effectively regulate prospecting, exploration and exploitation of the resources of the Area. The problem is that, while there is a freedom to engage in marine scientific research on the high seas and in the seabed, mineral resources prospecting and exploration in the Area are regulated through the Authority. The Convention fails to adequately distinguish between the terms ‘research’, ‘scientific research’, ‘prospecting’ and ‘exploration’, nor does it make a distinction between ‘pure’ and ‘applied scientific’ activity. The conduct of so-called bioprospectors becomes even more acute when we consider the new scientific discoveries that have been made in recent years, particularly in the deep sea vents, which comprise both mineral resources (polymetallic sulphides) and genetic resources in the form of rich biological communities of unknown potential use to science. Here we have not only a very real conflict between true marine scientific research and mineral prospecting, but also the potential for multiple use conflicts between, for example, deep seabed miners, so-called bioprospectors, and the proper conservation and management of the deep ocean environment.

Clearly, there is a close relationship between the conduct of activities relating to non-living resources, for which the Authority has responsibility, and the sustainable use of the marine environment. Indeed, the Authority does, under article 145 of the Convention, to adopt appropriate rules, regulations and procedures for scientific research, prospecting and exploration of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment. In this regard, it is therefore critical at this early stage of the process to address the adequacy of the provisions of the Agreement and, if necessary, propose means of strengthening the substance and methods for the implementation of those provisions to address any continuing problems in the conservation and management of the fish stocks to which the Agreement applies. I am therefore encouraged to see that the resolution recognises the importance of this process and requests the Secretary-General to report annually on the implementation of the Agreement.

A major problem in fisheries today is unregulated and unreported fishing, which the draft resolution rightly addresses. The draft resolution also requests flag States to exercise effective control over fishing vessels flying their flags, focusing on the primary responsibility of the flag State and the use of all available jurisdiction in accordance with international law. While the efforts of FAO and International Maritime Organisation (IMO) in this regard are to be commended, the fact is that in many cases flag States are not in a position to control and prevent illegal, unregulated and unreported (IUU) fishing. It is well known that flags of convenience are invariably used as a device by the owners of fishing vessels to avoid conservation and management measures. It is useful to observe here that of the five cases on prompt release of vessels under article 252 of the Convention that have come before the Tribunal, all have involved fishing vessels flying flags of convenience. The problem of illegal, unregulated and unreported fishing cannot be solved by concentrating on the definition of ‘genuine link’ because that concept has wider implications and consequences for many flags and vessels, and it is therefore not surprising that any attempt to tinker with the idea of defining the ‘genuine link’ invariably meets with formidable roadblocks. The conservation and management of fisheries resources is very much a problem of the fisheries sector, which must be dealt with in that context. In this modern day of free movement of labour and capital, it is no longer sufficient in the case of fishing vessels to rely on flag State control alone. The reality is that the primary culprits are the vessels and the masters of such vessels, who are not always nationals of the flag State. We have therefore to tackle this festering problem head-on by making owners and masters equally responsible for the activities of their fishing vessels under their ownership, direction and control. This is not a radical suggestion. It has been used in the context of other types of activities in the oceans. For example, in the case of oil pollution, the owners of tankers and the owners of the cargo are held responsible for oil spills (International Convention on Civil Liability for Oil Pollution Damage, IOPC Fund Convention). There is no reason why owners and charterers of fishing vessels and those who actually control the vessels, the masters, should not be held similarly responsible. This is true for activities in the oceans and in the case of IUU fishing. The law of the development of which needs urgent attention if we are serious about taking effective measures to deal with the problems of IUU fishing.

I am pleased to see the reference in draft resolution A/56/L.12 to the respec-
ting twentieth anniversary of the opening for signature of the Convention in 2002 and I look forward to participating in the commemoration of this significant event in the life of the Convention. Maybe I conclude by once again thank-
ing the Ministerial Conference of the WTO for its support of the Authority. I look forward to the continued and constructive participation of member States in the future work of the Authority.

WTO

Ministerial Declaration*

1. The multilateral trading system embodied in the World Trade Organization has contributed significantly to economic growth, development and employment throughout the past fifty years. We are determined, particularly in the light of the global economic slowdown, to maintain the process of reform and liberalization of trade policies, thus ensuring that the system plays its full part in promoting recovery, growth and development. We therefore strongly reaffirm the principles and objectives set out in the Marrakesh Agreement Establishing the World Trade Organization, and pledge to reject the use of protectionism.

6. We strongly reaffirm our commitment to the objective of sustainable development, as stated in the Preamble to the Marrakesh Agreement. We are convinced that the aims of upholding and safeguarding an open and non-discriminatory multilateral trading system, and acting for the protection of the environment and the promotion of sustainable development can and must be mutually supportive. We take note of the efforts by Members to conduct national environmental assessments of trade policies on a voluntary basis. We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of...
the WTO Agreements. We welcome the WTO’s continued cooperation with UNEP and other inter-governmental environmental organizations. We encourage efforts to promote cooperation between the WTO and relevant international environmental and development organizations, particularly in the lead-up to the World Summit on Sustainable Development to be held in Johannesburg, South Africa, in September 2002.

7. We reaffirm the right of Members under the General Agreement on Trade in Services to seek ratification to set out new regulatory or administrative measures in particular the Agreement on the Application of Sanitary and Phytosanitary Measures, as required and supervise the adoption and implementation of those results.

46. The overall conduct of the negotiations shall be supervised by a Trade Negotiations Committee under the authority of the General Council. The Trade Negotiations Committee shall be established no later than 31 January 2002. It shall establish appropriate negotiating mechanisms and take decisions on all aspects of the negotiations.

47. With the exception of the improvements and clarifications of the Dispute Settlement Understanding, conclusion and entry into force of the outcome of the negotiations shall be treated as parts of a single undertaking and agreements reached at an early stage may be implemented on a provisional or a definitive basis. Early agreement shall be taken into account in assessing the overall balance of the negotiations.

48. Negotiations shall be open to:
(i) all Members of the WTO and
(ii) States and separate customs territories currently in the process of accession and those that inform their readiness to participate in a formal meeting of the General Council, of their intention to negotiate the terms of their membership and for whom an accession working party is established.

Decisions on the outcomes of the negotiations shall be taken only by WTO Members.

49. The negotiations shall be conducted in a transparent manner among participants, in order to facilitate the effective participation of all. They shall be conducted with a view to ensuring benefits to all participants and to achieving an overall balance.

50. The negotiations and the other aspects of the Work Programme shall be open to account the principle of special and differential treatment for developing and least-developed countries embodied in: Part IV of the GATT 1994; the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; the Uruguay Round Decision on Measures in Favour of Least-Developed Countries; and all other relevant WTO provisions.

51. The Committee on Trade and Environment and the Committee on Trade and Environment shall, within their respective mandates, each act as a forum to identify and debate development and environmental aspects of the negotiations, in order to help achieve the objective of having sustainable development appropriately reflected.

52. Those elements of the Work Programme which do not involve negotiations and are accorded a high priority shall be pursued under the overall supervision of the General Council, which shall report on progress to the Fifth Session of the Ministerial Conference.