

In paragraph 1 the Assembly would recall the historic significance of the Convention. In paragraph 2 it would express satisfaction at the increasing and overwhelming support for the Convention.

In paragraph 3 - a new paragraph - the Assembly would invite all States to make renewed efforts to facilitate universal participation in the Convention. Under paragraph 4 the Assembly would call upon all States to consider ratifying or acceding to the Convention. Under paragraph 5 it would call upon all States to safeguard the unified character of the Convention and related resolutions and to apply them in a manner consistent with that character and with their object and

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

purpose. Here again, as is the case with the third preambular paragraph, the text is couched in a positive way.

In paragraph 6 the Assembly would call upon States to observe the provisions of the Convention when enacting legislation; and in paragraph 7 it would note the progress being made in the work of the Preparatory Commission.

Paragraph 8 has been redrafted. In it the Assembly would reiterate the conviction that the early, satisfactory and successful conclusion of the ongoing consultations on the implementation of the obligations of the pioneer investors would constitute an important contribution to the overall work of the Preparatory Commission.

In an updated version, paragraph 9 would have the Assembly express satisfaction at the Secretary-General's efforts to support the Convention and at the effective execution of the major programme on marine affairs. In paragraph 10 the Assembly would express appreciation for the report of the Secretary-General, and in paragraph 11 would call upon the Secretary-General to continue to assist States in the implementation of the Convention.

Paragraph 12 is new. In it the Assembly would request the competent international organizations to intensify financial, technological, organizational and managerial assistance to the developing countries. In paragraph 13 - also new - it would call on the Secretary-General to present a report identifying the needs of States and the measures currently taken in responding to those needs, and to suggest methods and mechanisms for maximizing opportunities for the realization, for all States during the decade 1990 to 2000, of the benefits of the Convention's régime.

(Mr. Jesus, Chairman,
Preparatory Commission for
the International Sea-Bed
Authority and for the
International Tribunal for
the Law of the Sea)

In paragraph 14 the Assembly would approve the Preparatory Commission's decision concerning its next meeting. In paragraph 15 which is a new paragraph, it would recognize that the implementation of applicable provisions of the Convention would enhance the protection of the marine environment. In paragraph 16 the Assembly would express its appreciation to the Secretary-General for his report on the marine environment and request him to make the report available to preparatory meetings for the proposed 1992 conference on environment and development. In paragraph 17 it would request the Secretary-General to prepare an updated report on the marine environment as a contribution to that conference. In paragraph 19 it would request the Secretary-General to prepare a study on marine scientific research. Paragraphs 20 and 21 are the usual technical paragraphs.

Finally, the present draft resolution does not include what was the seventh preambular paragraph of last year's resolution, on the understanding that the underlying idea is implicitly contained in the third preambular paragraph and operative paragraph 5 of the current draft resolution.

To conclude, I would like to state that this draft resolution is the end result of comprehensive consultations among interested delegations. It is a balanced text that takes into account the concerns of all States here represented. We went to great lengths to accommodate everybody's interests, including those of non-signatory States, to rally the support of all States to this draft resolution. I therefore commend it for consideration and approval by all delegations.

Mr. BORG OLIVIER (Malta): Malta participated actively in the 14-year process leading to the adoption, in 1982, of the United Nations Convention on the Law of the Sea. For the last seven years the Preparatory Commission has been carrying out intensive negotiations on the implementation of that Convention.

(Mr. Borg Olivier, Malta)

Malta's continuing active and constructive participation in many areas of the Preparatory Commission's work is proof of our unswerving commitment to the successful completion of a process which was launched on Malta's initiative as far back as 1968.

Much is being said of the changes which the world is witnessing. There is general recognition that the positive political developments in international relations should lead us to search for new avenues of co-operation conducive to a more relaxed environment, in which the benefits of the common heritage of mankind are exploited and preserved for peaceful purposes. In this respect, the United Nations Convention on the Law of the Sea presents a unique opportunity for all Member States to work together in a common endeavour.

Since the adoption of the law of the sea Convention, in 1982, much progress has been made in negotiations on its implementation. The Preparatory Commission has carried out important work in this regard. We must now make every effort to invigorate negotiations within the Preparatory Commission in order to advance and conclude the deliberations in the time-frame established.

The progress achieved on a number of long-standing issues is commendable. We note in particular the agreement reached on the proposal to establish a training programme for the Enterprise, which, as rightly noted, represented the first concrete preparatory measure taken by the signatories to the Convention "on behalf of and for the benefit of the future Enterprise of the Authority". We strongly believe that with the necessary political will the success achieved in Special Commission 2 could be repeated on the implementation of the obligations of the registered pioneer investors under resolution II and on the remaining crucial issues being considered in the other Special Commissions.

Malta also welcomes with satisfaction the encouraging statements on universal participation made by all groups at the last meeting of the Preparatory Commission.

(Mr. Borg Olivier, Malta)

This trend must be encouraged. We have achieved a common dream of writing a constitution for the oceans. We have declared areas of the sea-bed the common heritage of mankind. It must be recognized that without the participation of all key actors in the international community we shall not be able to reap the benefits of the principles embodied in the Convention.

So far I have touched on certain issues which are amply reflected in the report of the Secretary-General (A/44/650). I should like to express my delegation's appreciation of the comprehensive information provided on developments pertaining to the United Nations Convention on the Law of the Sea. We find the information given therein helpful in assessing the many activities being undertaken in various parts of the world and by the Office for Ocean Affairs and the Law of the Sea. Many of the sections referred to in the report, particularly those on the protection and preservation of the marine environment, on global climate and sea-level rise and on the Mediterranean, are of special interest to my country and we are pleased that this very useful information has been provided.

When addressing the General Assembly this September Malta's Prime Minister referred to two suggestions made here in 1987. The first concerned the establishment of a global forum on ocean affairs and the second concerned the systematic strengthening of regional institutions, linking initiatives at the national and the global levels. In pursuance of this latter suggestion, my delegation wishes to bring to the attention of the Assembly an important activity which has as its main objective the promotion of regional co-operation in the peaceful uses of the Mediterranean Sea, as mandated by General Assembly resolution 43/84, the putting into practice of articles 276 and 277 of the Convention on the Law of the Sea, and encouragement of new forms of scientific-industrial co-operation between developed and developing countries in the Mediterranean region.

(Mr. Borg Olivier, Malta)

In this connection, I wish to refer specifically to paragraph 174 of the Secretary-General's report, which relates to the meeting of experts on the establishment of a Mediterranean regional technology centre. That meeting was held from 18 to 21 April 1989 by the United Nations Industrial Development Organization (UNIDO) in Vienna. Ten experts from seven Mediterranean countries participated. In addition, the meeting was attended by an observer from Spain, an expert from Bulgaria, three international experts, and representatives from the Office for Ocean Affairs and the Law of the Sea, the United Nations Environment Programme (UNEP), the Food and Agriculture Organization of the United Nations (FAO) and United Nations Educational, Scientific and Cultural Organization (UNESCO)/Intergovernmental Oceanographic Commission (IOC), together with UNIDO.

There was consensus on the need for the establishment of a regional centre, which would fill a gap that has to be filled, considering the fundamental importance of research and development as the basis for technological innovation, which is the prime motor of economic growth and sustainable development. The meeting agreed on the centre's objectives, functions, activities, structure and modalities, and proposed that it should be established as a project under the auspices of UNIDO, in co-operation with UNEP and other international and national organizations, and with close links to the Mediterranean Action Plan. Malta has already pledged its support for the creation of such a Mediterranean centre and has offered to provide host facilities.

In our view, the proposal to set up a Mediterranean regional centre for research and development in marine industrial technology falls directly under the mandate of part XIV of the United Nations Convention on the Law of the Sea and is fully consistent with efforts by the Mediterranean States to strengthen security

(Mr. Borg Olivier, Malta)

and co-operation in the Mediterranean region in accordance with General Assembly resolution 43/84.

My delegation therefore urges the Office of Ocean Affairs and the Law of the Sea, as well as UNIDO, to continue to co-operate with interested Mediterranean States so that this initiative may be developed further, with tangible results.

I should like to touch briefly on another area which is the subject of the special report by the Secretary-General, namely, the protection and preservation of the marine environment. The report is well documented and highly informative.

(Mr. Borg Olivier, Malta)

In fact, it serves to put into perspective not only the efforts made or being made but also our responsibilities in protecting and preserving the marine environment. The areas identified in the report for possible further action offer a challenge which demands an international co-operative effort through which all countries at different levels of development could contribute towards the protection and preservation of the marine environment.

While the contribution of countries is essential, so also is that of international organizations. Their role is in many respects crucial. International organizations should develop links and should function efficiently and effectively to respond to the needs of developing countries which do not have either the technological know-how and equipment to prevent and combat marine pollution or the enforcement mechanisms to ensure adherence to existing legal instruments.

In this respect it is important that the initiatives which have been taken for regional co-operation should be supported and given their due recognition by all concerned. The law of the sea Convention dedicates one whole part covering 46 articles to the protection and preservation of the marine environment. Among the 11 sections which fall within this chapter, section 2 deals with global and regional co-operation. While global co-operation is important the role of regional co-operation in initiatives for protecting the marine environment cannot be underestimated.

As far back as 1976, with the encouragement and support of UNEP, States of the Mediterranean signed the Barcelona Convention - the legal instrument which put into operation the Mediterranean Action Plan, which had been formulated a year earlier.

(Mr. Borg Olivier, Malta)

The Barcelona Convention brought together for the first time Mediterranean developed and developing countries on a co-operative project for the organization of a system which would permanently monitor the health of the Mediterranean Sea, identify the main environmental problems and their causes, generate practical proposals for solving these problems and harmonize national legislation with the spirit and goals of the Convention. With the eventual adoption of three protocols on the prevention of pollution from dumping - from ships and aircraft, from oil and other harmful substances in cases of emergency, and from land-based sources - and a fourth protocol concerning Mediterranean specially protected areas, the Barcelona Convention was given its dynamism. As a result, this regional initiative in the Mediterranean, which grew into UNEP's Regional Seas Programme Activity Centre in Athens and which co-ordinates the work of the specialized centres of the action plan located in Malta, Sophia Antipolis, Split and Tunis, soon became a model for action plans in other regions. Ten similar regional initiatives have to date been launched in other parts of the globe.

At a recently held workshop by the Mediterranean Marine Pollution Emergency Response Centre for the Mediterranean Sea, based in Malta, which dealt with combating accidental pollution of the Mediterranean Sea, participants nominated by 13 Mediterranean coastal States and by the European Economic Community (EEC) as well as by representatives of the International Maritime Organization (IMO) and UNEP, agreed among other things to initiative activities necessary for the future establishment of a computerized marine pollution emergency decision support system which will be operated by the Centre for the benefit of Mediterranean coastal States. This agreement was endorsed by the Contracting Parties to the Barcelona Convention which met in Athens last September.

(Mr. Borg Olivier, Malta)

In support of these activities, we have established in Malta a Europe-Mediterranean Centre on Marine Contamination Hazards, which has already organized a number of international meetings and intensive courses in this field, including a European workshop on contamination hazards in the Mediterranean, an intensive training course on the application of toxicity tests in assessing marine contamination hazards in the Mediterranean and an intensive training course on remote sensing for marine and coastal hazards monitoring and disaster assessment in the Mediterranean.

The protection of the marine environment has also been given special attention by the participating States of the Conference on Security and Co-operation in Europe (CSCE). In their Vienna concluding document, the participating States agreed to develop and intensify national efforts as well as bilateral and multilateral co-operation in order

"to reduce significantly the pollution of seas and coastal areas, transboundary watercourses and international lakes from all sources of pollution".

Furthermore, the participating States agreed to devote special attention to the development of appropriate alternatives to sea disposal in order to decrease, progressively and substantially, the dumping of harmful wastes and the incineration of noxious liquid wastes at sea, with a view to the early termination of such methods.

It is appropriate here to highlight the fact that, in accordance with the mandate given in the CSCE Vienna document on questions relating to security and co-operation in the Mediterranean, efforts in the protection of the marine environment are to be intensified on a bilateral and multilateral basis with the

(Mr. Borg Olivier, Malta)

non-participating Mediterranean States. This subject will form part of the discussions envisaged for a CSCE meeting on the Mediterranean to be held in Palma de Mallorca in 1990.

Mention should also be made in this context of the far-reaching Langkawi Declaration on Environment adopted last month by the Commonwealth Heads of Government which, among other matters, devotes attention to the question of marine pollution, including the question of ocean dumping of toxic wastes.

I have touched upon a number of activities undertaken in the global and regional context relevant to the enhancement of co-operation in the protection of the marine environment.

My country has taken and continues to take an active role in these activities, and it is our intention to continue to support those initiatives which are seriously intended to protect our seas and oceans from degradation. Already a ratifying State to the Barcelona Convention and three of its Protocols, Malta will in the very near future deposit its instruments of accession to the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter. Furthermore, careful and active consideration is being given by Malta to becoming a party to the MARPOL 73/78 Convention and to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

It is recognized that further degradation of our marine environment could have serious and far-reaching implications for all. The excellent report by the Secretary-General provides us with an opportunity to follow up on the issues highlighted therein. Our marine environment should receive increased attention from the United Nations and its specialized agencies and programmes, and Member States should be encouraged and, where appropriate, assisted to combat marine pollution and preserve the health of our oceans.

(Mr. Borg Olivier, Malta)

We have a common responsibility to pursue this goal more vigorously in order to preserve and protect the common heritage of mankind.*

In conclusion, allow me to announce that my delegation would like to join the sponsors of draft resolution A/44/L.42.

Mr. URIARTE (Chile) (interpretation from Spanish): The general subject of the law of the sea is of special interest to my country. One needs only to look at a map to realize why; Chile is, after all, as a novelist once said, an "oceanic land". For that reason we have attributed great importance to the long process of developing and codifying the definitions, uses and practices of international maritime law in which the United Nations is now involved. The greatest achievement of that undertaking was the adoption of the Convention on the Law of the Sea, which is now at a decisive stage of ratification. As we hail this achievement we should also remember that that was not the end of it. The reports presented to us by the Secretary-General year after year for the past six years are clear proof of this.

These annual reports relate to the great work being done by the international community to translate into national legislation the various provisions of the many chapters of the Convention on the Law of the Sea and to deal with the new problems and uses of the oceans, thus demonstrating the dynamic approach taken by States with regard to these problems.

* The President returned to the Chair.

(Mr. Uriarte, Chile)

From the international point of view, an extraordinarily dynamic aspect of the Preparatory Commission's work is the progress made in respect of the international sea-bed régime and the organization of the international sea-bed authority. Today, the Commission is at the beginning of a process that could lead to universal acceptance of the Convention on the Law of the Sea.

There are few items that more clearly reflect the role the United Nations should play as an Organization than the one now before us. The law of the sea, because it involves so many subjects and because so many countries are directly concerned in it, has been and continues to be a fertile ground for the quest for lasting international agreements that could create a generally accepted universal maritime system complementing other, independent international legal instruments that are fully in force.

The annual debate in the General Assembly is of great importance and has much merit, since it serves not only to inform Governments about fulfilment of the tasks they have given the Secretariat, but also to evaluate the conceptual and legal framework within which these tasks were assigned and are being carried out. The Organization is unequalled as a forum for this kind of work. It is the only body where the technical expertise of the Secretariat can be combined, at the same level, with the political expertise of Governments.

May I now make a few comments on the report on the law of the sea that the Secretary-General has submitted to this session of the General Assembly.

As usual, the Secretariat has prepared a detailed and informative report on developments concerning this item both within the context of the Convention on the Law of the Sea and outside it.

(Mr. Uriarte, Chile)

We have an additional document (A/44/461 and Corr.1) before us this year devoted exclusively to the problem of the protection and preservation of the marine environment. We think this is an interesting contribution deserving of study and thought on the part of Member States.

Nevertheless, I must express my delegation's surprise at seeing included in the report a reference to the Preparatory Meeting of the fifteenth Antarctic Treaty Consultative Meeting. The Consultative Parties have already agreed to submit to the Secretary-General the final reports on such meetings, in accordance with our obligation to keep the Organization and its Member States informed of agreements reached within the Antarctic Treaty system. That should suffice. These random references in the report suggest that the Organization has the role of a guardian, as it were, in respect of the Antarctic Treaty system. My delegation feels that this is not acceptable, for the Treaty is in conformity with the purposes and principles of the Charter and is indeed the most extraordinary system of international co-operation existing in the world today.

We have studied the chapter of the Secretary-General's report (A/44/650) dealing with State practice and national policy in ocean matters. We take note that some 74 countries have claimed exclusive economic zones and have incorporated in their national legislation the provisions on this subject contained in the law-of-the-sea Convention. It might be of interest for the Office for Ocean Affairs and the Law of the Sea to consider including in its excellent publication programme a compilation of national legislation on the exclusive economic zone. I am not referring to general laws on that ocean space. Such work has already been done in that field. I am referring specifically to complementary legislation on uses allowed and rights conferred by the exclusive economic zone. Such a document

(Mr. Uriarte, Chile)

would help us determine how much uniformity there is in State practice in the interpretation and application of the specific provisions of the components of the exclusive economic zone.

In the chapter on the management and exploitation of fishing resources, two matters are of concern to us.

First, we are disturbed at the growing tonnage of fish caught during this decade. The figure is now approaching 100 million tons annually. This endangers the resources that should be left for future generations. It could also have a serious effect not only on the species themselves but also on their function within the ocean chain.

In this respect, Chile has adamantly opposed the use of drift-net fishing and is one of the sponsors of the relevant draft resolution submitted in the General Assembly's Second Committee at this session. Similarly, we are concerned over the problem of the species found in the exclusive economic zones and the adjacent high seas. In Chile's case, a fleet of processing vessels has for years been fishing these species indiscriminately within the 200-mile zone, without submitting to any plan for their protection or preservation. In the case of other countries, the situation is even more serious. They have agreements with fishermen from far-off areas granting them access to the resources within the exclusive zone. These fishermen are increasing their catches within those countries' 200-mile zone. The Convention on the Law of the Sea deals with this matter rather timidly. It might be desirable to explore the possibility of reaching conservation agreements on these species in regard to areas beyond the exclusive economic zone.

(Mr. Uriarte, Chile)

We have carefully considered the part of the report that deals with the activities of the Office for Ocean Affairs and the Law of the Sea. To our knowledge, it is the only Office that has a unified approach to ocean and marine affairs. The report presented to us by the Secretary-General is very detailed in this sphere; it covers all the Office's functions, which are important and should be highlighted. In this connection we should mention the work related to the Convention on the Law of the Sea. This work is being carried out by means of replies to requests for assistance and the preparation of studies by groups of experts on specific subjects. So far there have been two meetings on this matter - one on baselines, and the other on marine scientific research. We urge the Office to pursue the approach of using groups of experts. This not only contributes to the uniform application of the Convention but also promotes the exchange of practical experience, especially between experts from developing countries, and is of great benefit to that group of countries.

The services extended to the Preparatory Commission have been very important and have greatly facilitated its work.

It is also important that the Office continue and even broaden its publications programme, in regard to analytical studies, State practice and technical guidelines for the implementation of the Convention. All this documentation is very useful in the study of the marine policies of Member States. That is true also of the Law of the Sea Bulletin, and of the data base so carefully prepared by the Office.

(Mr. Uriarte, Chile)

The Government of Chile is very interested in developments regarding the system of acquiring oceanic data. There is a brief general reference to this in the report. Since 1972 there has been a gradual development in the formulation of provisions to govern such instruments. But this process was interrupted while we awaited the adoption of the law-of-the-sea Convention. We shall be greatly interested in the results obtained at the forthcoming meeting of the Inter-secretariat Committee on Scientific Programmes relating to Oceanographic (ICSPRO) in so far as they concern the possibility of starting negotiations on the preparation of an international instrument to govern this activity. One of the problems caused by drift buoys is that of jurisdiction. That is why we urge participation by the Office in the preparation of the relevant technical reports based on information from the specialized agencies.

(Mr. Uriarte, Chile)

My delegation is particularly grateful to the Office for its support and for organizing the forthcoming meeting on sea-use planning and the fixing of coastal zones for the Latin American and Caribbean States, a meeting organized jointly by the Office and the Economic Commission for Latin America and the Caribbean (ECLAC). The advice and substantive assistance given to States by the Office of the Special Representatives of the Secretary-General for the Law of the Sea are most valuable and welcome. We particularly appreciate the fact that this assistance has been given to developing countries in Asia and Africa as well as in the Latin American and Caribbean region. This meeting of experts, which will be held in Santiago between 28 November and 1 December of this year, is an excellent example of the kind of regional co-operation that is stressed in the Convention. Such co-operation can, of course, lead to better understanding and wider acceptance and more effective implementation of the Convention.

The work of the Office, in particular its programme of advice and assistance in the area of marine matters and the law of the sea, are of direct relevance to countries, especially developing countries. The assistance given by the Office in the form of studies, guidelines with respect to the implementation of complex technical aspects of the Convention, and, above all, information on the activities and actions of other States directly benefits States as they endeavour to put the Convention into practice.

It need hardly be said that the assistance needed by States will increase as the number of ratifications grows and as the time for entry into force approaches. Therefore, Chile believes that the United Nations must continue and, indeed, expand its activities in the area of marine matters and the law of the sea, especially in connection with developing countries. This need is recognized in the draft resolution before the Assembly, of which Chile is a sponsor. We hope that these activities will constitute an important part of the future medium-term plan.

(Mr. Uriarte, Chile)

I cannot conclude this part of my statement without saying that it is a great honour for Chile that this year the Amerasinghe Fellowship has been awarded, as mentioned in the report, to a most competent citizen of my country, who performs certain functions in one of the units our Ministry of Foreign Affairs. This is for us a source of special pride and we are confident that Miss Maria Luisa Carvallo will justify the honour accorded to her.

We attribute great importance to the work being done by the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea, which carried out valuable work at its seventh session, which took place in August of this year.

There were two significant developments. First, agreement was reached, after arduous negotiations during various sessions of the Commission, on the programme for training staff for the Enterprise. As the report brings out very clearly, many delegations, including the delegation of Chile, believe that this agreement is the first concrete measure for the benefit of the future international Enterprise adopted by the signatories to the Convention. This shows that it is possible to achieve a broad and satisfactory consensus within the Commission. It can serve as an example for Special Commission 3, where there is still no sign of a solution to the problems connected with the mining code, the debate on which is proving similar to the debate on this matter at the Third United Nations Conference on the Law of the Sea.

The second most important development, in our opinion, was the statement by the representative of Zambia, in his capacity as Chairman of the Group of 77. He reiterated, inter alia, the willingness of the developing countries to engage in open dialogue in the Preparatory Commission with signatory and non-signatory

(Mr. Uriarte, Chile)

countries to explore the possibilities of obtaining universal acceptance of the Convention on the Law of the Sea. This is undeniable proof of the flexibility of the Group of 77, flexibility that has been clearly manifested on other matters in the Preparatory Commission, in particular in connection with resolution II. We feel that this offer deserves serious consideration. This flexibility is proof of unconditional good faith and denotes a positive attitude to useful negotiations, as the Chairman said himself of the Group of 77. Consideration of the various substantive aspects of this dialogue, followed by negotiations, could lead to a process that in turn could lead to co-operation in these areas. We must move away from the confrontations that all too often have characterized debates in the Preparatory Commission.

There is also now an unequalled opportunity to arrive at agreement on general acceptance of the Convention on the Law of the Sea - which is at present not the case - and not only transfer the document into lex lata but have a single régime, namely, the common heritage of mankind, applicable to the sea-bed beyond national jurisdiction, for the benefit of the international community as a whole.

Furthermore, this exercise is in consonance with the positive development of the North-South dialogue, whose oceanic expression, as it were, has been the negotiations concerning the sea-bed and the ocean floor, for the purpose of co-operation and the solution of problems, without diluting or impairing the particular characteristics of the negotiating parties. We believe this to be a very positive development that may help to cut the Gordian knot in the negotiations on the mining code in the Preparatory Commission. It is clear that matters must proceed by stages.

The Secretary-General's report shows clearly the dynamism that exists in connection with oceanic matters and the law of the sea at the national, regional and world levels. This is a positive development, although of course there are

(Mr. Uriarte, Chile)

problems, and the United Nations, the Secretariat, through the Office for Ocean Affairs and the Law of the Sea, and States Members, have a very important role to play.

My country, an ocean land, as has been said, continues to be keenly interested in these matters and will continue to make its contribution as a developing country and an essentially maritime land.

Mr. PICKERING (United States of America): The United States views the 1982 United Nations Convention on the Law of the Sea as a major accomplishment in the development of the international law of the oceans. The Convention has many positive aspects and the United States has actively supported and promoted observance of the vast majority of its provisions.

Unfortunately, the Convention also contains provisions on deep-sea-bed mining that are fundamentally unacceptable to the United States. Our concerns were clearly stated in 1982, when we announced our decision not to sign the Convention. We have followed closely developments regarding sea-bed mining since 1982 and we are aware that there has been an evolution in the thinking of some of the other Governments. We are encouraged by the recognition by many States that a re-evaluation of the sea-bed régime is necessary and we have noted with interest the recent statement of the Chairman of the Group of 77 expressing readiness for a dialogue and the Group's support for efficiency and cost-effectiveness in the sea-bed régime. The draft resolution removes thinly veiled criticisms of the United States contained in earlier resolutions. It welcomes the willingness of States to explore all possibilities of addressing outstanding issues and invites States to renew efforts to facilitate universal participation in the Convention.

We view these changes as positive developments. They suggest that there is a growing awareness of the need to address the concerns of the United States and other industrial States involved in deep-sea-bed mining.

The United States shares the desire for a universally acceptable convention. We are concerned that, notwithstanding what appears to be a genuine desire for dialogue, many countries do not understand that from the United States perspective the sea-bed régime remains seriously flawed. We do not believe that a dialogue can succeed unless it is based on an understanding of this point. We therefore believe

(Mr. Pickering, United States)

it would be premature now to consider negotiations. We believe that fundamental reform is a task that exceeds the capabilities of the Preparatory Commission and for this reason we do not participate in the Commission. Nevertheless, we continue to be willing to exchange views with any State in the interests of determining whether circumstances exist for a dialogue that will lead to a universally acceptable convention.

Notwithstanding the improvement in the draft resolution, the United States continues to object to certain aspects of it. In particular we cannot join in the call for all States to consider early ratification of or accession to the Convention to allow entry into force of the sea-bed régime, when we have objections to that régime. In addition we continue to object to the funding of the Preparatory Commission from the general budget of the United Nations. We believe it should be funded by those States participating in it.

For these reasons, regrettably, we must oppose the draft resolution.

Having expressed our concerns regarding the sea-bed régime, I should like now to express my Government's support for the emphasis placed on efforts to encourage States to bring their national laws into conformity with international law, as reflected in the provisions of the Convention concerning traditional uses of the oceans. My Government has been active in supporting and promoting compliance with these provisions and discouraging claims that are inconsistent with international law. In particular we welcome the action by many States to revise their laws and regulations to ensure conformity with international law and encourage others to do likewise.

I should like to take this opportunity to point out that the United States does not view the call upon all States to safeguard the unity of the Convention as a limitation on either the right or the duty of all States to act in accordance with those portions of the Convention which reflect customary international law.

(Mr. Pickering, United States)

My delegation would like to join in the expressions of appreciation of the Secretary-General's initiative in convening inter-agency consultations on international and regional developments in ocean affairs and the law of the sea and supports the request for the Secretary-General to prepare a study on marine scientific research. We share the concern expressed for the protection of the marine environment and support the draft resolution's emphasis on the central role of scientific research as a basis for environmental decision-making, as well as its recognition of the importance of enhancing the marine scientific capabilities of developing countries.

We are also pleased that the draft resolution emphasizes the role of the specialized United Nations organizations and the importance of co-operation and co-ordination among them.

Mr. GOERNER (German Democratic Republic): I consider today's debate as, in a way, a follow-up of the discussion on the agenda item "Decade of international law" in the plenary meeting on 17 November.

The strengthening of the rule of law in international relations requires not only the elaboration of new legal instruments but also reconsideration of already existing conventions of a global nature which a considerable number of States have not acceded to, for various reasons, and which therefore have not yet become universally acceptable.

The most important of those legal instruments is, in our opinion, the United Nations Convention on the Law of the Sea. There is no need for me to dwell on the historic importance of that Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world. Yet we are all aware of the fact that quite a few States have not found themselves in a position to become parties to the Convention, since some of the provisions of

(Mr. Goerner, German Democratic Republic)

part XI - the deep-sea-bed mining part of the Convention - formulated, as they were, a decade ago, are no longer on a par with the changing world economic conditions and thus stand in the way of economically sound sea-bed mining. A dialogue is therefore required on those five or six provisions on which parties are in disagreement, so that these obstacles to a universal participation in the Convention may be overcome. That discussion should be conducted now, before the entry into force of the Convention, for it is easier to find practical solutions now than it would be afterwards when its institutional and other arrangements became effective.

Another important reason for pleading for early negotiations on these problems is to be seen in what the Secretary-General has rightly pointed out in paragraph 2 of his report on the law of the sea (A/44/650), namely, that in the light of the significant change in the international political climate, in which confrontation has given way to co-operation in many areas of conflict and competition, it should be possible for all States to make a renewed effort to ensure universal participation in the Convention.

(Mr. Goerner, German Democratic Republic)

Such new political climate was even perceptible during the recent session of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea. At the end of that session, all groups of States declared their preparedness to explore all possibilities of addressing those issues preventing States from ratifying or acceding to the Convention.

My delegation would like particularly to commend the Group of 77 for having taken the initiative in the pursuit of the necessary dialogue on the issue. My delegation wishes to call upon those States, which so far have not participated in the work of the Preparatory Commission, to play an active part in this dialogue so that agreements can be reached that make it possible also for them to become Parties to the Convention. The negotiations in the Preparatory Commission that led to the registration of the first group of pioneer investors have shown that States are able to find pragmatic and flexible solutions to difficult problems as regards the legal régime for deep sea-bed mining. It is now imperative for all States to display the requisite political willingness actively to contribute towards resolving the existing disagreement in respect of a few specific provisions of part XI of the Convention. These provisions have not yet been the subject of debate within the framework of the Preparatory Commission.

I should like to take this opportunity to express our thanks to the Secretary-General for the preparation of the report on the law of the sea (A/44/650) and the report entitled "Protection and preservation of the marine environment" (A/44/461). These reports provide us with a wealth of useful information. The material is up-to-date and the presentation is concise and authoritative on developments relating to the law of the sea.

(Mr. Goerner, German Democratic Republic)

The reports also set out the activities of the Office for Ocean Affairs and the Law of the Sea. With its various publications, the Office continues to provide valuable assistance to Member States. Let me mention here as an example the law of the sea bibliographies which have continued to keep us up-to-date on recent publications in the field of the law of the sea and marine affairs. Also, the Law of the Sea Bulletin is a most useful tool, and we look forward with anticipation to the presentation of future volumes. The Office also continues to provide valuable assistance in servicing the Preparatory Commission. The Special Representative of the Secretary-General for the Law of the Sea, Mr. Satya Nandan, and his team have provided extremely useful reports, studies, draft texts and working papers of a very high standard.

My delegation also wishes to express its appreciation to the Office for Ocean Affairs and the Law of the Sea for the important contribution it makes to marine-related activities that take place regionally and globally, under the auspices of the United Nations agencies and bodies, and other conferences and meetings. We deem it necessary for the Office continue to make its effective contribution to creating favourable conditions for universal participation in the Convention. We also think that the Office should prepare itself properly for the Convention's entry into force. We believe that with the Convention entering into force, the States Parties will doubtless need more support in the implementation of the Convention.

The practice of a number of coastal States in protecting their national interests in relation to the management of adjacent maritime areas - I am referring to the territorial seas and the exclusive economic zones - shows that it often goes beyond what is permitted by the Law of the Sea Convention. In his report, the Secretary-General pointed out that the balance reached in the Convention between the rights and duties of States in the different uses of the sea must not be

(Mr. Goerner, German Democratic Republic)

jeopardized even if new challenges should arise for States, such as the necessity of increased protection of the marine environment, the interdiction of the transboundary movement of hazardous wastes or drug trafficking by sea vessels.

There is indeed a danger of this balance being eroded by increasingly divergent State practice. It is therefore imperative to apply in a uniform and consistent manner the comprehensive legal régime set out in the Convention.

This can only be achieved if generally acceptable, practical solutions to the few controversial issues pertaining to the sea-bed mining part of the Convention can be found as early as possible so that all States will be enabled to become parties to the Convention. Universal participation in the Convention on the Law of the Sea and strict compliance by all States would be the most effective contribution towards strengthening the rule of law on the seas and oceans and, thus, towards attaining the goals proclaimed for the Decade of International Law.

The present draft resolution, which is co-sponsored by the German Democratic Republic, focuses on the concrete steps necessary for that purpose. I therefore wish to voice the hope that it will meet with the full approval of the General Assembly.

Mr. ABDELLAH (Tunisia) (interpretation from French): In speaking on agenda item 30, the Tunisian delegation wishes to express the great importance it attaches to the law of the sea and its development under the aegis of the United Nations and within the context of the United Nations Convention on the Law of the Sea.

Tunisia ratified the Convention as early as 1985, and accordingly introduced relevant provisions into its domestic law. In all areas covered by the Convention, my country, when and where necessary, made legislative changes to align our

(Mr. Abdellah, Tunisia)

domestic law with the text of the Convention. This shows our commitment to that instrument and to its unity.

We have been following closely the work of the Preparatory Commission and we believe that progress has been made in several areas within its purview, for example, the finalization of the document on training during the summer 1989 session, which we welcome with interest and believe to be a positive sign of the ability of the Preparatory Commission to discharge its mandate successfully. Other questions remain outstanding. We believe that the question concerning the obligations of the pioneer investors is one of the most critical. It must be resolved in a satisfactory manner, in keeping with the provisions of the Convention, particularly resolution II and the relevant documents. Accordingly, each partner has to shoulder its responsibilities and do its part under the contract.

(Mr. Abdellah, Tunisia)

Some have said that they see signs of some development in the work of the Preparatory Commission and in attitudes outside the Commission - certain new approaches to problems; in other words, a wind of change in regard to the law of the sea, an indication that there may be new initiatives that command universal support.

The Group of 77, to which my country has the honour of belonging, at the last session of the Preparatory Commission once again demonstrated its willingness to negotiate with all groups on all questions giving rise to problems, in order to reach solutions that are acceptable to all and that respect the positions of all members of the international community. Thus we expressed our willingness to discuss with any State or group of States questions that might obstruct the universality of the Convention.

These discussions, these exchanges of view, will take place within the framework of the Convention and in compliance with its provisions. They will take place with the prospect of preparing a document whose unified nature can never be challenged for any reason.

The draft resolution before us today is the outcome of intensive negotiations and a laboriously reached compromise; it cannot give entire satisfaction to everyone. However, it takes up the signal that the Group of 77 intended to send to all interested parties in the statement made at the end of the summer session of the Preparatory Commission. The point of that signal was clearly to state once again our desire to make sure that the Convention would command as much support as possible. That is a goal we have been seeking for so long. We are calmly awaiting a signal in response, which we hope will be, like the one sent by the Group of 77, respectful of the Convention and within the context of its relevant provisions.

For those reasons we shall support the draft resolution.

Mr. RANASINGHE (Sri Lanka): Sri Lanka takes much pleasure in co-sponsoring draft resolution A/44/L.42, on the law of the sea. As members know, when the Foreign Minister of Sri Lanka, the Honourable Ranjan Wijeratne, addressed the General Assembly on 2 October 1989, he informed the Assembly of an initiative that Sri Lanka would take at the current session with the objective of launching an endeavour at the global level for the early realization of the benefits of the legal regime for the oceans.

The new ocean régime contained in the United Nations Convention on the Law of the Sea offers rich promise for all countries, especially the developing countries, which are increasingly looking to the resources of the oceans in their efforts to eradicate malnutrition, alleviate poverty and raise the living standards of the poorest of their poor. Unfortunately, many developing countries have been as yet unable to reap the régime's full potential in ocean resources development, because of insufficient awareness as well as the lack of national capabilities in the ocean sector. This vacuum must be filled, and it must be filled soon.

The Sri Lankan initiative is directed at, first, identifying the needs of States in regard to ocean resource development and management; secondly, examining the measures currently taken by States and by competent international organizations in response to these needs; and, thirdly, utilizing the resources of the United Nations and its specialized agencies in assisting all States to maximize opportunities for the early realization of the benefits of the new ocean régime during the decade 1990 to 2000.

My delegation is confident that the full support and co-operation that this initiative has received, from developed and developing countries alike, augurs well for the strengthening of global efforts to galvanize the human, financial and technical resources necessary for the early realization of the vast potential and enormous promise of the ocean's resources.

(Mr. Ranasinghe, Sri Lanka)

It will give a signal to specialized agencies and international organizations concerned with marine affairs that, nearly eight years after the Convention was signed, it is time to step up activities to help all States to derive the maximum benefits from this global achievement for all States of the world. It will provide a basis for specialized agencies and other international organizations in this field to allocate adequate funds - additional funds if necessary - within the framework of their own autonomous Constitutions, towards the urgent promotion of ocean resource management and development. It will forge bonds of mutual understanding and accommodation among developed and developing countries in the orderly development and management of ocean resources. It will reflect, particularly at this point in time, the warmth, trust and friendship - the "new wind" which has been referred to with much promise and enthusiasm during the negotiations on this draft resolution - which have emerged as particularly propitious features of current international relations, moving away from conflict and confrontation to consultation, compromise and consensus. My delegation hopes that one of the consequences of this new international environment will be the early coming into effect of the United Nations Convention on the Law of the Sea and its universal acceptance.

For those reasons my delegation feels particularly hopeful that the draft resolution on the law of the sea now before the Assembly will help advance current international co-operation in the field of marine affairs and promote the active participation of all States, rich and poor, powerful and weak, in the orderly and mutually beneficial development and management of ocean resources.

(Mr. Ranasinghe, Sri Lanka)

My delegation has this year, as in previous years, received the report of the Secretary-General on the law of the sea. Again we express our appreciation to the Special Representative for the excellent report. The report comprehensively covers, in a succinct form, a vast array of developments in the field of the law of the sea. The report is of special interest to my delegation, and we consider the information to be extremely important in keeping abreast of the activities of States and intergovernmental bodies in ocean affairs.

(Mr. Ranasinghe, Sri Lanka)

We also note with great satisfaction the work that has been effectively carried out by the Office in supporting, advising and assisting the efforts of Governments and of regional and global co-operative ventures in ocean affairs. In particular, my delegation wishes to express its thanks to the Office for the co-operation and assistance it has provided to the initiative taken originally by Sri Lanka, which has now developed into the Indian Ocean Marine Affairs Conference on Economic, Scientific and Technical Co-operation in Marine Affairs in the Indian Ocean in the context of the new ocean régime (IOMAC). The second IOMAC Conference is scheduled to take place in 1990 in Tanzania. While much preparatory work has already been completed, more has yet to be done in preparation for the second Conference. The Office for Ocean Affairs has continued to lend advice and assistance to these co-operative efforts, for the benefit of a large number of Asian and African countries of the Indian Ocean region.

To developing countries such as mine, the immediate priorities are to secure the benefits that accrue to them in terms of the extended areas of national jurisdiction and sovereignty under the adjacent ocean space. We thus recognize the work of the Office in areas dealing with the traditional uses of the seas. We have greatly benefited from the series of publications presented by the Office for Ocean Affairs and the Law of the Sea, which analyse provisions of the Convention, facilitate its interpretation and implementation, and review the activities of States as developments relating to the Convention. I refer in this context to the series of law of the sea studies, comprising analytical studies and studies of State practice. I also refer to the Law of the Sea Bulletin that is periodically issued. The recent study on baselines constitutes a useful guide to the implications of the very technical provisions of the Convention, and the Annual Review of Ocean Affairs contains a wealth of information in documentary form.

(Mr. Ranasinghe, Sri Lanka)

My delegation makes special reference to the need for the Office to plan for the future, and particularly for the decade 1990-2000, when the Convention is likely to enter into force, and when the needs of developing countries will be greater than they are today. We also look forward in anticipation to the results to be achieved by the constructive approach taken in the draft resolution. We shall welcome the efforts of all Member States, whether developed or developing, to bring about a universally acceptable Convention that is applied globally. The United Nations has a significant role to play in achieving these ends.

Hence I reiterate that my delegation, as a co-sponsor of the draft resolution, will vote in favour.

Mr. STEPANOV (Ukrainian Soviet Socialist Republic) (interpretation from Russian): This year we are discussing the item on the law of the sea at a time when promising changes are taking place in international relations, gaining ground and becoming more truly tangible. As is noted in the report of the Secretary-General on this agenda item:

"There has been a significant change in the international political climate. Confrontation has given way to co-operation in many areas of conflicts and competition. The international community must direct its attention to those areas where this new spirit has not yet manifested itself." (A/44/650, para. 2)

The delegation of the Ukrainian Soviet Socialist Republic supports this appeal. It is time for a productive dialogue to make the United Nations Convention on the Law of the Sea a truly universal instrument of international law. This idea was the leitmotiv of interventions made by the representatives of all groups of States at the final meeting of the summer session of the Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law

(Mr. Stepanov, Ukrainian SSR)

of the Sea. That idea is also expressed in preambular paragraph 7 of the draft resolution on this item.

The Convention on the Law of the Sea contains enormous potential for the maintenance of the rule of law in the world's oceans, for the development of international co-operation for the benefit of all peoples of the world and for security on a global scale.

However, this potential can be fulfilled only if the Convention becomes a universal treaty binding on all States, and this can be attained only if the effectiveness of the Convention is based on political agreements reflecting modern realities and the balance of interests of various groups of States.

The changes that have occurred since the signing of the Convention in 1982 require that some of its provisions be adapted to the different conditions of the day. Hence the need to work out a new legal mechanism, which in the future would align economic and financial provisions of the Convention with the development trends in the world economy and the commodities market.

The present situation in which the Convention cannot become a universal instrument is fraught with a real danger: that it may lend itself to imprecise interpretations and applications. Different interpretations of its provisions could damage the development of co-operation among States in the exploitation of the resources and spaces of the world's oceans.

Accordingly, the Ukrainian is prepared to support any positive step to overcome the current difficulties towards universality for the Convention by means of a constructive dialogue between all interested parties both within and outside the Preparatory Commission. We welcome the efforts made by the Secretary-General in trying to find a solution to this problem.

(Mr. Stepanov, Ukrainian SSR)

At the current session of the General Assembly, apart from the basic report of the Secretary-General on the law of the sea, for the first time a report has been submitted on the protection and preservation of the marine environment (A/44/461).

This document contains, in a systematized form, information on the present status of the world's oceans. It also suggests concrete, real areas for further action to be taken by the international community. This document could be useful in the preparations for the Conference on Environment and Development planned for 1992. It should be noted that the Convention on the Law of the Sea contains the basis for a number of new concepts and principles that could facilitate a more effective consideration of global ecological problems as a whole.

(Mr. Stepanov, Ukrainian SSR)

We have every reason to expect that a concrete contribution to developing this legal potential of the Convention will be made by the Preparatory Commission. I have in mind the consideration next year in Special Commission 3 of the draft articles on the prevention of pollution of the marine environment by mining for polymetallic nodules. This work has not yet started but it is expected to be of major importance. A code governing the exploration of deep-sea resources should contain clear legal norms that would provide reliable protection for the integrity of the marine environment and its living resources during the carrying out of these activities.

My country views the Convention on the Law of the Sea not only as a charter of the seas but as a unique programme for international co-operation in regard to the marine environment at various levels - bilateral, regional and multilateral, and through international organizations.

A number of the provisions of the Convention can be implemented only through inter-State co-operation in one form or another. In this respect we support the programme for inter-organizational and other forms of co-operation contained in the medium-term plan of the Office for Ocean Affairs and the Law of the Sea, headed by Under-Secretary-General Nandan.

The Ukrainian Soviet Socialist Republic can also make a contribution to the implementation of the programme of co-operation in regard to the seas. Our schools have the capacity to educate people about virtually all aspects of the science of the world's oceans and the development of their resources. Apart from this, Ukrainian academic establishments have experience in organizing and building marine research centres in coastal States. We are prepared to consider any requests to provide these kinds of services, both through the United Nations and on a regional or bilateral basis, and also by concluding agreements for joint ventures.

(Mr. Stepanov, Ukrainian SSR)

Today it cannot yet be said that the Preparatory Commission has achieved a compromise making possible implementation of the provisions of the resolution on the pioneer activities relating to polymetallic nodules. We believe that the reason for this is not a lack of political will by the parties to the negotiations, but the complex welter of problems that require patience to sort out.

The draft resolution on this item was agreed during lengthy, complicated consultations. The delegation of the Ukrainian SSR wishes to take note of two important, positive factors. First, this draft is much broader than previous resolutions. Along with the traditional provisions on exploitation of deep sea resources and the activities of the Preparatory Commission, it contains a larger number of provisions than before on protection and preservation of the marine environment and its living resources and on machinery for co-operation in regard to the marine environment. Concrete provisions have been included that provide guidance to the international community on how to solve practical problems connected with the Convention's entry into force. Secondly - and this is the most important point - the draft resolution contains a provision on the need to embark on a dialogue to obtain universal participation in the Convention.

Like other delegations, we express the hope that the message sent by this draft resolution will be heard and that dialogue between all interested parties will get under way.

Mr. TUERK (Austria): The Austrian delegation is pleased to be able to make a modest contribution to the debate on the highly important question of the law of the sea. Let me first of all express my profound gratitude to the Office for Ocean Affairs and the Law of the Sea and in particular to the Special Representative of the Secretary-General for the Law of the Sea, Under-Secretary-General Satya Nandan, for the preparation of the reports now before

(Mr. Tuerk, Austria)

us in documents A/44/650 and A/44/461, relating respectively to the law of the sea and the protection and preservation of the marine environment. These reports are commendable for, on the one hand, their thoroughness and precision and, on the other, the succinct presentations they contain. They constitute a highly valuable contribution to the continuing discussion of the questions concerned, in general, and to the present deliberations in the Assembly, in particular. For Austria, as certainly for other land-locked countries not extensively involved in uses of the seas, these comprehensive documents, giving a detailed overview of all present maritime activities, are also an important source of information.

The oceans, covering approximately 70 per cent of the surface of the earth, have always played a significant role in mankind's development, particularly as a vast area of communication but also for satisfying the nutritional needs of coastal populations. Since the beginning of this century the necessity of exploiting the marine resources, whether living or non-living, has intensified in order to keep pace with the increasing needs of a steadily growing world population. At the same time, the possible uses of marine spaces and resources for the benefit of mankind have been greatly extended by technological progress.

These developments have resulted in an increasing tendency on the part of coastal States to assert sovereign rights over resources in maritime zones far beyond their coasts. The growing awareness by States that all the members of the international community, regardless of their stage of development or their geographical location, should be able to benefit from the exploitation of ocean resources led eventually to the preparation, under the auspices of the United Nations, of a comprehensive international legal instrument: the 1982 United Nations Convention on the Law of the Sea. It took the international community 15 years to establish this new international maritime order, an all-encompassing

(Mr. Tuerk, Austria)

régime designed to govern all maritime uses and to take into account the close interrelationship of all maritime phenomena as well as the interconnection of land and sea.

However, during the long and difficult negotiations at the third United Nations Conference on the Law of the Sea it turned out that it was impossible to satisfy entirely the often-conflicting desires of all the members of the international community. In particular, the land-locked and geographically disadvantaged States had to reduce their expectations about the benefits they might derive from the Convention, as they could not offer anything in exchange at the negotiating table except their agreement to a new legal régime for the oceans.

Thus, it was possible for all, or nearly all, States to accept the solutions which the Conference finally worked out, regardless of whether those solutions were always the best ones. The compensation for the latter situation was the enormous advantage constituted by the dispelling of possible doubts as to the legal norms to be applied to the oceans. A major contribution to the removal of legal instability in this area was thereby made.*

* Mr. Abulhasan (Kuwait), Vice-President, took the Chair.

(Mr. Tuerk, Austria)

The 1982 United Nations Convention on the Law of the Sea is based on two main concepts.

The first is the submission of vast ocean areas to the national régimes of the coastal States, enabling these States to benefit from the resources therein in an undisputed manner. This extension of coastal States' rights is, however, balanced by duties regarding the exploitation of those resources. Coastal States are thus obliged to maintain the optimum sustainable yield and to prevent overfishing. Furthermore, coastal and port States have assumed important responsibilities as to the protection of the marine environment and they are obliged to grant access to the international scientific community in their respective maritime zones. Secondly, the Convention is based on the concept of internationalising that part of the sea-bed that is beyond national jurisdiction by declaring it and its resources the common heritage of mankind. Rights of exploration and exploitation of these resources are balanced by corresponding duties to carry out such activities in a manner beneficial to humankind as a whole.

Seven years have passed since the adoption of the United Nations Convention on the Law of the Sea, a monumental work of codification and progressive development of international law unique in our time. During those years the Convention has already proved its enormous value. The fact that its rules have to a certain extent become customary international law is evidence of this. In particular, I wish to mention the very widespread acceptance by States of the limiting of the territorial sea to 12 nautical miles. As can also be seen from the report (A/44/650), the United Republic of Tanzania has reduced its territorial sea claim from 50 nautical miles to 12 nautical miles. This is an example which, in the view of the Austrian delegation, merits commendation and which it is hoped will be followed by other coastal States at present considering claims beyond that conventional limit.

(Mr. Tuerk, Austria)

Furthermore, a wide range of legislative activity has been initiated and stimulated by the adoption of the Convention. In this context my delegation wishes to praise the Office for Ocean Affairs and the Law of the Sea of the United Nations Secretariat for advising and assisting States, at their request, in connection with the implementation of the Convention and for compiling and regularly publishing all relevant national and international legislation. The consolidation, in 1987, of marine affairs activities at United Nations Headquarters in the Office for Ocean Affairs and the Law of the Sea has certainly resulted in enhancing the efficiency of the United Nations in these areas.

Austria has noted with concern that national legislation does not always conform to the Convention. This may upset the delicate balance which has been established by the provisions of the Convention and which formed the basis for its acceptance by land-locked and geographically disadvantaged States. It should be noted in particular that the rights of land-locked and geographically disadvantaged States enshrined in the Convention are not always fully reflected in national legislative acts, such as their rights relating to marine scientific research.

Furthermore, we consider it a matter for concern that States are often tempted to rely only on those parts of the Convention that suit their interests. In the view of the Austrian delegation, this practice may disturb the equilibrium between the conflicting interests of various States achieved by the Convention and, in the long run, endanger its effectiveness.

Issues relating to the protection and preservation of the marine environment will be among the principal future challenges to the comprehensive legal system established by the Convention. The report on the protection and preservation of the marine environment (A/44/461 and Corr.1) reflects in a clear and comprehensive manner the actual legal and factual status of the protection of the marine

(Mr. Tuerk, Austria)

environment and indicates the problems with which we are faced. The international community increasingly recognizes the primordial importance of the oceans in maintaining the global ecological balance and in controlling and moderating the world's climate. Increased attention must therefore be paid to the legal framework the Convention provides for the marine environment in trying to establish a balance between the rights and freedoms set forth therein, relating, inter alia, to exploration and exploitation of maritime resources, navigation and marine scientific research on the one hand and the protection of the marine environment on the other.

In spite of the relevant legal régime enshrined in the Convention, in particular in articles 192 to 196, laying down the obligation of States to protect and preserve the marine environment, we must acknowledge the existence of grave deficiencies with regard to the prevention of maritime pollution, in particular in coastal areas. Austria deplores the fact that coastal States have not yet taken efficient measures to eliminate land-generated sources of marine pollution, such as sewage or industrial sediments, as well as fertiliser and sediment deriving from agricultural and development activities. In our view, the elaboration of legal rules to deal with these problems is a matter of urgency. This could be done on the basis of the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-Based Sources.

At the same time, further enhancement and development of the mechanisms, provided for by the Convention in article 297, concerning the settlement of disputes in cases of coastal States contravening international rules and standards concerning the protection and preservation of the marine environment is necessary. This would have to include the resolution of the question, also raised by the International Law Commission, in connection with "damages to the commons", as to

(Mr. Tuerk, Austria)

who might engage in a dispute-settlement procedure against such a State on behalf of the international community.

I also wish to underline the Austrian view that the rules of international law on liability regarding activities causing maritime pollution require further development, in particular as regards civil liability.

Let me finally express the deep concern of my delegation regarding the state of conservation of maritime living resources. Some States, while benefiting from the achievements of the Convention, do not seem to be sufficiently prepared also to incur the duties flowing from it. Thus, the use of new fishing techniques may threaten the survival of certain living resources - a situation which the Convention aims at preventing. Austria therefore hopes that States will refrain from activities, including fishing methods, that might lead to over-exploitation endangering the very existence of maritime living resources.

The Austrian delegation whole-heartedly subscribes to the view expressed by Under-Secretary-General Nandan that

"we cannot allow the world to go back to the instability and disorder that had developed in the law of the sea and had precipitated the convening of the Third United Nations Conference on the Law of the Sea."

The significant change in the international political climate, reflected in many of the debates at the current session of the General Assembly, should make it possible for all States to renew their efforts to achieve universal participation in the 1982 United Nations Convention on the Law of the Sea - as also pointed out in the report of the Secretary-General (A/44/650).

Bearing this in mind, the Austrian delegation wishes to emphasize that it is our common task to search all the more actively for solutions to those problems which have so far impeded general acceptance of the Convention. In addressing

(Mr. Tuerk, Austria)

these questions we have to face the fact that commercial sea-bed mining now seems a distant prospect - contrary to what we thought when negotiating the relevant provisions of the Convention. Our aim must be to ensure a feasible, universally acceptable system of deep-sea-bed mining that will truly put into practice the principle of the common heritage of mankind by providing benefits for all the members of the international community and, in particular, for the least developed and the land-locked among the developing countries. The Preparatory Commission for the International Sea-Bed Authority and for the International Tribunal for the Law of the Sea has already resolved several difficult issues and thereby laid a solid basis for further endeavours in this direction.

(Mr. Tuerk, Austria)

My delegation wishes in this connection to thank the Chairman of the Commission, Ambassador Jose Jesus, for his outstanding contributions to the work of that body. His unrelenting and energetic efforts, including his efforts relating to draft resolution A/44/L.42, now before us, merit particular praise. I wish to assure him of the continued and wholehearted support of the Austrian delegation as he carries out his difficult task. In particular, we share his view that efforts should be made to conclude the work of the Preparatory Commission - hopefully - approximately two years from now.

My delegation was gratified to note that at this year's summer session of the Preparatory Commission the Chairman of the Group of 77 and speakers from the other important interest groups expressed their support for universal participation in the Convention and reaffirmed their willingness to enter into renewed dialogue on the outstanding issues with any delegation, whether or not currently involved in the work of the Preparatory Commission, whether or not a signatory to the Convention. Let me express the sincere hope of the Austrian delegation that this new attitude will enable us to achieve generally acceptable solutions to these issues. The present draft resolution, of which Austria is a co-sponsor, contains an express reference to this willingness to explore all possibilities of addressing issues in order to ensure universal participation in the Convention.

We may hope that the signal sent by this draft resolution to those at present outside the ongoing negotiation process will be understood as a clear, an unequivocal, indication of the desire to achieve a viable and universal deep sea-bed régime. A convention not adhered to also by the major industrialized countries would, in the view of my delegation, remain a mere torso and could not fulfil the aspirations which originally generated its preparation - that is, to form a just and equitable legal basis for the use of the seas by all the members of

(Mr. Tuerk, Austria)

the international community for the benefit of mankind. Thus, we shall have to consider ways and means of adapting certain provisions of the Convention in a pragmatic and flexible manner, taking into account, in particular, the changed economic circumstances since these provisions were drafted. In our view, only such an approach might be able to achieve the goal of participation in the Convention by all States.

Finally, I should like to point out that quite a number of countries do not seem to be ready to ratify the Convention at the present stage, as the precise financial implications of membership are not yet clear to them. Austria was pleased to note the decision of the Preparatory Commission that the initial secretariat of the Sea-Bed Authority would be lean and cost-effective. That decision, in our view, constitutes a step in the right direction and should contribute to allaying apprehensions in connection with the financing of the Convention's organs. It would seem to us that the Preparatory Commission should in the future devote even greater attention to these issues.

Let us all work together to achieve the noble goals of the 1982 United Nations Convention on the Law of the Sea by establishing an effective and universal legal order of the seas. The draft resolution now before us might provide a valuable stepping-stone in that direction.

Mr. TELLMANN (Norway): I have the honour to speak on behalf of the five Nordic countries: Denmark, Iceland, Sweden, Finland and Norway.

The Nordic countries followed with great interest and satisfaction the developments which took place within the Preparatory Commission for the International Sea-bed Authority and the International Tribunal for the Law of the Sea. The statements made on 1 September 1989 during that session attested to the expressed readiness for a constructive dialogue in order to ensure that the 1982 Convention on the Law of the Sea could one day become universally acceptable. The

(Mr. Tellmann, Norway)

willingness to engage in dialogue has continued to be expressed in the General Assembly during the current session. We have witnessed delegations making important efforts in order to open the door to a constructive discussion regarding the problems related to some provisions in the Convention. We hope that these efforts will facilitate full participation in the work of the Preparatory Commission. The Secretariat deserves much credit for its untiring work to bring about that positive development.

The United Nations Convention on the Law of the Sea is a major achievement, to which all the Nordic countries pay tribute. The Convention codifies existing customary rules and constitute as well as an important development of the law of the sea. Though it has not entered into force, it has had an important impact on the development of customary law. The Convention as a whole represents aspirations to a fair and just order. It is of crucial importance that the Convention enter into force one day on a universal basis.

The Nordic countries have during recent years been concerned at the fact that the Convention has still not been universally accepted owing to the fact that some of its provisions are still considered to be problematic. The Nordic countries have been particularly concerned at the fact that until quite recently there was little or no discussion on how to address the still-outstanding issues, regarding a workable deep-sea mining régime. Therefore, we are particularly pleased to welcome this new opening reflected in draft resolution A/44/L.42, which is before the Assembly today. We regret that the draft resolution, which reflects this new development, cannot be adopted by consensus. None the less, we urge all States, whether or not they have participated so far in the Preparatory Commission - and indeed we urge the Preparatory Commission itself - to take advantage of this momentum in order to seek ways to ensure the universal acceptance of the Convention as a whole.

Mr. MOHIUDDIN (Bangladesh): Bangladesh is taking part in the deliberations on the item at hand with keen interest. That is because for my country, a developing coastal State with limited resources, both land-based and marine, this matter has become increasingly significant for the well-being of the people, for which we maintain the widest possible support.

The United Nations Convention on the Law of the Sea has been appropriately hailed as not only the constitution for the oceans of the world but also the blueprint for ocean development. The Convention is a momentous achievement by the international community in that by establishing a legal order for the seas and oceans it promotes - and here I quote from the preamble to the Convention:

"the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment".

(Mr. Mohiuddin, Bangladesh)

In this context, my delegation is pleased to note that the Secretary-General, in his comprehensive report on the item, addresses in great earnest the developments not only with regard to the legal order of the oceans but also with regard to ocean development, marine resource conservation and marine environment. In fact, in view of the importance Bangladesh places on ocean development and management, my delegation is particularly appreciative of the leading section of the report on integrated management of coastal and ocean resources and new challenges and opportunities for the 1990s.

Bangladesh is eager to seize upon the new opportunities that are amply evident in this sphere. The priorities of my country, as in the case of other developing coastal States, are in the traditional non-sea-bed related parts of marine affairs. For example, we believe that baselines need to be established; maritime zones - territorial sea, contiguous zone, exclusive economic zone, continental shelf - need to be demarcated precisely with co-ordinates; delimitations need to be worked out; national legislation and regulation need to be aligned with the Convention; new projects must be formulated for coastal and marine resource development; requisite scientific and technological capabilities are to be strengthened; required human skills have to be developed; and financial resources must be mobilized. All these are to be carried out in an integrated management approach within the framework of an overall maritime policy which, in turn, should be an integral part of national development policy.

Bangladesh accords special emphasis to food and energy production, industrialization and natural disaster prevention and control. Thus, my Government is expending utmost efforts sectorally. My Government is also paying attention to the integrated management approach towards coastal and ocean development. Currently, in addition to the sectoral programmes, Bangladesh is carrying out a

(Mr. Mohiuddin, Bangladesh)

project on coastal zone management with assistance from the United Nations and the United Nations Development Programme.

We believe that international co-operation is the most effect means for ocean development. Bangladesh therefore urges such intensified co-operation so that the new opportunities in the 1990s can be realized and the new challenges met. In my delegation's view, the international community has the potential for unique success in dealing with issues of marine affairs.

The Convention is a testimony to the success of the collective efforts of the Member States channelled through the United Nations. In our view, following the precedent of the Convention, the United Nations can be particularly effective in meeting the needs of the Member States.

In this context, we take special note of the activities of the Office for Ocean Affairs and the Law of the Sea. A review of the second part of the Secretary-General's report demonstrates that he is already carrying out activities to assist developing coastal States. We see that a number of Asian, African and Latin American States would be beneficiaries of that assistance, either at the national level or within regional or subregional groups, with the relevant global, regional and subregional organizations, to strengthen and intensify such assistance activities addressing the opportunities of the 1990s.

I should like also to extend my congratulations to the Office for Ocean Affairs and the Law of the Sea and its dedicated and efficient staff, headed by the Special Representative of the Secretary-General, Mr. Satya Nandan, for their numerous and extremely helpful activities. We would like to request that Office to continue in its endeavours, specially taking into account the needs of developing coastal States.

(Mr. Mohiuddin, Bangladesh)

Bangladesh welcomes the efforts aimed at the realization of benefits from the non-sea-bed related parts of the Convention and urges the strengthening of such efforts at the international level. We are at the same time heartened by the new opportunities provided in the draft resolution to resolve sea-bed related matters of the Convention. Resolution of these latter matters would not only preserve the package constituting the Convention but also provide much-needed impetus for the fullest realization of benefits from the non-sea-bed related parts of the Convention.

My delegation is ready and willing to contribute to any constructive dialogue and urges Member States to take advantage of the new opportunities that resolution would open up, so that sea-bed related matters could be resolved satisfactorily, thereby ensuring universal acceptability of the whole package constituting the Convention. All efforts at all levels and in all forums leading to such resolution, while preserving the integrity of the Convention, are wholeheartedly welcome to my delegation. Undivided attention could then be paid to the urgent needs of developing coastal States for coastal and marine development and management.

In conclusion, I should like to reiterate what my country's representative stated while signing the Convention in Montego Bay in 1982:

"We have to acknowledge that not all our hopes have been realized in this Convention. Yet the Convention, with all its imperfections, offers a viable package deal which must be taken as a whole in the spirit of mutual co-operation and friendship".

My delegation calls upon all Member States to keep in view this give-and-take approach. In a spirit of mutual co-operation, we urge all to accept the Convention, the product of years of tireless toil.

Mr. TREVES (Italy): The United Nations Convention on the Law of the Sea has been open for signature, ratification or accession for almost seven years. Although it is not in force, it exerts - to borrow the Secretary-General's words in his report:

"a dominant influence on the maritime practices of States". (A/44/650, para. 8) Whenever States meet with a problem concerning activities at sea, they look to the Convention for guidance. They may, after consideration, come to the conclusion that the particular provision that envisages their problem does not correspond to customary law; but it is a fact that the first text they consider is the Convention and that in most cases they find that its provisions give expression to rules that are applicable and appropriate. The experience of all Governments confirms this truth. Similar conclusions may be drawn from the relatively limited amount of documents of State practice published by the Secretariat or available from other sources.

As the representative of France remarked on behalf of the States members of the European Community in speaking at the Preparatory Commission on 1 September this year, this positive influence on practice has resulted in the Convention already

"forming an essential element in the maintenance of legal order in the seas and oceans".

That notwithstanding, it seems obvious to us that the Convention's influence and its function of strengthening world order would be enhanced and guaranteed for the future if the Convention were to become a binding instrument. We consider important that the written rules, adequately guaranteed by compulsory mechanisms for the settlement of disputes, regulate relations between States as regards activities at sea. Such rules would be more efficient in restraining States from

(Mr. Treves, Italy)

adopting legislation and practices divergent from the rules of the Convention and would channel the growth of the law in the safe direction of generally agreed evolutionary interpretations of the Convention or of generally agreed revisions thereof.

(Mr. Treves, Italy)

Those positive effects cannot, however, be obtained by the mere entry into force of the Convention. It is necessary that the Convention become a universally binding instrument: in other words, that it become a treaty in force for the overwhelming majority of the international community, including the States most active in utilizing the seas. A convention in force for a group of States whose composition would not reflect adequately the wide variety of interests, geographical situations, social and political structures, or degrees of development that characterize the contemporary international community would not be sufficient to maintain world order in the oceans. Its function of constituting a framework and a guide for States in developing their activities at sea without interfering with one another and solving their conflicts by peaceful means would be jeopardized.

A convention in force to which important sectors of the international community could not become parties might involve certain risks for the orderly development of international relations. The world would become divided between States for which the convention was a binding instrument and States for which it would constitute, at least in part, mere guidance, subject to verification of the correspondence with customary law of the specific rules to be applied. The way would be opened for divergent practice and for an evolution of the law that would not be the same for every State. The Convention on the Law of the Sea might not, in that situation, be able to continue to fulfil the function it is fulfilling now, pending its entry into force.

It is well known that the main reason for the rather dismal prospect I have just evoked being a possibility is that a sizeable group of States - to which Italy belongs - have difficulties in becoming bound by the Convention because of certain

(Mr. Treves, Italy)

provisions contained in part XI, which concerns sea-bed mining. Other States hesitate to become bound by the Convention until they see serious prospects of its becoming acceptable to that group of States also.

It is, however, our firm conviction that, seen in the context of the law of the sea as a whole, deep-sea-bed mining occupies a rather small place. Deep-sea-bed mining is just one marine activity among many. Moreover, the ideas entertained during the negotiation of the Convention, according to which deep-sea-bed mining activity could be started soon and be profitable in commercial terms, have proved to be illusions. Deep-sea-bed mining is not for today, or tomorrow. Consequently, the problem that precludes the universality of the Convention is relatively minor, at least in comparison with the rewards its solution would bring.

We are firmly convinced that this problem can be solved and that the time is ripe for attempting to address it. We know we are not alone in this conviction. We were particularly pleased to hear, at the final meeting of the Preparatory Commission this summer, the representative of the Group of 77 proclaim the willingness of his Group to open dialogue with

"any delegation, or group of delegations, be they currently involved in the work of the Preparatory Commission or not, whether signatories or non-signatories of the Convention".

We did not hesitate to recognize an important signal in those words. In his statement at the same meeting of the Preparatory Commission the representative of Italy, Minister Ramiro Ruggiero, speaking on behalf of the Group of Six - Belgium, the Federal Republic of Germany, Japan, the Netherlands, the United Kingdom and Italy - welcomed the statement of the representative of the Group of 77 and said:

"We are convinced that the United Nations law of the sea Convention constitutes a major achievement of the United Nations and of the process of

(Mr. Treves, Italy)

codification and progressive development of international law. But the States belonging to the Group of Six hold the view that part XI presents some serious problems which if left unresolved might jeopardize this achievement. We have therefore worked tirelessly in this forum to find appropriate solutions to the above-mentioned difficulties so as to pave the way for a universally acceptable Convention. We strongly believe that the achieving of this lofty objective might be greatly facilitated should all States agree to the launching of a dialogue, without pre-conditions and in the appropriate framework, aimed at achieving better understanding of those problems and solutions to them."

At this plenary meeting of the General Assembly my delegation would like to confirm that it continues to hold that position and to indicate its satisfaction at seeing similar concepts incorporated in the draft resolution on the item on the law of the sea submitted to the Assembly for approval. Although the seventh preambular paragraph and operative paragraph 3 could have been more explicit, they signal, in our opinion, the wish to foster the atmosphere favourable to a dialogue aimed at ensuring the universality of the Convention - an atmosphere inaugurated by the statements made at the meeting of the Preparatory Commission on 1 September. We for our part are ready to make our contribution.

It is of course difficult to say in what such a dialogue should consist. We are perfectly aware that to certain delegations certain modalities are more acceptable than others, while to other delegations other modalities are more acceptable. It seems to us that it would be premature to present now a blueprint for the structure of the dialogue; not all States on the various sides are ready for that.

What should be clear from the outset is the objective of the dialogue, namely, the creation of the conditions necessary for making the Convention a universally

(Mr. Treves, Italy)

accepted instrument. Provided they help in the attainment of that objective, all means that diplomats and lawyers can imagine should be considered. All the help that can be mustered, including that of the Secretary-General, should be welcomed. The beginnings should be very cautious; much mistrust has to be removed; many ties have to be restored.

Even though the willingness to engage in dialogue without pre-conditions is certainly a very positive element, it seems to us that, at least in the initial stages, to go too quickly would be even more dangerous than to go too slowly. We must however start moving. Time is not unlimited and advantage should be taken of the favourable atmosphere now prevailing and reflected in the draft resolution.

The important events and prospects I have just mentioned should now allow us to forget that the law of the sea is a vast area of international law in which many important developments take place every year. The Secretary-General's valuable reports are an important reminder and an accurate reflection of this fact. This year we have before us two reports: the usual one on the law of the sea and a special one, requested by the General Assembly last year, on the protection and preservation of the marine environment.

We wish to say at the outset that both reports meet the high standards to which previous reports have accustomed us. We welcome in particular the report on the marine environment. Its production is extremely timely and we are certain that when further updated and revised it will make an important contribution to the work of the 1992 United Nations conference on environment and development. It contains an extremely valuable analysis of the rules in the United Nations Convention on the Law of the Sea concerning the marine environment, as well as of all other bodies of international law relevant to the subject. It emerges from that analysis that

(Mr. Treves, Italy)

"It is already becoming apparent that the provisions of the Convention are providing guidance on the fundamental rules relating to State obligations to protect and preserve their own and the wider environment." (A/44/461 and Corr.1, para. 15)

It emerges, too, that they also provide the framework for other specialized conventions, whether regional or universal in character.

One observation in the report seems to us to be very important, namely, that "the Convention as a whole has struck an important balance between the protection of the marine environment and use of the ocean and its resources", and that it is consequently important

"that the issue relating to the protection and preservation of the marine environment should not be dealt with in isolation from other aspects of the law of the sea if the balance achieved is to be maintained." (ibid., para. 9)

This observation must be kept in mind in commenting on two recent developments mentioned - although not from the point of view that we shall adopt - in the Secretary-General's reports.

(Mr. Treves, Italy)

The first is the observation made in the Brundtland report (A/42/427) on the future of the environment and reproduced in the report on the marine environment - namely, that

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

is to ratify the Convention on the Law of the Sea. It is clear that, as the draft resolution we are going to adopt recognizes

"the protection of the marine environment will be significantly enhanced by the implementation of the applicable provisions of the Convention".

(A/44/L.42, para. 15)

But it is also clear that what is needed is universal application of these provisions. Even though it emerges from the report that this is already happening, it follows from the foregoing observation that environmental protection is a good argument for trying to remove obstacles to the universality of the Convention.

The second development on which we wish to comment is that during the year that has elapsed since the General Assembly last discussed the law of the sea, difficulties emerged in two major international negotiations about striking the right balance between protection of the environmental or other interests of coastal States and protection of the interests of navigation. These were the negotiations that led to the adoption on 19 December 1988 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and to the adoption on 22 March 1989 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. In both negotiations certain States argued that particular powers should be recognized for the coastal States. As regards the negotiations on the drug Convention, it was argued that permission should be requested not only of the flag State but also of the coastal State in

(Mr. Treves, Italy)

order to take measures regarding a vessel suspected of being engaged in illicit traffic of drugs when it is exercising freedom of navigation in the exclusive economic zone. In the hazardous-wastes negotiations it was argued that the coastal State enjoys the right of giving permission for transit in its territorial waters to ships carrying hazardous wastes. In both cases these positions met with strong resistance: the right of innocent passage was invoked in the hazardous-wastes negotiations, and freedom of navigation in the economic zone was insisted upon in the drugs negotiations. In both cases the problem was solved with provisions that recall the relevant rules of international law, indirectly quoting the Convention on the Law of the Sea.

These episodes confirm once more the problem-solving function of the Convention. They indicate also, however, that the balance struck in the Convention is under the pressure of new problems and concerns. This is another indication that the entry into force of the Convention vis-à-vis the widest and most representative group of States is of the utmost importance for preserving such balance. This is confirmed by the fact that certain reservations which are highly questionable in the light of the Convention on the Law of the Sea, have been made to the other Conventions to which I have referred.

The report on the law of the sea contains interesting material that confirms, on the one hand, the dominant influence of the Convention on the practice of States and, on the other hand, that the delicate balance struck in the Convention between various interests is always at risk.

Particularly interesting indications of the influence of the Convention on practice can be found in the fact that Tanzania has reduced its territorial sea from 50 to 12 miles, and in the joint communiqué issued by the United States and the Union of Soviet Socialist Republics on 23 September 1989 stating that

(Mr. Treves, Italy)

"Governments are guided by the provisions of the 1982 United Nations Convention on the Law of the Sea, which, with respect to traditional uses of the seas, generally constitute international law and practice and balance fairly the interests of all States".

To those and other elements contained in the report one should add the Declaration adopted by France and the United Kingdom on 2 November 1988 which recognizes as existing law the right of transit passage through the Straits of Dover in terms very close to those set forth in the Convention on the Law of the Sea.

As regards the risks facing the balance of interests struck in the Convention, apart from the already-considered episodes concerning the Conventions on drugs and hazardous wastes, the report mentions in paragraph 57 the discussion now under way on including in a draft protocol concerning specially protected areas and wild life in the Caribbean a rule which would authorize States to take measures to regulate passage, anchoring and stopping of vessels. Here again environmental interests exert pressure on the principles concerning navigation.

The trend evidenced by the Soviet-United States agreement of 23 September 1989 on uniform interpretation of rules of international law governing innocent passage - that is, to resort to agreed interpretations or to unilateral interpretations of the Convention while the mechanisms for dispute settlement provided for in the Convention are not in place - as well as the other elements of practice to which I have already referred, seem to confirm that a universally applicable convention would perform its task of guiding States and preserving world order much better than a convention not in force or a convention in force for only a part of the international community.

Before concluding, I should like to emphasize once again my Government's deep appreciation for the many activities of the Office for Ocean Affairs and the Law of

(Mr. Treves, Italy)

the Sea and for the dedication, competence and high political skill of its leader, Mr. Satya Nandan, and all the staff working with him. We particularly welcome initiatives aimed at facilitating the application of the Convention. The booklet on baselines is a primary example here, and a further important development took place a few months ago with the meeting of experts on marine scientific research. The publications of the Office, and in particular the yearly report, the Bulletin, the collections of State practice, and the newly born Annual Review of Ocean Affairs constitute invaluable instruments to increase the knowledge of States and scholars as well. They contribute greatly to the development of the law in a field where, together with the Convention, practice is decisive.

The meeting rose at 1.15 p.m.