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*Chairman: Mr. Agha SHAHI (Pakistan).*

**AGENDA ITEM 32**

**Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/7622 and Corr.1)**

1. The CHAIRMAN: I call on the Rapporteur of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction to introduce the report of that Committee.

2. Mr. GAUCI (Malta), Rapporteur of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction: Once again it is my pleasant duty to introduce the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, as contained in General Assembly document A/7622 and Corr.1.

3. In giving the newly established 42-member Committee its mandate, the General Assembly last year requested the Committee to draw upon the experience of the former *Ad Hoc* Committee and to bear in mind the views expressed in its report. This the Committee was able to accomplish, since not only did members utilize the information contained, and impressive documentation mentioned, in that first report on the item, but they also followed the precedent of establishing two sub-committees of the whole—the Legal and the Economic and Technical Sub-Committees. The Committee also retained, with two unavoidable exceptions, the same members to serve on the respective Bureaux.

4. Thus the Committee again benefited from the inspiring, dedicated leadership of Mr. Amerasinghe of Ceylon, ably

assisted by four Vice-Chairmen, the representatives of the United Republic of Tanzania, Chile, Norway and Poland. Mr. Galindo Pohl of El Salvador maintained the high precedent previously set by Mr. Benites of Ecuador in the Legal Sub-Committee, while the Economic and Technical Sub-Committee was again chaired by Mr. Roger Denorme of Belgium, whose indefatigable leadership will be sorely missed next year. Several meetings of the Bureaux were held, which greatly facilitated the orderly progress of work between the Main Committee and the two Sub-Committees.

5. Since the report now before the First Committee is largely made up of the reports of the two Sub-Committees, members will readily appreciate the important and competent contribution made by the respective Rapporteurs, Mr. Badawi of the United Arab Republic and, once again, Mr. Prohaska of Austria. The list of deserved credits would not be complete if I failed to pay a tribute to Mr. Yankov of Bulgaria, Vice-Chairman of the Legal Committee, Mr. R. O. Arora of India, Vice-Chairman of the Technical and Economic Sub-Committee, for their contributions and last, but certainly not least, to the many members from different sections of the Secretariat who served the Committee exceptionally well.

6. In addition to the members of the Committee, several other representatives of Member States, as also of specialized agencies and other organizations, listed in Part One, paragraphs 7 and 8, of the report, attended and participated at the sessions.

7. Documentation this year was not as heavy as it was last year; that in itself is an indication that in the consideration of the item progress has been made which goes beyond the fact-finding stage of the *Ad Hoc* Committee. Apart from the up-dating of previous documents, and a working paper on proposals and views relating to the adoption of principles requested by the Committee, the major document prepared by the Secretariat was the study on international machinery asked for by the General Assembly in accordance with resolution 2467 C (XXIII). The study required by resolution 2467 B (XXIII) on the protection of the living and other resources of the marine environment against pollution and other harmful hazards, was not finalized in time for discussion this year, but no doubt the Committee will wish to consider this important aspect at future sessions.

8. The mandate given to the Committee by the General Assembly last year [*resolution 2467 A (XXIII)*] is recalled in paragraphs 1 to 5 of Part One of the report. As will be evident from the report and the number of meetings held, most of the discussions on substantive matters took place at the Sub-Committee level, within the respective mandate and the items allocated to the Sub-Committees in the

programme of work. That programme was drawn up by the Chairman after considerable discussion and consultations in the Main Committee during its procedural meetings in February. The programme of work is shown in annex I. It provides an approved agenda, which has not been completed and which consequently remains useful for future sessions.

9. The close interrelationship between the various aspects of the item was again evident, so that, although recommendations of a political nature were reserved for the Main Committee, important political, legal, economic, scientific and other relevant factors could not be overlooked, irrespective of the particular aspect under discussion or the forum in which that discussion took place.

10. The members of the Committee therefore discussed the item along broad lines and a very wide exchange of views took place on all its component aspects, which departed from the pattern of general statements of objectives and went into the specifics of various proposals. Since no major common recommendations were reached, differing views appear impartially in the report. It might therefore facilitate consideration of the report by representatives if I attempted to indicate for their benefit the main areas of concentration.

11. In the Economic and Technical Sub-Committee attention was focused initially on evaluating progress achieved in the exploration and exploitation of resources on the ocean floor, and in the various techniques used for the development of recovery capability, both present and foreseeable, taking into account the economic factors involved. In these discussions a great deal of factual information was provided by experts from several countries active in oceanographic activities, to the extent almost of amounting to an actual application of one of the desirable principles frequently stressed during the discussion—that of dissemination of scientific knowledge among the international community. Continuing technological progress and the cautious optimism in the potential of the ocean floor resources in the area beyond national jurisdiction were again reaffirmed.

12. Bearing in mind these technological advances and the relevant economic factors, the Sub-Committee then considered ways and means of promoting international co-operation in the exploration and exploitation of resources in the area beyond national jurisdiction. There was a common understanding that all countries should participate to the extent possible in such activities, and share the benefits derived from exploitation. The need was recognized for providing training programmes for nationals of developing countries, and the view was generally shared that some form of international arrangements could be devised to ensure that exploitation of resources would benefit all mankind, taking into account the special needs of developing countries.

13. The Economic and Technical Sub-Committee was also able to study a Draft Comprehensive Outline of the Scope of the Long-Term and Expanded Programme of Oceanographic Exploration and Research [A/AC.138/14 and Corr.1], including the International Decade of Ocean Exploration, presented by a Sub-Committee within the Intergovernmental Oceanographic Commission (IOC).

Recognizing the preliminary nature of the draft outline, the Sub-Committee made several observations and recommendations for the IOC to consider at its sixth session.

14. Finally, the Economic and Technical Sub-Committee discussed one of the two questions to which a degree of priority was accorded by a widespread desire within the membership, and in terms of the mandate given by the General Assembly, namely, the study by the Secretary-General on appropriate international machinery. That report by the Secretary-General—again not a fact-finding exercise but a study of a possible means towards a generally recognized objective—was considered a useful point of departure requiring further study in all its aspects, and in accordance with a decision of the Committee it is appended to the report as annex II. A suggestion was adopted by the Committee to request the Secretary-General to continue the study in greater depth with particular concentration on the relevant areas of the possible status, structure, powers and function of such machinery.

15. The Committee also took up suggestions for drawing on the experience already gained by various countries in their national regulations or legislation covering the exploration and exploitation of mineral and fossil resources on the continental shelf. The common denominators of such regulations could be compiled in an additional document to be prepared by the Secretariat, which the Committee after study could subsequently bring to a logical conclusion through the drafting of an appropriate code relating to the conditions which would govern claims and systems of operation, supervision, safeguards and other functions in the area beyond national jurisdiction.

16. In the course of these discussions, several tentative suggestions and alternative methods were explored in detail, and that exercise has at the very least resulted in a clearer and unambiguous understanding of the terms used and has possibly narrowed the potential options which would command greater support. At the close of the discussions under each topic, the main considerations emphasized during the debate were condensed in shorter observations and are recorded in paragraphs 20, 27, 48, 66, 75, 100, 121 and 158 of the report of the Economic and Technical Sub-Committee.

17. As representatives will recall, the conclusion of the report of the *Ad Hoc* Committee<sup>1</sup> last year contained two sets of principles. Several resolutions on principles were also annexed to the report and additional ones were presented in the First Committee at its previous session. Those were all listed in document A/AC.138/7 prepared by the Secretariat at the request of the Committee. In addition, one more draft resolution was subsequently introduced in the Legal Sub-Committee by the delegation of Malta; it is contained in document A/AC.138/11. Members of the Legal Sub-Committee devoted a great deal of effort and time to attempting to reconcile the various approaches, so as to reach a formulation of principles which would command sufficient support to be included as a recommendation for consideration by the General Assembly at this session.

<sup>1</sup> Official Records of the General Assembly, Twenty-third Session, document A/7230.

18. For that purpose, and as the complexity of the task became more and more apparent during the detailed consideration given to general legal concepts, a consensus was reached within the Committee for informal consultations under the Chairman of the Legal Sub-Committee to proceed in between the March and August sessions, which all members were free to attend, in order to facilitate discussions during the final session.

19. It was considered useful to present one working paper which would contain the different and at times overlapping formulations of those elements which had been proposed to form part of a declaration of principles. A small informal drafting group prepared a working paper, shown as an annex to the report of the Legal Sub-Committee. That working paper was used as a basis for discussion at the final session at which a sustained attempt was made to arrive at an agreed formulation of principles, but despite intensive and protracted efforts it was not found possible to reach agreement on a sufficiently broad front to constitute a suitable recommendation by agreement in the Committee. As an indication of the measure of progress made, and with the qualifications expressed in paragraph 84 of the Legal Sub-Committee's report, a synthesis of these discussions appears in paragraphs 83 to 97 of the same report, where the elements of common agreement are shown, as also those on which the Committee failed to reach agreement.

20. It is quite understandable that a great deal of time and effort is taken up in attempts to negotiate differences of opinion, but the significance of areas of agreement should not be overlooked in this process. An important task not yet finalized, therefore, is to broaden the area of agreement to a sufficiently solid base so that it would, by agreement, be considered as constituting a meaningful first step that could be reflected in a draft resolution on a declaration of principles commanding wide support.

21. Nevertheless, I believe it can be stated that the idea of the existence of an area of the ocean floor beyond national jurisdiction is now firmly implanted in international opinion, and that there is increasing awareness that the time must eventually come when that area, through appropriate channels and by international agreement, will require more precise definition. International opinion has been alerted to the need for a more comprehensive body of rules which would regulate activities in the area, and there is a general commitment to that objective, as also to the recognition of the special needs of developing countries and to the concept of the common interest of mankind in the exploitation of the resources in the area beyond national jurisdiction, in the preservation of the ecological balance of the marine environment and, perhaps most important, in the peaceful uses of the area.

22. Towards the end of its sessions, after having extended the time for the Sub-Committees to finalize and submit their respective reports, and in view of the detailed discussions that took place in the respective Sub-Committees, the Main Committee decided to incorporate the reports of the Sub-Committees in its own. The length and contents of the report are a clear indication of the extremely complex and important matters before the Committee, the national and international interests involved, and the vast scope of the item as a whole. The final

observations made by the members could not, on account of lack of time, be reflected in the report of the Main Committee itself. The debate on the political and other aspects will continue, and will be reflected in subsequent reports, since these overriding aspects will no doubt feature prominently in future as important recommendations will be called for.

23. The concern of the international community to ensure the peaceful use of the area, without prejudice to any limits which may be agreed upon, was reflected in the closing statements made. Members were aware that that aspect of the question was also receiving concentrated attention at the Committee on Disarmament in Geneva, where a measure of progress was understood to have been reached. The Committee consequently expressed the hope that it would be kept informed of the progress of current negotiations, in view of the mandate under operative paragraph 3 of resolution 2467 A (XXIII) given to it by the General Assembly last year. As you have recently informed us, Mr. Chairman, the text of the proposed treaty and certain related documents are now available to members through the Secretariat.

24. Conscious of its responsibility and of the complexity of the task assigned to it, the Committee anticipates that it will need some more time in the forthcoming year to deal with its programme of work, and it has consequently recommended that it be allotted two sessions each of four weeks during 1970, and a short preliminary meeting to discuss procedural matters before the two main sessions.

25. In conclusion, and on a traditional poetic note, may I recall the well-known lines of Thomas Gray:

"Full many a gem of purest ray serene  
The dark, unfathomed caves of ocean bear."

26. As we note that the caves of ocean will not much longer remain unfathomed, and that the gems are assuming a greater lustre through the penetration of artificial light in the tantalizing oceans gradually yielding their secrets, may we all share the hope that the diffused but revealing light will focus on international understanding and accord, so that the gems will not lose their purity in the eyes of all beholders of present and future generations.

27. Mr. AMERASINGHE (Ceylon): This is one of the rare occasions on which I have the opportunity of speaking on the question of the sea-bed and the ocean floor. Fortunately or unfortunately, convention denies freedom of speech to the Chairmen of Committees.

28. I wish, on behalf of the Committee and on my own behalf, to express my sincere thanks to the Rapporteur of the Committee, Mr. Victor Gauci of Malta, for the report that he has presented. It should be clear to the members of this Committee that the main portion of this report consists of the reports of the two Sub-Committees. These two Sub-Committees took up, and rightly so, most of the time available to the Committee on the sea-bed and ocean floor during this the first year of its existence.

29. Under the capable leadership and able guidance of the two Chairmen—Mr. Galindo Pohl, the Chairman of the

Legal Sub-Committee, and Mr. Roger Denorme, the Chairman of the Economic and Technical Sub-Committee—it made very substantial progress, as the reports indicate. I should like to express to them my sincere thanks and at the same time to join in the expression of thanks to the Rapporteurs of the two Sub-Committees—Mr. Badawi of the United Arab Republic, Rapporteur of the Legal Sub-Committee, and Mr. Prohaska of Austria, Rapporteur of the Economic and Technical Sub-Committee. I should also like to express my appreciation of the work done by, and the support I have received from, the Vice-Chairman of the Main Committee and the Vice-Chairmen of the two Sub-Committees.

30. May I now make a special reference to Mr. Roger Denorme who, I understand, will not be associated with us in the future as he will be going away to other, and I believe higher, duties. Without his industry, tenacity and devotion I am sure we would not have made as much progress in the Economic and Technical Sub-Committee as we have made. In the words of the old song "We shall meet but we shall miss him", but fortunately there will be no vacant chair. I should also acknowledge the assistance and co-operation we received from UNESCO through its subsidiary, the Intergovernmental Oceanographic Commission.

31. We are gratefully indebted to the Secretary-General for his excellent report on appropriate international machinery [A/7622 and Corr. 1, annex II]. May I also express my appreciation of the devoted services rendered to us by the Committee Secretary, Mr. David Hall, and the other members of the Secretariat staff of all sections who assisted us in our work.

32. During this year the Legal Sub-Committee concentrated on operative paragraph 2 (a) of resolution 2467 A (XXIII), the formulation of legal principles and norms. Of paramount importance in its deliberations was the question of the legal status of the area. The Economic and Technical Sub-Committee dealt chiefly with ways and means of promoting the exploitation of the resources of the area and also gave some preliminary consideration to the economic and technical aspects of the long-term programme of oceanographic research, and also of the possible legal régimes, apart from reviewing the technological developments in the field of exploration and exploitation.

33. This Committee is no doubt aware of the important difference between the terms of reference of the *Ad Hoc* Committee established by resolution 2340 (XXII) and those of the Committee whose report we are now considering, established by resolution 2467 A, B, C and D (XXIII). The present Committee is required not only to examine and study the various aspects of the question but also to make recommendations, as provided in operative paragraph 4 (b) of resolution 2467 A (XXIII). That explains why the subject has had to be examined in much greater detail and also accounts for the expenditure of so much time.

34. To those who expected quick and positive results the report may be a disappointment, but a careful study of its contents will show that real progress has in fact been achieved. The positions of various delegations have become clearer and this should facilitate future agreement through negotiation and compromise. A brief reference at this stage

to the main points of agreement and disagreement—and they refer really to the legal sphere—would, I feel, be a useful introduction.

35. General agreement was reached on the point that the area shall not be subject to national appropriation and that no State shall exercise or claim sovereignty or sovereign rights. But no agreement was possible on the point that no one may acquire property rights over any part of the area by use, occupation or any other means. The common heritage idea was widely supported but not accepted by all. No agreement as to the extent to which the rules of existing international law apply, or should be applied in future, was reached, nor as to whether any rules of existing international law apply to economic activities in the exploration and exploitation of the area in the future.

36. There was no agreement regarding geographical limits of the application of the principles of peaceful use or the scope of prohibition of military activities. Regarding an international régime, the need for the establishment of such a régime was recognized but no final agreement was reached on whether it should be characterized as "legal", "international" or "agreed". It was, however, accepted that any such régime should be legally binding. Another point outstanding is whether the régime should apply to the area or only to the resources of the area. There were many who felt that it should apply to both the area and the resources, and they include the delegation of Ceylon. There was no agreement on the main features of such a régime or on the question of the most appropriate and equitable application of the benefits of exploitation to developing countries.

37. It was recognized, and I believe generally agreed, that scientific research should be free from discrimination, that international co-operation in such research was desirable and that there should be no interference with fundamental scientific research carried out with the intention of open publication, but on the understanding that there should be a clear distinction between scientific research and commercial exploration—the former giving no rights in regard to exploitation. Even commercial exploration, it was felt, should give no absolute right to ultimate exploitation.

38. The preservation of the freedom of the high seas and non-interference in the exercise of such freedoms, the adoption of appropriate safeguards against pollution and damage to living resources, and the need for safety measures were accepted. There was no agreement on the extent of the rights of coastal States with regard to activities including scientific research and exploration and also on the question of liability for damage.

39. I started off by saying that there was general agreement on the point that the area shall not be subject to national appropriation. Satisfaction has been expressed at the fact that it was recognized that there is an area beyond the limits of national jurisdiction. But we must be careful not to be too elated over the acceptance of that idea because if the limits of technological capacity are to be treated as the limits of national jurisdiction, then there will be no area whose resources will be technologically exploitable in the interests of mankind as a whole.

40. I should now like to refer to the most important aspects of this question as we of the delegation of Ceylon

see them—and I feel our views are shared by quite a substantial section of the Committee. The first of these is the need for a framework of legal principles and norms, a legal régime—and I do not here refer to machinery—for the regulation of activity on the sea-bed and the ocean floor beyond national jurisdiction. Chief among these principles is the legal status of the area. We are in favour of the area and its resources being treated as a common heritage of mankind. There are, we realize, many who are alarmed by what they consider to be the formulation of a novel concept hitherto unknown, but the traditional legal concepts are not, we feel, applicable to this unique area and its resources. If the area and its resources are to be saved from competitive exploitation, restricted necessarily to those with the financial resources and the technological power to exploit them, it is necessary for us to abandon those traditional concepts and evolve a new concept.

41. International law, especially customary international law, has in the past found its origin in the convenience and power of the few. It is the duty of this Organization to see that the resulting inequalities are removed and that, in the future, international law is designed to serve the interests of all mankind, especially the economically weaker section of mankind. That is why we attach such importance to the concept of common heritage. Whether we use this terminology is immaterial; it is the content of the idea that is important—and this content and this substance are already to be found in the preamble and in the operative paragraphs of resolution 2467 A (XXIII).

42. We hope that the General Assembly will find it possible at an early date to adopt a set of general principles as a starting point. These principles will constitute an initial admission of the special status of the area and of the indispensable provisions of a code of international discipline consistent with and designed to ensure the objectives that we have in mind.

43. This set of principles should later take the form of an international convention or treaty which should have a legally binding effect different from the declaration of principles. On behalf of the delegation of Ceylon I should like to indicate those principles which we consider worthy of support and which we would commend to the other members. Some of these have already been referred to, but for the sake of coherence and completeness I shall put them all together again.

44. First, the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of present national jurisdiction, including the resources of the area, are the common heritage of mankind.

45. Second, no State or person, natural or juridical, may claim or exercise any right, title or interest to and in the sea-bed or any part thereof by use or occupation or by any other means except as may be permitted by the régime.

46. Third, the sea-bed shall be reserved exclusively for peaceful purposes.

47. Fourth, all activities with respect to the sea-bed shall be carried out in accordance with the relevant provisions of international law, including the legal principles and norms

of the international régime contemplated for the sea-bed, and the Charter of the United Nations.

48. Fifth, all activities with respect to the sea-bed, including the exploration, conservation, exploitation and use thereof, shall be carried out for the benefit of mankind as a whole irrespective of the geographical location of States, taking into special consideration the interests and needs of the developing countries in accordance with the international régime.

49. Sixth, international machinery shall be established within the United Nations system with jurisdiction over the sea-bed and having responsibility for regulating, co-ordinating, supervising and controlling all activities with respect thereto.

50. Seventh, the proceeds derived from activities with respect to the sea-bed shall be applied in an equitable manner, taking into account the paramount need to accelerate thereby the economic growth of the developing countries and to reduce existing disparities.

51. Eighth, exploration, conservation, exploitation and use of the resources of the sea-bed shall be undertaken in such a manner as to foster the healthy development of the world economy and the balanced growth of international trade.

52. Ninth, the sea-bed shall be open to scientific research for peaceful purposes by or on behalf of all States undertaking to promote international co-operation in such research.

53. Tenth, in carrying out any activity with respect to the sea-bed, a State shall pay due regard to the legitimate rights and interests of all other States, in particular those of any coastal State adjacent to the area of that activity. Close and continuing consultations shall be maintained with the coastal State concerned with a view to avoiding any infringement of such rights and interests.

54. Eleventh, in carrying out any activity with respect to the sea-bed, a State:

(a) Shall adopt and ensure the application of appropriate measures, including internationally acceptable standards and procedures for:

- (i) prevention of pollution of, and other hazards to, the marine environment through the introduction of toxic, radioactive or other harmful agents;
- (ii) the safety of life and property;
- (iii) prevention of wasteful extractive practices; and
- (iv) protection and conservation of the living resources of the high seas; and

(b) Shall not impede the laying or maintenance of submarine cables or pipelines on the sea-bed.

55. Twelfth, a State shall bear responsibility for any activity with respect to the sea-bed whether carried on by governmental agencies or non-governmental entities, and for assuring that any such activity is carried on in conformity with the declaration; any such activity by a



non-governmental entity shall require the authorization and continuing supervision of that State.

56. Those are in substance the principles which we would wish to see embodied in a general declaration. They are a matter for discussion and negotiation.

57. The second aspect of the question to which I should like to make reference and to which we attach great importance is that of international machinery. Resolution 2467 C (XXIII), which was admittedly not adopted unanimously but did indeed command very wide support, required the Secretary-General to make a study of appropriate international machinery and enjoined the Committee to consider the question and make a report to the twenty-fourth session. That, incidentally, is the only aspect of the question on which the Committee was required to report by a specific date, and that itself is an indication of the great importance attached to the idea by those who supported it.

58. The Committee, as its report discloses, did not have enough time to examine the question in detail, but decided to request the Secretary-General to make a further study in depth with special reference, as the Rapporteur of the Committee has already stated, to the following features: status of machinery, structure, powers and authority, activities and functions. I refer the members of the Committee to Part One, paragraph 19, of the report of the Sea-Bed Committee. A draft resolution is, I understand, now under consideration, calling for further study of a formal machinery exercising jurisdiction over the sea-bed and its resources, and enjoying powers of regulation, co-ordination, supervision and control over activities related to the sea-bed and its resources outside national jurisdiction.

59. The third aspect to which early attention must be given is perhaps the most difficult and controversial, and yet without a settlement of these differences no progress at all is possible as everything else hinges on it. I am referring to the precise definition of the limits of national jurisdiction. We have always been in favour of an international conference to consider and take decisions on this and related questions. Those who ask for precise definition have no intention or desire to tamper with that part of the definition of the continental shelf as contained in the 1958 Convention on the Continental Shelf<sup>2</sup> which is clear and unambiguous, namely, the 200-metre-depth criterion. It is the exploitability criterion which is responsible for the prevailing uncertainty and which must be clarified.

60. Lastly among the aspects to which I wish to make special reference is the question of the reservation exclusively for peaceful purposes of the area of the sea-bed and ocean floor beyond the limits of national jurisdiction. When we refer to this aspect merely as "peaceful uses", we deprive it of the special emphasis which the General Assembly gave it when it described it as the "exclusive reservation of the area for peaceful purposes". In Part One, paragraph 18, of its report the Sea-Bed Committee recorded the fact that although a number of statements on operative paragraph 3 of resolution 2467 A (XXIII) were made, it

had no information on the progress of international negotiations, and therefore expressed the hope that it would be kept informed of the progress of the current negotiations in the Conference of the Committee on Disarmament.

61. We are aware that there has been progress in Geneva and we are glad of it. Hence my request, in my capacity as Chairman of the Committee on the sea-bed and ocean floor, that before any definite proposals affecting the military uses of the sea-bed and ocean floor beyond the limits of national jurisdiction are taken up in this Committee, an opportunity should be provided for the Sea-Bed Committee to hold a brief session when it can consider those proposals in the light of its own duties and obligations.

62. I cannot stress too strongly the point that our concern in the Sea-Bed Committee is to ensure, in the discharge of our mandate under operative paragraph 3, read with operative paragraph 4 (b), of resolution 2467 A (XXIII), that the area is not put to such military uses as would hamper the attainment of the objectives contemplated in the Sea-Bed Committee's resolution. These are not objectives and ideas conjured up by the 42 members of the Sea-Bed Committee, but represent the definite wishes and the decision of the General Assembly itself.

63. It remains for me to make a brief reference to our future programme. In Part One, paragraph 20, of its report the Committee has indicated that it would be desirable in future if more time were allowed to it to carry out its programme. We consider it necessary that the Committee be allotted in 1970 a short preliminary session for procedural matters and two substantive sessions of four weeks' duration each. In the Committee itself I indicated that we might wish to hold the summer session in Geneva—what we had in mind was the session of August 1970. I have already requested the Secretariat to make appropriate provision for that purpose in the 1970 calendar of conferences. It will be helpful, Mr. Chairman, if this Committee could ask for a statement of the financial implications, so that the proposal might be further considered.

64. Mr. SEN (India): This Committee has before it the item entitled "Question of the reservation exclusively for peaceful purposes of the sea-bed and ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction". I shall refer to the area covered by that title simply as "the sea-bed". The Chairman of the Sea-Bed Committee, Mr. Amerasinghe of Ceylon, and the Rapporteur, Mr. Gauci of Malta, have enlightened us on the work done by the Committee during its three sessions this year. The report itself is telling evidence of the hard work put in and the serious efforts made by the members in carrying out the task of the Committee as given to it by resolution 2467 (XXIII). We owe to the Chairmen of the Main Committee and the two Sub-Committees—that is, Mr. Amerasinghe, Mr. Galindo Pohl of El Salvador, and Mr. Denorme of Belgium—and their Rapporteurs, gratitude for the valuable work done by the Committee during its

<sup>2</sup> United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.

first year. The report presented to us this morning by the Rapporteur and the explanations given by the Chairman merely heighten our sense of gratitude.

65. The seas and their depths hide treasures which can be gathered for urgent needs of mankind. The technological developments of the recent past have opened up new and immediate possibilities for their exploitation. They have raised our hopes for the immeasurable benefits that could be derived from the exploitation of the sea-bed. While technology is making spectacular advances, it is up to us to make orderly use of them by providing an appropriate legal régime for the control of the sea-bed and for the administration of its resources.

66. My delegation has striven from the very beginning, when this item was placed on the agenda of the twenty-second session of the General Assembly in 1967, to prepare a declaration of principles. We presented to the *Ad Hoc* Committee during its second session in June 1968 the first draft declaration.<sup>3</sup> Together with the developing countries of Africa, Asia and Latin America, we circulated a working paper<sup>3</sup> in the *Ad Hoc* Committee during its third session in Rio de Janeiro in August 1968. During the twenty-third session of the General Assembly we were in favour of starting discussion on the question of principles. Unfortunately, during that session it was not possible to do so. During the second and third sessions of the Sea-Bed Committee this year we gave our comments on the many issues involved and in the formulation of the various principles which are contained in the report of the informal drafting group [*A/7627 and Corr.1, Part Two, Annex*].

67. The report of the Legal Sub-Committee, which forms Part Two of the Committee's report, admirably covers the discussions which took place in that Sub-Committee. I should like to share our thoughts with the Committee on the fundamental issues before us. We trust that these views, which, we believe, are widely shared among the developing countries, will also be acceptable to other countries.

68. It is no longer novel to consider that the sea-bed and the ocean floor beyond the limits of national jurisdiction belong to all mankind and are indeed its joint legacy. Those areas have so far not been seriously occupied or claimed by any nation, because their hostile environment has kept man practically out of bounds. With the advance in technology, they are increasingly becoming accessible. Therefore, we all have a claim to them and a stake in them. There is, in our view, no other way to treat that area except to consider it as the common heritage of mankind.

69. This concept symbolizes the hopes and needs of the developing countries, which can legitimately expect to share in the benefits to be obtained from the exploitation of the resources. Those benefits would help to dissipate the harsh inequalities between the developed and the developing countries. The efforts to close the ever-increasing gap between the developed and the developing countries have so far shown little success. It would be ironic if the already opulent communities of the world were left with uncharted freedom to exploit the riches of this new environ-

ment. This may tragically lead the economically backward majority of the world to discard the path of reasoned accommodation as unsuccessful and to take to more aggressive measures. Therefore, it is of supreme importance to take into account the interests, needs and aspirations of the developing countries.

70. If man has a stake in the area, if the developing countries could benefit from its wealth, then surely no exploitation of the area should take place which is not within the context of the new principles and norms to be developed, and which does not fall within the ambit of a régime which would ensure an equitable management of the resources of the sea-bed and the effective participation of the developing countries in it. In view of the fact that international law applicable to the area is at best rudimentary and that there are yet no rules which govern exploration and exploitation of the sea-bed, it is our conviction that no exploitation should take place before an international régime is established. We realize that those who are about to begin commercial exploration or economic exploitation should find it difficult to agree with this view. However, no extensive economic exploitation has in fact so far taken place or is in the process of being undertaken. We can all now restrain ourselves while we work out an international régime which should guide our activities. It is essential to develop a régime which would cover all activities in the sea-bed, including the management of the resources of that area.

71. What are the primary provisions which should constitute a régime? We believe that the régime should, among other things, provide for the most appropriate and equitable application of benefits obtained from the exploration, use and exploitation of the sea-bed to mankind as a whole, particular consideration being given to the special interests and needs of the developing countries. Furthermore, it should ensure that States can participate, on a basis of equality, in the administration and regulation of activities in the sea-bed.

72. It is also important that the régime should cover all activities in the sea-bed, that is to say, exploration, use and exploitation, as, in our view, it is not possible to control only one or two of these aspects without damage to the others. Therefore, we consider that there is no alternative except that the régime should be applicable to the area as a whole and not to its resources only.

73. To achieve these and other objectives, it is necessary to establish an international machinery which would translate them into reality. Such a machinery would regulate activities on the sea-bed, and, in particular, control the development of its resources.

74. That brings me to another facet of the problem. This relates to the freedom of scientific research and exploration. Should we not have some criteria to distinguish between scientific research and commercial exploration? If we do not wish to grant commercial exploration the freedom that scientific research and exploration should and must have, there should be some criteria to distinguish scientific research and exploration from commercial exploration. The criteria are that research programmes should be made known in advance and that the results of such research should be made accessible to all concerned.

<sup>3</sup> See *Official Records of the General Assembly, Twenty-third Session*, document A/7230, annex III.

75. These are not harsh conditions which have been suggested to make scientific research more difficult. We naturally wish to encourage scientific research and investigation, but we also wish it to be above any hint of suspicion so that it commands the willing co-operation of all. It must be clearly understood that no rights of exploitation are implied in the carrying out of scientific research. We would also wish to emphasize that the participation of nationals of different States in common research programmes should be encouraged and that the research capabilities of the developing countries should be strengthened.

76. We are all aware that under international law States bear responsibility for activities of their nationals. In the Declaration of Legal Principles Governing the Activities of States in the Exploration and Use of Outer Space [resolution 1962 (XVIII)], as well as in the Treaty on the same subject,<sup>4</sup> this principle has been accepted. We consider that this concept should also be included in any declaration of principles governing the use of the sea-bed. We do not like any régime which would not safeguard the interests of other States while conducting activities in the sea-bed. It is of great importance that coastal States close to the area in which any activities occur are consulted to ensure that their interests are not harmed. We should also like to see that damages caused by activities in the sea-bed entailed liability, because to decide otherwise may not sufficiently discourage wilful or even accidental damage.

77. We welcome the general agreement that existed in the Legal Sub-Committee regarding the concepts of sovereignty, sovereign rights and non-appropriation in relation to the sea-bed. However, that agreement was conditional upon satisfactory language being worked out for some other concepts, such as the question of States exercising exclusive rights or acquiring property over any part of the sea-bed.

78. My delegation need hardly emphasize that the sea-bed should be used exclusively for peaceful purposes. It is axiomatic that if this area is to be used for the good of mankind and if the fears and tensions prevailing on the land surface are not to be injected into this new environment, then the sea-bed should be reserved exclusively for peaceful purposes. Therefore, only those activities that are in consonance with that concept should be permitted.

79. A question that has repeatedly been raised is that the boundary of the continental shelf should be clearly delimited. We recognize that the definition given in the Convention on the Continental Shelf of 1958 lacks precision. We would agree to any proposal that would seek the convening of a law of the sea conference to consider this and the other unresolved question of the breadth of the territorial sea and fishing limits.

80. Resolution 2467 C (XXIII) requested the Secretary-General to undertake a study on the question of establishing in due time appropriate international machinery for the promotion of the exploration and exploitation of the resources of this area and the use of these resources irrespective of the geographical location of States, and

taking into special consideration the interests and needs of the developing countries. The Secretary-General has submitted his report [see A/7622 and Corr.1, annex II], in which he has discussed some of the aspects of an international machinery, and has suggested a range of possibilities regarding its functions and powers, the institutional arrangements, membership, secretariat and some general legal issues that will arise when an international machinery is set up.

81. The question of establishing an international machinery came up in the Economic and Technical Working Group of the *Ad Hoc* Committee in 1968 and in the Working Group's report. This report is contained as annex I in the Committee's report.<sup>5</sup> Paragraphs 57 and 58 of this document summarize the discussion that took place then. My delegation contemplated a certain institutional framework when it submitted its draft resolution<sup>6</sup> in June 1968 in the *Ad Hoc* Committee. The relevant provision read as follows:

"Taking into account the work currently being performed by other bodies, the United Nations shall endeavour to provide direction and purpose to international and intergovernmental activities with regard to the sea-bed and ocean floor and the subsoil thereof, beyond the limits of present national jurisdiction."

82. We are strongly convinced that an international machinery should be set up which would regulate activities and, in particular, control the development of the resources. We derive that conviction from the preamble to the Charter itself, which contains the following sentence: "to employ international machinery for the promotion of the economic and social advancement of all peoples". We should give content to this objective set forth in the Charter by establishing an international machinery for the sea-bed.

83. The reason for the establishment of an international organization has been aptly put forward in paragraph 58 of the Secretary-General's report. It states that:

"The main feature of these proposals is that title or control of sea-bed resources would be held by the international community, represented by the international authority which would issue licenses to individual operators. Under the allied concept whereby sea-bed resources are regarded as part of the common heritage of mankind, as proposed by various Governments, the international machinery would act as the administrator of a trust, and might even engage in the exploration and exploitation of resources."

In paragraph 71 of the same report it is made clear that:

"The exercise of exclusive rights by an international agency would be in accordance with some versions of the 'common heritage' approach to sea-bed resources, whereby these resources are to be regarded as trust property, to be held and developed in the general interest, although it should be noted that that concept is in fact

<sup>4</sup> Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies; see resolution 2222 (XXI).

<sup>5</sup> *Official Records of the General Assembly, Twenty-third Session, document A/7230.*

<sup>6</sup> *Ibid.*, annex III.



compatible with various forms of machinery and is not necessarily to be identified with the exercise of sole rights by an international body.”

84. Our general view, then, is that the sea-bed should be placed under the jurisdiction of an international machinery that should ensure the rational exploration, conservation, exploitation and development of the resources and should also ensure regulation of all activities on the sea-bed. To be fair and effective it should enable States to participate on a basis of equality in its management.

85. It is contemplated that the organization should have both regulatory and operational functions. Its regulatory functions could include organizing, controlling, administering and co-ordinating all activities relating to the sea-bed. It could grant licences for lawful activities in accordance with the rules and legal norms to be formulated. It may take appropriate measures to prevent pollution and other hazards of the marine environment.

86. It is recalled that for some time it may not be possible for the proposed international organization to undertake significant operations on its own; its constitution should none the less make provision permitting operations independently whenever it is found necessary and feasible. That may be done either through or in association with investors, who may again be governmental or private, possessing the necessary technical skills, equipment and financial resources.

87. One of the principal tasks of the organization would be to provide for the most appropriate and equitable application of benefits to mankind obtained from the exploration, use and exploitation of the sea-bed, particular consideration being given to the special interests and needs of the developing countries.

88. Its other functions should also include the taking of appropriate measures to minimize the fluctuation of prices of raw materials in the world market resulting from the exploitation of the resources of the sea-bed, and also to arrange training programmes aimed at enabling the developing countries to increase their expertise in the techniques needed for the exploitation and conservation of the sea-bed resources.

89. An important function of the organization would be to make available to all countries, in accordance with their needs and in relation to their economic and social development, resources obtained from the exploitation of the sea-bed. Also, an adequate portion of the organization's net income should be allocated to developing countries in accordance with a scheme to be established, and also to the United Nations to increase its resources and those of its specialized agencies active in the field of economic development.

90. By their very nature these comments cannot be taken as exhaustive or final. We would wish to consult other delegations to develop the ideas and suggestions put forward just now. That would help and speed the process of reaching an agreement on the establishment of an international machinery.

91. Before I conclude I should like to touch upon another important aspect of this item. In paragraph 3 of resolution 2467 A (XXIII) the Sea-Bed Committee was asked to study, taking into account the studies and the international negotiations being undertaken in the field of disarmament, the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor without prejudice to the limits which may be agreed upon in this respect. The Committee on Disarmament has been giving consideration to preparing a draft treaty which would prohibit some types of military activity from the sea-bed beyond a certain distance from the coast-line. It is understood that it has now before it a joint draft treaty presented by the United States and the Soviet Union on 7 October. We further understand that that joint draft treaty was revised on 30 October. We would prefer to make our comments on this document after obtaining the recommendations of the Committee on Disarmament and after hearing the views of the members of this Committee. At the same time, we hope that the Sea-Bed Committee will be able to meet soon to consider the revised joint draft treaty and make its recommendations to this Committee, so that the treaty will have the benefit of examination both by the Committee on Disarmament and by the Sea-Bed Committee.

92. Mr. PHILLIPS (United States of America): I appreciate this opportunity to present the views of my delegation on the excellent report [*A/7622 and Corr.1*] prepared by the Sea-Bed Committee. We are all indebted to the distinguished leadership of Chairman Amerasinghe and the Chairmen of the two Sub-Committees and their Bureaux for producing this comprehensive document. It reflects the high level of understanding in the Committee of the very difficult issues we face and it underscores the need for further intensive effort by the Committee to fulfil the mandate given it by the twenty-third session of the General Assembly [*resolution 2467 A (XXIII)*]. It is a tribute to the leadership of the Committee that its first year of activity was so productive.

93. I should like to single out for special mention the valuable report on international machinery prepared by the Secretary-General and included in Part Three of the report of the Sea-Bed Committee as annex II. That report on the alternative kinds of machinery governing the exploration and exploitation of sea-bed resources and the accompanying review of procedures and problems that might be encountered in putting them into practice represents the best analysis ever made of the possibilities. Some of the representatives in this chamber today may recall that the United States abstained on a resolution which requested the study. But despite our reservations at that time on requesting such a study, I am pleased to say that we have found the completed study most useful and that it played a significant role in the development of our views on machinery which my delegation presented to the Sea-Bed Committee at its August session. We also benefited greatly from the views which were expressed in the March session of the Committee and at the General Assembly last fall by other delegations.

94. The more we have discussed with our colleagues the question of promoting peaceful exploration and exploitation of the deep sea-beds, the more we have become convinced of the need for some form of international

machinery as part of the international régime. It will be a practical necessity if conflict is to be avoided and orderly development ensured. This machinery should, in our judgement, be appropriate to the task it is to perform; it should be neither more nor less adequate than required. The machinery must, above all, be equipped to promote exploration and development of the sea-beds.

95. Toward those goals supporting services must be provided, including, for example, navigation aids, weather information and rescue capability. Operational standards must be maintained at levels sufficiently high to protect human safety, to minimize damage to other uses of the sea, and to prevent unnecessary waste and contamination of its resources. Liability for damages arising from sea-bed operations must be provided for, and accommodation among commercial and other uses of the deep ocean floor and marine environment must be made. To encourage initiatives, the integrity of investments should be ensured and confidence should be engendered in the stability of rules and in the rights of free access to sea-bed resources for all countries without discrimination.

96. We all agree that the deep sea-beds must be developed in a manner which will benefit all mankind. At the present time, however, no international organization possesses the knowledge or capability requisite for actual exploitation. As we have previously stated, we recommend that provisions be made for payment of royalties on production in the area beyond national jurisdiction for the benefit of the international community.

97. We recognize that the international community must act positively to avoid a wild scramble of claims to explore and exploit the deep sea-beds. Because mere registry of claims would probably only contribute to a confused race, it is our view that an international régime should include an international registry of claims governed by appropriate procedures. The registry should be neither complicated nor costly, so that maximum proceeds will be available to the international community. Governments would be responsible for adherence by their nationals to internationally agreed criteria, and both adequate verification techniques and dispute settlement procedures would be established.

98. Unjustifiable interference with the exercise of the freedoms of the high seas or with the conservation of the living resources of the seas, or any interference with fundamental scientific research carried out with the intention of open publication, should be avoided.

99. The criteria for exploitation of the area would include types of resources to be exploited, size of the claim, duration and termination of the claim, accommodation of multiple uses of the sea-bed and the water column, eligibility and capability of the claimant to exploit the resources of the area, relationship between exploration and exploitation rights, and minimum performance requirements. Those criteria should also be aimed at further conservation and at holding to a minimum pollution and danger to human life.

100. We recognize that matters pertaining to machinery are closely related to other important unsolved problems, such as the location of the outer boundary of national

jurisdiction over sea-bed resources. It will take some time to arrive at informed judgements on these matters, but the above-mentioned elements of international machinery seem clear now. We look forward to the Sea-Bed Committee's continuing its examination of machinery and its effort to reach agreement. The Committee has made a useful and encouraging start and is scheduled to resume its work in March of next year, as our Chairman has reminded us. It would in our judgement be premature and unwise for the Assembly to attempt to give the Committee any specific guidelines at this time. We believe that it would be preferable for the Committee to develop its own thinking further, to narrow the differences and to make its recommendations to the General Assembly.

101. Another item of work of great importance for the Sea-Bed Committee will be the reaching of agreement on a set of principles governing the exploration and exploitation of the deep sea-bed. I am sure that the disappointment which we feel that the Committee was not able to complete that task during its 1969 sessions is shared by other members of this Committee. At the same time I would hasten to point out that its inability to do so was due not to any lack of diligence and hard work, but rather to the importance and complexity of the issues with which an adequate statement of principles must deal effectively.

102. That fact is clearly evident from the report of the Legal Sub-Committee itself, and particularly from the report of the informal drafting group which emanated from the informal consultations among the members of the Sub-Committee during the summer, and also the so-called Synthesis section which appears at the end of the Sub-Committee's report [A/7622 and Corr.1, Part Two, paras. 83-97].

103. In our view, the Sub-Committee made significant progress in establishing a workable framework within which further negotiations can proceed during the coming year and in recording within that framework some limited areas of agreement which have already emerged.

104. I do not propose to discuss the substance of the issues reflected in the Sub-Committee's report on the principal items at this time; it is clear that time does not permit any examination of them in depth, and our own position appears clearly in the records of the Sea-Bed Committee. We of course continue to favour adoption of a set of principles on the lines introduced by the United States in June 1968 and the so-called set (b) principles which received substantial support at the meeting of the *Ad Hoc* Sea-Bed Committee in Rio de Janeiro in August 1968. In the course of the meetings of the Sea-Bed Committee this year we set forth some additional points which we felt should be covered. What I should like to emphasize now, in the First Committee of the General Assembly, is the urgency which we believe the international community should attach to reaching agreement on principles.

105. Exploration and exploitation of the sea-bed is continuing at an accelerated pace, but without the guidelines which are necessary to ensure the orderly development of sea-bed resources. We believe it is of the highest priority at this stage that the Sea-Bed Committee press ahead with its efforts to build upon the common denominators which

have already emerged and to present a set of principles to the next session of the General Assembly.

106. We regret that, owing to a shortage of time, the Sea-Bed Committee was unable to deal adequately at its sessions this year with questions of exploration, research and pollution. These are subjects to which the Committee plans to return when it resumes its work next March. In this connexion we look forward to receiving the report on pollution which the Secretary-General is now preparing.

107. The twenty-third session of the General Assembly welcomed the International Decade of Ocean Exploration, which was originally proposed by the United States, as a part of the long-term and expanded programme of oceanographic research. We have here an unparalleled opportunity to promote international co-operation in making the exciting discoveries which lie ahead in the exploration of man's newest frontier. The General Assembly invited all of us to formulate proposals for national and international scientific programmes with respect to the Decade. For our part, we shall propose a range of specific programmes as our initial contribution to the International Decade of Ocean Exploration during the 1970s. Additional funding above current levels will be provided for implementing our contribution.

108. We intend to urge international emphasis on a number of important goals, some of which I should like to refer to here. These are the following: intensification of our study of the natural state of the ocean and the coastal margin so that our exploitation of the sea-bed does not lead to damaging imbalance or depletion of either marine life or resources; improvement of our environmental forecasting capabilities to help to reduce hazards to life and property and to permit more efficient use of marine resources; expansion of our sea-bed assessment activities to permit better management of ocean minerals; development of an ocean monitoring system with data buoys and remote sensing platforms to facilitate prediction of oceanographic and atmospheric conditions; and a world-wide data exchange programme to allow nations in every area to participate in and benefit from the new knowledge thus gained.

109. The International Decade of Ocean Exploration provides an unusual opportunity to work towards those goals and thereby to accelerate understanding and international co-operation in the use of man's great common resource, the ocean. As a first step towards those goals we wish to reaffirm the appropriateness of the Sea-Bed Committee as the forum best suited at this time to reach agreement on the major substantive issues before us. We hope that the General Assembly will refer the major issues back to the Sea-Bed Committee so that the progress registered there will not be eroded. And finally, we hope and we believe that the very suggestions put forward here during this debate will provide useful and constructive guidelines for the continued work of that Committee during the coming year.

110. Mr. DENORME (Belgium) (*translated from French*): The delegation on whose behalf I have the honour to speak this morning wishes very briefly—in accordance with your injunction—to congratulate the Officers of this Committee,

and in the first place you, Mr. Chairman, who have directed our work with the skill and courtesy to which we have become accustomed in the course of the first month of our debates. We wish also to congratulate Mr. Kolo, our Vice-Chairman, a familiar figure in our midst, and Mr. Barnett, who has taken on the onerous duties of Rapporteur of our Committee.

111. These first weeks that have elapsed since the beginning of our debates have, unfortunately, seen disasters occur in the territories of friendly States on both sides of the Mediterranean. My delegation wishes to tender its sympathy to our colleagues of Tunisia and Yugoslavia on their losses in human lives and resources caused by the recent disasters that have plunged those countries into mourning.

112. A year ago the General Assembly decided [*resolution 2467 (XXIII)*] that in order to solve the many and complex questions posed by the peaceful uses of the sea-bed and ocean floor and the exploitation of their resources for the benefit of mankind as a whole, it would be advisable to have recourse to a committee which would study these questions and make recommendations for their solution.

113. That Committee of 42 members held three sessions during the year 1969 and prepared a substantial report on its work, which has been submitted for examination by the First Committee [*A/7622 and Corr.1*].

114. The Belgian delegation, which was privileged to make an active contribution to the work of the Committee, would like to make a brief assessment of what has been achieved in the course of the months that have passed.

115. It may well be that some delegations were somewhat disappointed on reading this report. None of the problems which had been so clearly set out by the *Ad Hoc* Committee<sup>7</sup> after excellent preliminary work was solved; the Committee was not able to deal with them all and in the fields where the work was undertaken, it remains unfinished.

116. Thus the Committee merely touched upon questions as important and complex as the prevention of pollution or the reservation of the sea-bed for exclusively peaceful purposes. Similarly, its study on the system of exploitation of the mineral resources of the sea-bed and ocean floor and that on international machinery that will doubtless have to be set up to ensure the utilization of these resources have not led to any specific recommendations. Finally, on the question of the formulation of principles that are to regulate peaceful uses in this field, the sustained efforts of the Legal Sub-Committee have not led to the recommendation of any balanced and complete declaration of principles.

117. In these circumstances the Committee was compelled to note in its report that, in spite of intensive discussions, it had not been able "...to arrive at the stage of making specific recommendations on the substantive matters before the Committee", and that these efforts "...should be

<sup>7</sup> *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

continued with a view to the formulation of recommendations during future sessions" [ibid., para. 15].

118. The members of the Committee did not wish to prejudge problems as complicated as the definition of the régime that should be established to regulate the sea-bed and ocean floor or the nature of the international machinery that might be deemed necessary to ensure their utilization before a detailed study had been made of all the aspects of the question. Still less have they tried to adopt recommendations that might fail to obtain the support of all delegations in a field in which so many national interests are at stake. Does that mean that no progress has been achieved? For it is in the light of such progress that the work done by the Committee should be assessed. The Belgian delegation will endeavour to give the answer to that question in the course of this statement; its analysis will of course fall within the very broad terms of reference conferred on the Committee in resolution 2467 (XXIII).

119. Perhaps I might first be allowed, however, to deal for a moment with a question which, though in the eyes of some delegations it goes beyond the mandate of our Committee, still has vital importance for the success of the work undertaken, namely the question of defining the limits of the field we are considering.

120. The report mentions the fact that the importance of this problem was noted and that it warranted careful consideration by the competent body. My delegation shares the view that the uncertainty that exists regarding the limits to be set may seriously hinder the solution of the problem of what régime and what international machinery are to be set up. It is certainly true that last year's report of the Special Committee stressed the legal existence of an area of the sea-bed and ocean floor beyond the limits of national jurisdiction, and in the report of the Legal Sub-Committee last year we find the following:

"It was generally agreed that there is an area of the sea-bed and ocean floor which is not subject to national jurisdiction and that this fact, which seemed obvious, needed emphasizing because of the broad interpretation of which article 1 of the Convention on the Continental Shelf was susceptible. It was pointed out that none of the members in the Working Group had suggested that either international law or article 1 of the Continental Shelf Convention authorizes the extension of limits for an indefinite distance into the deep ocean floor and this was considered possibly a valuable finding."<sup>8</sup>

121. The importance of those observations should escape no one; they imply *de lege ferenda* that the coastal States could not progressively encroach upon the zone beyond their own jurisdiction since such a gradual appropriation might ultimately reduce to nothing the zone whose existence is admitted and proclaimed. The *Ad Hoc* Committee rejected as politically unacceptable the interpretation which, on a legal basis, would seem to apply if we accept the definition of the continental shelf given in the Convention of 1958.<sup>9</sup> We know that the criterion of

adjacency which appears in that Convention is not defined by any precise measure of lateral distance and that the bathymetric criterion of 200 metres in depth loses its precise character because it is complemented by the option of exploitability; but the possibility of exploitation cannot serve as a basis for the establishment of any limit whatsoever if we take into account the recent and foreseeable progress of technology. Some day the exploitation of the vast reserves of mineral deposits in the depths of the ocean may prove to be technically feasible and economically viable, as is evidenced by the interest industry is already showing in those reserves.

122. Thus there is reason to fear that the present definition of the continental shelf could incite the coastal States to extend their national jurisdiction without any limitation whatsoever. It is therefore a matter of urgency that a precise definition should be established of those regions of the sea-bed and ocean floor which must be beyond national jurisdiction and that their limits should be determined by an international agreement. As the report of the Economic and Technical Sub-Committee stresses, it is urgent that this problem, whose importance is obvious, should be studied by the competent bodies.

123. I should like to interpolate here that Belgium, by promulgating a national law, has affirmed its rights over its portion of the continental shelf in the North Sea. As the latter constitutes in reality only one physical continental shelf and the rights that my country may hold over that shelf must necessarily be specifically limited by the rights of other coastal States, our rights would not be affected by the gaps in the Geneva Convention.

124. Though the competence of the Committee is challenged regarding the delimitation of national jurisdiction, everybody agrees that it has a mandate to work out a body of legal principles to ensure that the resources in this field would be used for the benefit of all mankind. Indeed, the formulation of such principles has been one of the main concerns of the members of the Committee, and they did that work with perseverance and determination, both during the official sessions in March and August and in the interval between those two sessions.

125. That interval was taken advantage of for the holding of consultations which, though informal, evidenced none the less an intensive and stubborn effort to lead the discussion in the Legal Sub-Committee from a level of general statements to one of precise formulations. The Legal Sub-Committee succeeded, for each point of a most carefully prepared programme of work, in combining the many formulas proposed so as to work out, as far as possible, what their common denominators were. But it warned the General Assembly that no one should infer from such a set of common denominators that the Sub-Committee saw in them a sufficient basis for the preparation of a declaration of balanced and comprehensive principles.

126. I think it worthwhile to list those common denominators:

(1) That no part of the area is subject to national appropriation by any means whatsoever and that no State

<sup>8</sup> See *Official Records of the General Assembly, Twenty-third Session*, document A/7230, annex II, para. 40.

<sup>9</sup> United Nations, *Treaty Series*, vol. 499 (1964), No. 7302.



may claim or exercise sovereignty or sovereign rights over any part of the area.

(2) That principles and norms of international law applicable to the area do exist.

(3) That the area in question will be reserved exclusively for peaceful purposes.

(4) That the régime set up must be legally binding.

(5) That the resources must be used for the benefit of mankind as a whole, irrespective of the geographical situation of States, taking into account the special interests and needs of developing countries.

(6) That the freedom of scientific research in this area shall be assured to all without discrimination and that States shall promote international co-operation in the conduct of scientific research and that there shall be no interference with fundamental scientific research carried out with the intention of open publication.

(7) That the interests of all States will be respected; that the freedoms of the high seas will not be infringed and that there will be no unjustifiable interference with the exercise of those freedoms.

(8) That appropriate safeguards must be adopted against the dangers of pollution and to conserve and protect the living resources of the marine environment, and that measures must also be taken concerning all activities in that area.

127. Despite persisting differences of opinion which are carefully noted in the synthesis which concludes the report of the Legal Sub-Committee [*A/7622 and Corr.1, Part Two, paras. 83-98*], the list, in the view of the Belgian delegation, shows that substantial progress has been made. The most significant result, however, is the fact that the many proposals made in the course of this year, whether by delegations or groups, were combined, after detailed analysis, into a single document. Comprehensive statements that conflicted and were sponsored by groups with divergent interests were replaced by the publication of a general synthesis prepared by the Committee which brings out both the difficulties overcome by a common effort and the obstacles that still have to be overcome through negotiation. The Belgian delegation was happy to aid in the search for common denominators and to give its detailed view on each of the points that are still controversial.

128. Another field which undoubtedly falls within the purview of the Committee is that of the régime governing the exploitation of the resources in this area. The Economic and Technical Sub-Committee made a preliminary study of ways and means of promoting such exploitation for the benefit of mankind as well as of possible régimes of exploitation, and in so doing it drew particularly on the excellent report of the Secretary-General which deals with the establishment in due time of appropriate international machinery for the promotion of such exploitation [*A/7622 and Corr.1, annex II*]. The principles that the régime to be set up must serve the interest of mankind as a whole, that it must benefit all countries, whether or not they have a

coastline, and that it must take into account the special needs of the developing countries were all unanimously affirmed by all delegations. On the other hand, unanimity was far from being achieved on the question of how mankind as a whole might truly benefit from the advantages derived from such exploitation. In other words, what are the requirements that must be met by any system of exploitation and what type of international machinery should be set up to apply the régime chosen. It must be noted that the Secretary-General prepared a report on that question after the General Assembly adopted part C of resolution 2467 (XXIII). It will be remembered that that was the most controversial part of that resolution and that Belgium itself had certain doubts regarding it. Hence we are all the happier to note that the report was welcomed as an excellent study and was discussed in a highly constructive spirit. That fact should be stressed and my delegation is happy to see in this a guarantee of the spirit of compromise and co-operation which imbues all governments when the welfare of mankind as a whole is at stake. The study of this question must be pursued and I think it would be premature to try to draw any final conclusions at this stage.

129. I shall limit myself to drawing attention to certain comments in the report of the Economic and Technical Sub-Committee that seem to warrant particular attention. They relate to:

(1) The need to ensure that the system is efficient, that it works equitably and impartially and that its stability and technical value instill confidence;

(2) The importance of encouraging the investment of capital necessary for the exploration and exploitation of the mineral resources of the sea-bed and ocean floor;

(3) The importance of avoiding the creation of an international bureaucracy which would swallow up too large a part of the financial profits that might result from exploitation and thereby prevent mankind as a whole from deriving its just and equitable share thereof;

(4) The feeling that any régime should necessarily imply the creation of an administrative system or of what resolution 2467 C (XXIII) calls "appropriate international machinery", to which certain functions would be entrusted.

130. The Belgian delegation endorses those conclusions. It considers in particular that it will be necessary to ensure that potential investors are offered attractive conditions and serious guarantees.

131. Furthermore, we must bear in mind that the sea-bed and ocean floor constitute the common heritage of mankind as a whole and it is mankind that their resources must serve. Pending a more detailed study that will have to be made by the Committee, my delegation feels that an international authority will be necessary and that it should be empowered to grant concessions. My Government considers that a system of direct international exploitation would be an adventure that might turn out to be disastrous for precisely those who hope to derive the greatest profit from it. The functions to be attributed to the international machinery should be precisely defined in duly negotiated international instruments, but it would be Utopian to envisage actual operational functions among them.



132. The Committee's mandate covers a number of aspects other than those with which I have just dealt. I have purposely limited myself to those on which the Committee concentrated its studies this year. It is true that the Economic and Technical Sub-Committee also examined a Draft Comprehensive Outline of the Scope of the Long-Term and Expanded Programme of Oceanic Exploration [A/AC.138/14], including the International Decade of Ocean Exploration. Since the detailed outline of the scope of that programme has not been submitted so far, it would no doubt be premature to deal with the matter now.

133. Still other questions were only touched upon. I am thinking particularly of the reservation exclusively for peaceful purposes of the sea-bed and ocean floor; the study of a last group of problems was postponed until next year. The most important question among these is undoubtedly the prevention of pollution of the sea.

134. I shall now conclude. The report submitted by the Committee of Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction seems to us, after one year of existence, to justify our trust in the will of its members to achieve speedy progress in carrying out its mandate. That is why my delegation believes that the General Assembly will wish to take note with satisfaction of this document and to invite the Committee to pursue its efforts to make recommendations on the different questions entrusted to it in resolution 2467 (XXIII). My delegation has recently been engaged in consultations in order to submit a draft resolution on those lines which might, furthermore, specify the tasks to which the Committee should attach priority.

135. The idea of priorities nevertheless raises certain difficulties. In 1969 a tendency developed in the Committee itself to consider the solution of certain problems as a pre-condition for the study of other problems. It was, for example, suggested that in order to settle finally the question of setting up international machinery, we should wait until a solution was in sight of the problem of the definition of the limits of the area. Furthermore, it was pointed out that the nature of the régime to be applied to the area would doubtless influence the position of Governments on the precise limitation of the zone; the determination of the limits would thus be made easier if an international régime was first set up. While recognizing that all those questions are interlinked, the Belgian delegation believes that we must study these different problems together and that they should be solved without delay and, if possible, simultaneously. That would be the best way of avoiding what might appear to be a vicious circle. But in no case could the interdependence of those questions serve as a pretext indefinitely to delay the study. To invoke priorities in that frame of mind could not contribute to the aim we

have set ourselves. However, my delegation is convinced that thanks to the remarkable guidance of its Chairman, supported by an able and energetic Bureau and assisted by a devoted and active secretariat, the Committee will be able to avoid these pitfalls and to achieve in the near future the primary objective which the permanent representative of Malta, Mr. Pardo, had in mind when he asked that this item should be included in the agenda of our General Assembly, namely, to act in such a way that the exploration and exploitation of this "last frontier" of our globe will benefit mankind as a whole.

136. The CHAIRMAN: Before we adjourn this meeting may I on behalf of this Committee express our very deep sympathy to the Government and people of Tunisia at the suffering caused by the worst natural catastrophe in its history. I regret that our deep distress over the death of Mr. Mongi Slim led me to neglect mentioning the losses caused to Tunisia by more than a month of flooding rainstorms. Official reports mention more than 500 dead, 135,000 homeless and 60,000 homes destroyed, as well as roads, dams, bridges and factories washed out. I would ask the representative of Tunisia to express our heartfelt distress to his Government and his people.

137. Mr. CHERIF (Tunisia) (*translated from French*): Mr. Chairman, on behalf of my delegation I want to tell you how much we appreciate the feelings of sympathy and solidarity expressed to us in connexion with the floods which were on a scale unprecedented in the history of Tunisia. I take this opportunity to express our thanks and gratitude to you and to all friendly delegations, in particular that of Belgium.

138. Mr. KHANACHET (Kuwait) (*translated from French*): In associating myself with the Chairman in expressing sympathy to the people and Government of Tunisia, I should like to draw the attention of the Committee, through the Chairman, to the fact that the Economic and Social Council at its meeting this morning adopted two resolutions [1468 (XLVII) and 1469 (XLVII)] dealing with the natural disasters that have afflicted Tunisia and Yugoslavia. With the Chairman's permission, my delegation will take the liberty of examining with him and with the Secretariat the possibility of the adoption by the General Assembly, in accordance with the rules of procedure, of two similar resolutions dealing with the catastrophes which have afflicted Tunisia and Yugoslavia. In conclusion, may I express, on behalf of my delegation, all the sympathy and compassion of my country to the people of Yugoslavia on the catastrophe at Banja Luka.

*The meeting rose at 12.50 p.m.*