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CONTENTS

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 *(continued)* (A/7622 and Corr.1; A/C.1/L.473)

1. The CHAIRMAN: I should like to inform the Committee that in accordance with its decision taken yesterday the list of speakers in the general debate has now been closed.

2. Before I call on the first speaker for this afternoon, I shall give the floor to the representative of Brazil, who wishes to raise a point of order.

3. Mr. ARAUJO CASTRO (Brazil): Mr. Chairman, I have asked for the floor in order to raise, with your leave and indulgence, the following matter. Some days ago you had the kindness to inform us that the documents of the Conference of the Disarmament Committee on a draft treaty on the non-emplacement of nuclear and other weapons of mass destruction on the sea-bed and ocean floor were available to the representatives of this Committee.

4. As a member of the Conference of the Disarmament Committee, Brazil has submitted two working papers on matters related to that draft treaty. The first working paper, document ENDC/264, was circulated on 21 August 1969 and dealt with the control provisions for the treaty. The second working paper, document CCD/267, circulated on 1 September 1969, referred to the settlement of disputes arising from the implementation of the treaty.

5. These two Brazilian working papers, which we believe incorporate some pertinent suggestions concerning the treaty, have not, however, been distributed among the documents now made available to the First Committee. I therefore would ask the Secretariat, through you Sir, to see to it that these two working papers be also made available to the membership of our Committee, and my delegation would like to have a clarification on this matter.

6. The CHAIRMAN: I should like to assure the representative of Brazil that the Secretariat has taken note of his statement and that in due course a reply will be given to him.

7. Before we resume the discussion of this item, I should like to inform the Committee that the following is the number of those inscribed to take part in the general debate: for Wednesday, 5 November, eight speakers; for Thursday, 6 November, seven speakers in the morning and six in the afternoon; for Friday, 7 November, twenty-two speakers; in addition, six other delegations wish to speak at the end of the debate, so that altogether we shall have twenty-eight speakers for that day.

8. I thought I should give the Committee this preliminary information, and at a later stage I shall try to ascertain its wishes with regard to the manner in which it wishes to proceed in order to conclude the general debate on this item as expeditiously as possible.

9. Before calling on the first speaker on my list for the general debate, I give the floor to the representative of Malaysia, who wishes to make a brief statement.

10. Mr. RAMANI (Malaysia): Mr. Chairman, as this is the first occasion on which my delegation has intervened to make a statement in this Committee, permit me to associate my delegation and myself with the felicitations and good wishes that have been offered to you and your Bureau by every other delegation that has already participated in the debates in this Committee.

11. My present intervention will be extremely brief and directed to one particular matter. Subject to your permission, Mr. Chairman, I hope to avail myself of another opportunity to make a statement on the report, assuming, that is, that by that time I shall have been able to master the contents of a particularly prolix report by adequate study, and find in it something coherent if not cohesive on which to found some observation of mine. The report *[A/7622 and Corr.1]* in its existing form speaks with a babel of voices of varied and contradictory content, though in the same tongue. This, let me say at once, was perhaps unavoidable, having regard to the course that the debate took in the Legal Sub-Committee.

12. On the two occasions in August last when I intervened in the debates of the Legal Sub-Committee on the peaceful uses of the sea-bed and ocean floor, I threw out a suggestion that "the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction", by the mere title and by very definition, underlines the fact that the geographical area with which we are concerned is owned by no national State, littoral or otherwise, and that no right of jurisdiction or control over it is vested in any State. I therefore proposed, without entering into the limits and limitations of the concepts known to Roman and civil law as *res nullius* and *res communis,* that we should begin our consideration of the whole matter by vesting that area in the United Nations.

13. If we here have any right at all to talk about it and laboriously make rules governing the use of it, that right derives only from our membership in the United Nations; and as the United Nations is a legal person notwithstanding that it is not a State–and this has been so declared by the judicial organ of the United Nations, the International Court of Justice–the very foundation for all this activity of ours can be consistent only with the entire area's being vested in, or, if you prefer, deemed to be vested in, the United Nations. I said on that occasion that in view of my lack of knowledge in such matters I had taken the precaution of saving myself from exposing my patent ignorance, or betraying my foolhardiness, by having the matter discussed with the Legal Counsel of the United Nations.

14. I used the phrase "threw out a suggestion" earlier, and my suggestion nearly flew out of the window. Fortunately, there are no windows in this hall. Fortunately, too, one or two other delegations presumably felt that it was not without some merit, and it is now recorded in Part Two paragraph 21 of the report–entombed, if you will, or enshrined, if you prefer.

15. I am now asking you formally, Mr. Chairman, whether you may not consider it appropriate at the early stages of this debate to seek a formal legal opinion from the Legal Counsel of the United Nations to enable us to pursue the matter further in the light of that opinion as may be appropriate. If that opinion supports the position that I have put forward, then, I submit that every element that should be comprehended in a legal régime for the area and every matter on which the Working Group overworked itself will follow naturally and inevitably as the night the day.

16. The CHAIRMAN: The suggestion that the representative of Malaysia has made deserves careful consideration and I am sure that he would not wish me to give a reply to it immediately, but I do hope to be in a position to give a considered reaction somewhat later.

17. Mr. KESTLER (Guatemala) *(translated from Spanish):* Mr. Chairman, first of all let me congratulate you on your election to the Chairmanship of this Committee. At the forty-sixth session of the Economic and Social Council, I had the honour of working with you and admiring your constructive work with the Economic Committee. I feel that your election to the Chairmanship of the First Committee has been and will continue to be a guarantee of the smooth running of the Committee's deliberations. Allow me also to extend my congratulations to Mr. Kolo, the Vice-Chairman, and Mr. Barnett, the Rapporteur and a colleague in the Latin-American group.

18. My delegation has studied thoroughly the 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 congratulates the members of the Committee very sincerely on the document submitted to us. We particularly single out the Chairman, Mr. Amerasinghe, the Rapporteur, Mr. Gauci, and the Chairmen of the Sub-Committees, Mr. Galindo Pohl of the sister Republic of El Salvador and Mr. Denorme of Belgium. Their ability and experience have without doubt been decisive factors in the success achieved.

19. The Committee's terms of reference were very wide and the time at its disposal very short; nevertheless the report is quite comprehensive. A careful study of it will not only enable us to assess the work done; it will also serve as a basis for future negotiations. Admittedly, no concrete resolutions have so far been formulated on the substantial questions, but the reason for this is that the subject is one of great complexity. Hence my delegation hopes that next year the Committee will be given more time to carry out its programme of work. The tasks assigned to it by the General Assembly cover a large area and require longer sessions.

20. The question of the exploitation and utilization of the sea-bed and ocean floor beyond the limits of national jurisdiction is one that from the very outset has aroused great interest. The solution of the problems it raises is of the utmost importance for all States, and particularly for the future of the developing countries. It is also a subject that has thrown light on the way in which the conscience of the world has evolved in posing the principle that the exploitation of wealth which is the common heritage of mankind must be done under an international legal régime, through the co-operation of all States, so that the benefits will not accrue exclusively to those that have achieved a high degree of development. This is extremely significant in the modern world, where the advances of technology give greater and greater access to the sea-bed and ocean floor and the gap between the advanced and the "under-developed" countries is widened with every day that passes; and it explains why we have been most gratified to note the wide support enjoyed by the Committee. Let us hope it bespeaks a future in which all mankind will be the beneficiaries.

21. We must point out at the same time that we are faced with an extremely complex issue, with economic, social, legal and even political implications. I do not propose to refer to all its aspects, for although they are interdependent and their end is the same, namely, to serve the interests of mankind, it may be well to focus our attention in particular on the juridical and the technical-economic aspects, as the Sea-Bed Committee has done.

22. On the legal side, all States have recognized the need for a declaration of principles and for the progressive development of international law in this direction. However, views differ as to the nature and scope of such a declaration. Some contend that it must be unanimous, that

it must have the support of all States. There is no doubt that from a practical point of view the principles should be well balanced and should embrace the aspirations, or take account of the attitude and interests, of all the members of the international community, simply in order to ensure the utmost effectiveness. But it would be inadmissible for a small minority to exercise a kind of veto calculated to hamstring the work of the Committee. As everyone knows, the "consensus" idea can slow down the work of any working group unduly. I need only cite as an example the Committee set up to formulate the principles of international law governing friendly relations and co-operation among States. If that happens in the case of a declaration of abstract principles designed to develop others already embodied in the United Nations Charter, what can be expected of international regulations affecting the material interest of States?

23. We recognize that the principles must be supported by a substantial majority, including the main sea Powers and any States that may have special interests in the matter. But what should be decisive, in our view, is the spirit of objectivity and justice underlying them, their universal content and the extent to which they benefit all mankind. Perhaps that might be achieved if the more developed Powers recognized that only their co-operation can serve the cause of international peace. I say this because we feel that in order to serve their purpose these principles must be of a binding nature and must be embodied in an international convention.

24. It is not my purpose—indeed there would be no point in doing so—to dwell on the controversy concerning the basic concept on which the principles governing the activities on the sea-bed must be based. Many delegations have crystallized the content and significance of the various ideas serving that end. Hence I shall merely point out that in my delegation's view the most acceptable is the idea of "the common heritage of mankind", since it implies the recognition of several elements: the establishment of international machinery for the regulation, administration and use of that heritage by the international community; the most equitable distribution possible of the benefits from the exploitation of the sea-bed, particularly among the developing countries; the utilization of that area for peaceful purposes; and the prohibition of exploitation and exploration before an international régime to regulate such activities has been developed. My delegation also regards these views as in keeping with the spirit of the General Assembly resolutions calling for the study now under consideration.

25. For some delegations it seems more difficult to limit and define the actual area of the sea-bed than to define the concept in question. The problem is complicated by the fact that both aspects are interdependent, and some contend that we have first to delimit the zone exactly before we can formulate rules of law governing its exploitation.

26. As we know, some delegations have expressed doubt in the Committee as to the advisability of giving different treatment to the sea-bed and the superjacent waters, on the grounds that they form an organic whole. In that case the delimitation of the region would depend on the legal régime of the high seas and the establishment of a maximum limit for territorial waters. For although some eighty States limit their territorial waters to a width of not more than twelve miles, others extend their jurisdiction over vast areas of the high seas. It is easy to see that in such a situation, for one State an area of the sea-bed and ocean floor might be beyond the limits of national jurisdiction and not for another. That would inevitably be a source of conflict, as is the case at present in the matter of fishing. Again there are delegations that have expressed the view that the 1958 definition of the continental shelf does not determine precisely enough the limits of the area over which the coastal State exercises sovereignty for the purposes of the exploration and exploitation of the natural resources contained therein, and they consider this necessary in order to establish precisely the area lying beyond national jurisdiction.

27. Nevertheless, the area of the sea-bed and ocean floor does exist. It has no precise limits but its existence is a fact recognized by the Sea-Bed Committee itself. The report of the Legal Sub-Committee makes this very clear; paragraph 85 reads as follows:

> "It appeared at the outset that the Legal Sub-Committee accepted as implied in resolutions 2340 (XXII) and 2467 (XXIII) that *there is an area of the sea-bed and ocean floor and the subsoil thereof which is beyond the limits of national jurisdiction.* There was, however, no agreement on the inclusion in the draft of a reference to *the establishment of a precise boundary for this area.*"

And I must point out that the phrase "there is an area of the sea-bed and ocean floor and the subsoil thereof which is beyond the limits of national jurisdiction" is underlined in the report itself, doubtless to stress even more strongly that the area does exist.

28. My delegation does not believe that negotiations on the régime to be applied to the sea-bed and ocean floor should depend on prior agreement as to the precise limits of the area under national jurisdiction. Moreover, resolution 2467 A (XXIII) itself takes this for granted when it speaks of promoting international co-operation for the exploration and use of the sea-bed and the ocean floor beyond the limits of national jurisdiction.

29. Another and no less important aspect of this subject is the reservation of the sea-bed and ocean floor for exclusively peaceful purposes. It is a problem with urgent political implications. Any military activity of whatever kind affecting the sea-bed is incompatible with its utilization. Consequently, the principle of reservation for exclusively peaceful purposes must, in my delegation's view, be an essential feature of the legal régime we are now considering, even though that aspect of the matter is covered by other instruments.

30. A principle of the utmost importance is that the exploitation and utilization of the resources of the sea-bed and ocean floor must be for the benefit of all mankind, regardless of the geographical location of the States and with due regard for the special needs and interests of the developing countries.

31. It must be said—perhaps over-optimistically—that the mere fact of considering this principle in the Committee illustrates the degree of awareness achieved by the international community. It reveals the need for well-being to be brought to all countries through the co-operation of those States that have achieved great technological progress.

32. But the most important point is that its adoption would imply the acceptance of an international régime for the utilization and exploitation of those resources; this is because only a régime of that kind can guarantee to all States equality of opportunity and the effective and equitable distribution of benefits. I need hardly say that this is the aspect of the problem that must be of greatest concern to the developing countries, and Guatemala shares that concern.

33. The Committee will have to study exhaustively, and negotiate on, the structure of the machinery for this international régime and its powers and competence; and I shall therefore not dwell on that subject.

34. With regard to the legal side, we have noted certain areas of agreement that could serve as a basis for establishing common denominators, though these do not yet constitute an adequate basis for drafting a declaration of concrete principles. The report of the Legal Sub-Committee recognizes this when it says (para. 84):

> "At this stage of the Sub-Committee's deliberations, the practicability of underscoring 'areas of agreement' or 'areas of disagreement' might be questioned, since none of the formulations have so far been endorsed. Yet it could be considered suitable to attempt a synthesis of the related formulations in order to determine insofar as possible common denominators. These denominators could in no way be construed as an acceptance by the Sub-Committee that they constitute an adequate basis for the elaboration of a balanced and comprehensive declaration of principles."

35. Lengthy negotiations will be needed, then, before concrete and positive results are achieved; and I trust that the establishment of "areas of agreement" and "areas of disagreement" will not involve the danger of placing the work of the Committee in the same position as the formulation of the principles governing friendly relations and co-operation among States.

36. I say this because I believe that we must come as soon as possible to agree to recognize, first, that there is an area of the sea-bed and ocean floor beyond the limits of national jurisdiction to be reserved exclusively for peaceful purposes, with no State claiming sovereign rights over it; secondly, that it is only under an international régime that these areas can be explored and exploited; thirdly, that the exploration and exploitation of the sea-bed must be for the benefit of all mankind, with particular reference to the needs and interests of the developing countries; and fourthly, that pollution of the sea must be avoided and a régime of State responsibility established, including a declaration that beyond the natural jurisdiction of each State, exploration and exploitation of the resources of the sea-bed and ocean floor are prohibited until an international régime regulating them has been established.

37. In the technical and economic fields, the report gives us very valuable information regarding the progress made up to the present in the exploration and exploitation of the resources of the sea-bed and the techniques for doing so, the means of promoting the exploration and use of the resources of the area, and possible exploitation schemes. The final observations following the examination of each topic give an admirable digest of the different positions.

38. My delegation feels it would be useful to bring these extremely important aspects of the problem to the attention of States, particularly developing States. In this connexion paragraphs 147 and 148 of the report of the Economic and Technical Sub-Committee deserve particular attention. Paragraph 147 reads:

> "It was suggested that preferential rights should be granted to the coastal State with regard to mineral deposits lying within a zone beyond its jurisdiction but adjacent to it. The granting of preferential rights of that kind should however in no way prejudice the delimitation of the area of national jurisdiction or be used to reduce the area of the sea-bed where the coastal State exercises sovereign rights."

39. Paragraph 148 reads:

> "The view was expressed that supervisory procedures should allow for the participation of the coastal State in the case of activities in areas adjacent to the limits of national jurisdiction.
>
> "In this context, it was also said that the coastal State should be recognized as having special rights within a zone lying beyond its national jurisdiction but adjacent to it, with respect to the supervision and regulation of activities within this zone, in view of the adverse effect that such activities might have on the coastal environment."

40. I have to point out, quite simply, that my delegation shares those opinions.

41. Equally important, if not more important, for the developing States are paragraphs 152, 153 and 154 of that same report of the Economic and Technical Sub-Committee. Paragraph 152 reads:

> "One function of an international machinery should be to ensure that 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 as far as possible the economic growth of the developing countries."

Paragraph 153 reads:

> "A broad range of methods of channelling benefits in the interest of the international community should be considered, e.g., this task could be entrusted either to the future international machinery itself, to some United Nations organs, or carried out through a method of direct channelling of benefits to States."

And finally, paragraph 154 reads:

> "In this connexion, consideration might be given to channelling the proceeds to developing countries as project assistance through existing international or regional agencies which already have developed expertise in the field of project evaluation, implementation and supervision. It was stressed, however, that since the benefits should accrue to developing countries as a consequence of the concept of the common heritage of mankind, they should not be considered as a form of economic assistance."

42. I apologize, Mr. Chairman, both to you and to the members of the Committee, for having spread myself somewhat in quoting these paragraphs, but I was anxious to stress their importance, especially for developing countries. Apart from that I feel that any comment would be superfluous.

43. In conclusion, I must say that a careful study of the report has left us with a sense of optimism. My delegation expresses the hope that the future progress of the Committee's work on the sea-bed will confirm that optimism as speedily as possible.

44. The CHAIRMAN: I thank the representative of Guatemala for the kind words which he addressed to me personally and for his compliments to the Bureau.

45. Mr. HAMBRO (Norway): I am too obedient a member of this Committee to indulge in compliments to you, Mr. Chairman, and I feel that you must be pretty close to being smothered by the compliments you have already heard. I believe, however, that I ought to say a few words about the officers of the Committee on the sea-bed.

46. I wish to tell the Chairman of that Committee how very much we appreciate his devoted work and his eminent leadership of the Committee; and I want to assure him that the elegant form of his eloquence in no way hides the substance of his interventions. I should also like to say a word to Mr. Denorme of Belgium because I understand that he is going to leave us. I wish to tell him how very much we are going to miss him and his work in connexion with the sea-bed.

47. The document now before us is an impressive one. It clearly shows that the standing Committee is a hard-working Committee under wise and able leadership. Our Committee was established:

> "to study the elaboration of the legal principles and norms which would promote international co-operation in the exploration and use of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and ensure the exploitation of their resources for the benefit of mankind, and the economic and other requirements which such a régime should satisfy in order to meet the interests of humanity as a whole" *[resolution 2467 A (XXIII)]*.

48. It is a long title and I am not going to quote the whole resolution. I just wanted to remind us all that the objective is to reserve the riches of the bottom of the sea for humanity as a whole and not only for the fortunate few who have the technological skills to exploit the sea-bed beyond the limits of national jurisdiction.

49. My Government has already stated on many occasions that we regard questions relating to the sea-bed and the ocean floor as of the utmost importance and we have already made several proposals in the Sea-Bed Committee. I agree with the previous speakers that much serious and good work has been done by the Committee. However, I should like to add that people who have not followed this work closely feel that the progress has not been as great as was hoped and they would like the work to proceed with greater urgency in the future. At the same time I think it is clear that if we are to reach an understanding among us on this issue, we must raise our eyes above national horizons. After discussing those problems for two years, we should also conclude that the time for sweeping general statements is over.

50. I am sure we have listened with great attention to the previous speakers and I found the statement made last Friday by the Chairman of the Committee, Mr. Amerasinghe *[1673rd meeting]*, especially interesting. I am convinced that his proposal for a set of principles, which in fact coincides to a great extent with the basic principles already proposed in the standing Committee by my delegation, will prove to be a solid basis for our future work in arriving at a set of principles to which, I hope, we all can agree.

51. Norway's views on the question of the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction have been stated time and again both in the *Ad Hoc* Committee and in the standing Committee. There seems to be common agreement at least that the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, shall not be subject to national appropriation and that no State shall exercise or claim sovereignty or sovereign rights over any part of it. This is all very well as far as it goes, but what is much more important is to reach agreement on the central and basic question, namely, that this area is the common heritage of mankind and as such should come under international control and authority and that exploitation of the area should be carried out in accordance with the rules and regulations of the régime to be established for such an area.

52. There are those who maintain that the sea-bed and ocean floor outside the boundaries of national jurisdiction is free for all and should continue to be so. Typical of this attitude is the following—and I quote from a recent statement by a leading industrialist:

> "There is no reason why a State cannot license a firm to mine anything on the deep sea-bed anywhere under existing international law in the same manner as it licenses vessels wearing its flag specifically to engage in the mackerel trade."

53. This statement is clearly in line with the view that there is no general division for juridical purposes in international law between the water column of the high seas, the air column above it and the solid earth column

below it. My delegation cannot agree with this, and I want to make it quite clear that it is the Norwegian Government's view that the deep ocean floor is not a free-for-all where everybody can do what he wants for various purposes. Basic principles of law exist governing those areas, but those principles are so rudimentary in substance and so general in form that they obviously must be further elaborated and supplemented to suit the host of problems which the technical revolution has created and will continue to create in those areas. The main task of the Sea-Bed Committee will be to work even harder on the elaboration of a set of principles for the sea-bed, and I repeat that the fundamental principle in the régime of the sea-bed and ocean floor beyond the limits of national jurisdiction must be that this area is the common heritage of mankind and as such must come under international control and authority.

54. Some have remarked that the term "common heritage of mankind" is not an established term in the vocabulary of international law. That may be, but the problems with which we are confronted are novel and the solutions we must offer in this area in order to establish international justice and maintain international peace can hardly be found on the bookshelves of international law libraries. We must not be afraid of new concepts or of new terms to explain them. New words are needed for new concepts.

55. The term "common heritage of mankind" point to something valuable, referring to the past as well as to the present and future, emphasizing that those areas and the riches contained therein with their possibilities and problems, have been passed on to the present international community as a heritage of mankind and for the common benefit as a whole, not to any individual nation or group of nations.

56. It has been repeatedly stressed in the Sea-Bed Committee that it is a prerequisite for the successful progress of our work to define the limits between the areas of the sea-bed which are subject to national jurisdiction and the vast areas outside the national domain. On 14 August of this year the Soviet Union stated in the Legal Sub-Committee that the lack of precise boundaries could be a serious obstacle to the formation of legal norms to govern the exploitation of the sea-bed. We whole-heartedly agree with the Soviet Union on this point.

57. It has been stated by some people that it is perhaps somewhat premature to draw precise boundaries at the present stage because such a delimitation may to a great extent be dependent upon the substance of the matter, that is, upon the nature and extent of the rights of exploitation in the deep ocean floor. Such a line of reasoning might easily lead to a vicious circle, namely, that we do not want define the nature and contents of the rights pertaining to the deep ocean floor until we have obtained a more exact definition of the geographical extent of those areas, and so on.

58. On the other hand, there are obvious merits in the thought that we should move with a certain caution in this respect until the problems and our answers to them have matured somewhat. But it ought to be clear to all of us that sooner or later we shall have to face this problem. If we let it drift, the area of the sea-bed and ocean floor beyond national jurisdiction will gradually become smaller and smaller. The concept of non-appropriation will become meaningless in the end, because the outer limits of the continental shelf are determined on the basis of the criterion of exploitability. Even the concept of adjacency is so vague and unclear that we cannot expect it to play any role in checking the gradually extending continental shelves. We should also bear in mind that the continental shelf today in our terminology is no longer a geological concept but a legal one.

59. The most important task of the Sea-Bed Committee is to work out a set of principles essential to the legal structure of a system for exploring and utilizing the sea-bed and ocean floor beyond the limits of national jurisdiction. To administer such a régime, some form of machinery or authority will have to be established.

60. The Secretariat has discussed three basic functions of an international machinery: first, an international registry; second, an international licensing system; and, third, an international agency or organization which itself would explore and exploit the resources of the sea-bed.

61. Of course the organs to be established must vary according to the international régime to be agreed upon. An international registration system might require one type of organ while a licensing system or, even more, an international exploration and exploitation agency, would necessitate a considerably more elaborate and complicated international machinery.

62. I would venture to say that a registration system pure and simple would be of very little use in meeting our needs. Such a system might of course give priorities in time to the claim first registered based on the principle first in time, first in right, and might help to identify and define the areas that are claimed. Or, as stated in the Secretariat report: "The value of registration would lie in its evidentiary force which would form the basis for recognition by the international community of the validity of the recorded activities" *[A/7622 and Corr.1, annex II, para. 41]*. But little else would be achieved. It would not protect the international community against an exploitation race or an occupation race, nor would it promote or guarantee world peace or the exploitation of these riches for the benefit of mankind.

63. Actually such a primitive registration service would do very little apart from paying lip service to the thought of an internationalization of the area. As a matter of fact the ends served by a primitive registration system, namely, to establish priorities in time and space could be equally well or perhaps better taken care of by the traditional approaches of national States such as notification in official law gazettes or diplomatic notifications by the national foreign ministries to other States about the claims. It is quite unnecessary, I believe, to demonstrate further why such a primitive registration system is unacceptable.

64. Whatever system we might agree upon we shall have to consider certain minimum criteria. I should like to mention a few of them. First, any system must effectively prevent an occupation race. Even if we agreed on a registration system we could not allow a State to grab enormous areas

of the ocean to keep them as a national reserve for the future. Even a registration system must have provisions concerning the size and number of areas which could be registered by one nation or its nationals.

65. By the same token any such system must have provisions concerning time-limits. The areas should be held only for a limited period of time. Such limitations must be required even if a registration system were to be adopted because registration with rights for an unlimited period of time could easily become an appropriation in disguise and must therefore be rejected.

66. A third vital element in any such régime would be the obligation to work on the claim. It would be unacceptable that areas could be reserved for possible future interests if no work at all is undertaken. A different solution would also easily imply an occupation in disguise.

67. Questions closely related to the three points mentioned above are the relinquishment question, the question of renewal of titles and of transfer of titles.

68. A fifth question inherent in any régime would be what minerals and what activities should be covered by a title. For example, should the titles refer to the exploration and exploitation of one, or several, or all of the sea-bed resources in the area? And what about other uses that do not seem too far-fetched in the future such as the establishment of underwater cities and communities for other purposes than exploration and exploitation?

69. A sixth element would include rules about royalties and fees to be negotiated and paid, to whom they should be paid and for what purpose. It would not be realistic to assume that all areas or the exploitation of the different resources would call for payment of the same royalties and fees in all instances.

70. Closely connected with this question is the question with whom the various elements of a contract should be negotiated and concluded. Even a registration system must contain some elements of rules concerning with whom to negotiate. It could hardly be expected that the international community would accept that the country which registered a claim could unilaterally decide all these issues.

71. Then we have the question of conservation measures, safety measures and measures against pollution. Could we expect that the international community would be satisfied, for example, with certain lax approaches used today in oil-drilling by various countries to the effect that the more or less haphazard work manuals of a drilling platform are accepted as the only safety code and anti-pollution code applicable to the oceans of the world? Just to ask the question, I think, supplies the answer. It obviously would not be satisfactory.

72. And this brings us to the next question: what about the effects of violations of international agreements or conventions? Should such violations lead to the cancellation of a registration or a title? And who should possibly decide this conflict? I just mention these problems. They are some among the wealth of questions that have to be decided.

73. There are many other questions which could also be mentioned, including the question of conflicting interests and the so-called unitization problems, referring to the problems which arise when a deposit extends across the borders of the licensed area. I must readily admit that my personal feeling is that the problems with which we are faced are complex and manifold but in the future, at least, when exploration and exploitation activities have increased sufficiently, a licensing system with rather elaborate elements of authority and control would be called for.

74. In conclusion, I want to stress the importance of the safety, conservation and pollution aspects of drilling for petroleum on the sea-bed and ocean floor. My delegation is especially grateful for the initiative taken by Iceland regarding the problems concerning pollution. The Government of Norway and its people pay great attention to these problems. This is a natural result of Norway's extended coastline and maritime industries such as shipping and fishing. We must avoid irresponsible practices with regard to the exploration for and the exploitation of petroleum on the ocean floor in order to protect the justified interests and expectations of the whole world community. One simple blow-out, one unnecessary oil or gas leakage may pollute vast expanses of the ocean, killing or severely crippling marine life for years.

75. These safety aspects should be a main issue of any work concerned with the exploration and exploitation of the sea-bed and ocean floor, and uppermost in our minds should be a reasonable regard for the interest of all States and non-infringement of the freedoms of the high seas. No justifiable interference with the exercise of those freedoms must be tolerated.

76. I have ended my statement, but I should like to say that a little voice is still whispering to me that perhaps at times we are too cautious and too prudent, that perhaps we permit laudatory prudence to overshadow the necessity for action and progress in this field. I pray you, Mr. Chairman, and the members of this Committee to remember that we are dealing with a problem that is not only extremely important but also very urgent. We must make some progress, however, limited, at every session both of the Committee and of the General Assembly.

77. Mr. BENITES (Ecuador) *(translated from Spanish)*: Two years and three days ago the Permanent Representative of Malta, Mr. Arvid Pardo, introduced the item we are now discussing. His magnificent statement, which took up the whole of the 1515th morning meeting and part of the 1516th afternoon meeting on 1 November 1967, greatly intrigued his audience, for the promise it held out was startling. As may be seen from the records of the 1516th meeting, Mr. Pardo pointed out that if a specialized organ were set up and the exploitation of the mineral resources of the sea were to start in 1970, by 1975 "gross annual income will reach a level which we conservatively estimate at $6,000 million". He goes on: "After deducting administration expenses and all other legitimate expenses including support to oceanographic research, the agency would, in our view, still be left with at least $5,000 million to be used

to further either directly or through the United Nations Development Programme the development of poor countries".[1]

78. Since there is no more powerful illusion than that which bears the earmarks of reality, the statement aroused extraordinary interest, one of the first consequences being, perhaps, strong competition for membership first of the *Ad Hoc* Committee, and later of the Sea-Bed Committee proper. However, the mirage of yesterday does not seem to be justified by the reality of today if we turn to the report submitted by 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]*.

79. Before dealing with that report, let me express my delegation's admiration and thanks for the immense amount of work put into it under the expert direction of its Chairman, Mr. Amerasinghe of Ceylon, as well as for the important work done by the two Sub-Committees. I can express this appreciation, admiration and thanks all the more freely since my country was the only member of the *Ad Hoc* Committee not re-elected to sit on the Committee, a fact which gives added weight to my tribute.

80. The Economic and Technical Sub-Committee under the very able Chairmanship of Mr. Roger Denorme–and I take the opportunity to say how sorry I am to hear of his imminent departure–did not reach conclusions that would add to the optimism of two years ago. It declares that our knowledge of the sea-bed and ocean floor is still insufficient. A systematic geological survey would take many years, involving juridical conditions such as the recognition of the freedom of the seas and the application of international law–questions being studied by the Legal Sub-Committee, which apparently has likewise not reached positive conclusions. The report of the Economic and Technical Sub-Committee does not seem over-optimistic regarding the possible exploitation of surface or sub-surface hard minerals. As my delegation understands it, this means that the great hope for the exploitation of manganese nodules, associated with other metals, is not a practical reality at present, although:

> "At this stage, industry is becoming increasingly aware of the vast mineral deposits contained in the ocean floor which could in the future become technically recoverable and economically exploitable" *[*ibid., *Part Three, para. 27 (c)]*.

The Sub-Committee attaches considerable importance to the need for encouraging the investment of capital and promoting and protecting the interests of the international community; and this in our view presupposes determining the juridicial régime governing the submarine area.

81. As far as my delegation is able to conclude, for the time being petroleum would appear to be the most important resource of the marine subsoil. It is mentioned that there are deposits being exploited at a depth of 300 metres, or far beyond the bathymetric area of the continental shelf. On this point let me cite Mr. E. D. Brockets, Chairman of the Committee concerned with petroleum resources under the ocean floor, who said in his report of 9 July 1968 to the United States National Petroleum Council that the oil industry would be able to make exploratory soundings at thousands of feet under the water; that he was confident that exploitation was feasible under specific, well-organized programmes, at depths of over 400 metres; and that techniques would be perfected within three to five years. This appears on pages 3 and 4 of the report.

82. Let me now refer as briefly and as concisely as possible to the important work of the Legal Sub-Committee, under the energetic Chairmanship of Mr. Reynaldo Galindo Pohl of El Salvador. Its work has been really excellent, but the conclusions are not in practice very encouraging. There has been no agreement on any of the essential aspects of the problem, and even between similar proposals the gap at present seems unbridgable.

83. The first of these problems is the legal status and the international régime of the new submarine area. The classic debate on whether it is *res nullius* or *res communis* is by now completely academic. There is a new reality calling for the creation of new rules of law. But what type of law could the international community devise for this area? And how could it be applied?

84. We have just heard the splendid statement by the representative of Norway, who unfortunately has only just begun to listen to my own statement. I would like to tell him how deep an impression his statement made on me, particularly what he had to say about the creation of new concepts, and even, as he said, of new words to express the new concepts we must face.

85. The report before us speaks of a "common denominator", namely the concept:

> *"that the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, shall not be subject to national appropriation by any means and that no State shall exercise or claim sovereignty or sovereign rights over any part of it."* [*Ibid.*, Part Two, para. 86].

86. The idea is apparently to prohibit anyone from appropriating the means of acquiring dominion as defined by law. To determine categories of ownership is an important problem, but likewise important is the problem of use, which is not the same as ownership; and while we have to determine the ownership of the area and to decide the legal régime governing it, we also have to know how it is to be used, what methods are suggested for regulating its use, and what basic conditions are to be premised for its use.

87. What the report calls "legal status" is thus indissolubly linked with the international régime to be applied. No great progress seems to have been made in respect of that régime, to judge from paragraph 93 of Part Two of the report. Among the problems mentioned is whether the international régime is to apply to the area or to its resources. This is not juggling with concepts; it is an important point

[1] *Official Records of the General Assembly, Twenty-second Session, First Committee*, 1516th meeting, para. 9.

that needs to be clarified. It is very difficult to maintain that, physically, the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction can be separated from the column of water covering them and the surface of the sea that stretches out over them. But, as Mr. Hambro with his legal mastery has just explained, juridically speaking there are differences between the ocean depths and the shallow areas of the sea. Physically, there is a constant action and reaction between the three components of the sea: the high sea, the soil and subsoil below, and the column of water separating the surface from the bottom. Many products sold on the market as minerals are of organic origin, beginning with oil. The exploration and exploitation of minerals bear an ecological relationship with the marine fauna. A good example was the Santa Barbara oil leakages which covered 200 miles with a thick layer of oil, not only killing vast numbers of sea birds and fish but damaging the coast and destroying life in the tidal areas.

88. I would also endorse Mr. Hambro's masterly statement just now on the problems of pollution due to errors or technical inefficiency in exploiting the sea-bed, particularly in extracting oil.

89. The disturbance of the ecological balance through drilling or exploitation accidents must also be studied within the general framework of the pollution of the sea through inefficient exploitation of the resources of the sea-bed. I would point out that even if an incident takes place within the jurisdictional sphere of a particular State, whether under its territorial waters or on its submarine shelf, it is not a matter of concern to the coastal State alone. The breaking of a biological chain is very important for the entire international community. I shall not press this point, which has to be studied in a global context, including international responsibility for the poisoning of rivers with highly soluble toxic material carried by marine currents, when we deal with the item on "problems of the human environment", ably introduced by the delegation of Sweden.

90. For the moment I shall deal with the problem of the use exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, which is tantamount, *mutatis mutandis*, to the prohibition of their use for military purposes. Clearly this is one of the matters coming within the purview of the Committee both by definition and by its express terms of reference. It cannot be delegated, and what in civil law might be called the exclusion of third parties cannot be applied by the two co-Chairmen of the Committee on Disarmament at Geneva. The latter is competent to deal with all matters relating to general and complete disarmament and its ancillary aspects; but it has no jurisdiction that can exclude the Sea-Bed Committee, let alone the General Assembly.

91. I venture to recall the background of this issue. During the debates in the *Ad Hoc* Committee, at its meeting on 9 July 1968,[2] the Permanent Representative of the Soviet Union, Mr. Malik, proposed that the Committee on Disarmament be requested to discuss the question as a matter of urgency, regarding it as a measure aimed at preventing the arms race. The United States of America had made a similar suggestion; and when the positions were crystallized in draft resolutions, the Soviet Union and the United States agreed that the Committee on Disarmament should study the problem of the use of the sea-bed and ocean floor for military purposes, although they maintained differences of opinion that have disappeared in the draft treaty by which they have celebrated this year their autumn rite of unexpected agreements.

92. The United States draft presented to the *Ad Hoc* Committee on 28 June 1968 reads as follows:

> "Requests the Eighteen-Nation Disarmament Committee to take up the question of arms limitations on the sea-bed and ocean floor with a view to defining those factors vital to a workable, verifiable and effective international agreement which would prevent the use of this new environment for the emplacement of weapons of mass destruction."[3]

The Soviet draft reads:

> "Requests the Eighteen-Nation Committee on Disarmament to consider, as an urgent matter, the question of prohibiting the use for military purposes of the sea-bed and the ocean floor beyond the limits of the territorial waters of coastal States."[4]

93. The differences of opinion were marked until about a year ago. The first was that the United States did not clearly define the zone of application of arms limitation, whereas the Soviet Union defined it as the area outside territorial waters. The second difference was that the United States asked only for a limitation on arms with the intention simply of defining the elements of an agreement that would embrace three conditions: it must be practical, verifiable, and effective. It should be noted that neither the Soviet Union nor the United States indicated what type of weapons should be limited or prohibited, according to circumstances.

94. The draft treaty proposed by the co-Chairmen of the Eighteen-Nation Committee on Disarmament,[5] which was published by the Press all over the world, reveals that in eliminating the discrepancies the draft leans towards the United States position rather than that of the Soviet Union. It is practical, since it has won the assent of the two super-Powers; it is verifiable, since it embodies control machinery; and the super-Powers no doubt trust that it will be effective.

95. The draft treaty discards the perfectly logical Soviet idea of limiting the prohibited area to that lying beyond territorial waters, since the territorial sea is the only part of the sea's surface and soil and subsoil under national sovereignty. The Soviet Union had contended that the coastal State possessed only restricted jurisdiction over the continental shelf, limited to exploration and economic

2 See document A/AC.135/SR.12.

3 *Official Records of the General Assembly, Twenty-third Session*, A/7230, annex III, A/AC.135/24.

4 *Ibid.*, annex III, A/AC.135/20.

5 *Official Records of the Disarmament Commission, Supplement for 1969*, DC/232, annex A.

exploitation, but not including military use. The compromise reached by the co-Chairmen is unexpected, and possibly juridically inconsistent, but it is practical and effective from the pragmatic point of view of the super-Powers. What it amounts to is that they have taken the contiguous zone as the limit.

96. The contiguous zone, which was raised to world status by Gidel, who called it the zone of specialized competence, is based on a surface criterion. Article 24 of the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone,[6] defines it as "a zone of the high seas contiguous to its territorial sea where the coastal State may exercise the control measures necessary to prevent infringement of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea" or to "punish infringement of those regulations committed within its territory or territorial sea". The contiguous zone is a sort of limited area of State jurisdiction which by convention extends beyond the territorial sea merely in order to repress punishable acts committed in the territory or the territorial sea of the coastal State. Thus the State does not exercise any jurisdiction over the soil or subsoil of the contiguous zone except such as the draft treaty in question unexpectedly attempts to give it.

97. Perhaps the reason for the adoption of so unexpected a limit as the contiguous zone, which is not in keeping with juridical realities, lies in the fact that there is no precise limitation of the breadth of the territorial sea; but paragraph 2 of article 24 of the Convention just cited sets the breadth of the contiguous zone at twelve miles as from the baseline from which the breadth of the territorial waters is measured. There may be two purposes in view here: to avoid mentioning the territorial sea, which according to the United States is only three miles in width, and in a devious way to secure a limitation of the territorial waters to twelve miles. On the other hand, the Soviet idea of limiting the rights over the continental shelf has won out, because the adoption of the principle of twelve miles for the contiguous zone limits the military use of the continental shelf, which greatly exceeds that distance. The Soviet shelf under the Barents Sea is more than 700 kilometres, and the United States is exploiting oil in the Gulf of Mexico more than 100 kilometres off the coast.

98. Article II of the draft treaty of the super-Powers does state that:

> "Nothing in this Treaty shall be interpreted as supporting or prejudicing the position of any State Party with respect to rights or claims which such State Party may assert, or with respect to recognition or non-recognition of rights or claims asserted by any other State, related to waters off its coasts, or to the sea-bed and the ocean floor."[7]

But this somewhat vague and imprecise provision, inserted as paragraph 2 of an article whose first paragraph recalls the restrictive provisions of article 24 of the Geneva Convention, does not leave us with a clear-cut impression of its scope, particularly as section IV of the report of the Secretary-General in annex II of the Sea-Bed Committee's report appears to speculate on the application of the rights of third States established in articles 33 to 38 of a non-ratified convention—the Law of Treaties signed in Vienna in May 1969.

99. The idea would seem to be crystallizing that the principles of the Geneva Convention of 1958 are *lex lata* and might have the character of binding rules. My delegation hopes to make a more detailed study of these legal points. Meanwhile it merely reiterates that it seems inadmissible to try by indirect means to limit the right of States to fix the breadth of their territorial waters, and that it would be more satisfactory for the treaty to establish a conventional area without referring to the contiguous zone or to the Convention regulating it.

100. My delegation attaches great importance to the Soviet-United States agreement. It is undoubtedly a great step towards curbing man's headlong race towards wholesale annihilation that the two super-Powers have reached agreement to limit the emplacement of underwater weapons of mass destruction. It is nevertheless rather odd that a treaty so carefully and painstakingly drafted does not contain a precise definition of purposes. Article 1, paragraph 1, refers to weapons which they undertake not to emplant or emplace on the sea-bed and the ocean floors beyond the contiguous zone in somewhat vague terms, singling out:

> "any objects with nuclear weapons or any other types of weapons of mass destruction, as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons".

101. As a rule, any mention of weapons based on nuclear power draws a distinction between nuclear and thermonuclear devices. Presumably the term nuclear weapons as used in the treaty refers to the generic concept and covers both weapons of nuclear fission and weapons of thermonuclear fusion. Again, the idea of other "types of weapons of mass destruction" is not sufficiently precise; but we like to think it embraces the prohibition of chemical and biological warfare. Mention has been made, for example, of the possibility of waging plankton warfare by poisoning the plankton and thus inducing the chain plankton-fish-man, as described in Captain John Long's book *The New World of Oceanography*, Pyramid Publications, 1967, page 126.

102. Nor is the meaning of the expression "as well as structures, launching installations or any other facilities specifically designed for storing, testing or using such weapons" really precise. The Secretary-General's report on the military aspects of the problem,[8] speaks of the possibility of establishing certain types of non-nuclear weapons, particularly for defence and detection; and Professor L. F. E. Goldie of Loyola University, speaking at a meeting held at the University of Rhode Island on 28 June 1967, said it was possible to build miniature underwater San Diegos, Gibraltars, Maltas and Guantánamos, in other words, submarine bases that could even carry atomic weapons (*The Law of the Sea*, pages 100-110).

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

7 *Official Records of the Disarmament Commission, Supplement for 1969*, document DC/232, annex A.

8 A/AC.135/28.

103. A treatise on the better use of the ocean published by the Stockholm International Peace Research Institute quotes an excerpt from *Ocean Science News* to the effect that in the years 1971-1973 the United States Navy will place habitable structures at one atmosphere of pressure on the ocean floor at depths of 6,000 feet, serviced by submarines not designed as yet. A scale model of these structures is apparently now undergoing trials at San Diego.

104. The same publication quotes a statement by Mr. Robert Frosh, United States Assistant Secretary of the Navy (Research and Development) to the effect that future designs of sea-based deterrents following Polaris and Poseidon may take many forms. Underwater silos, for example, are a possibility.

105. I would like before I conclude to make an observation which is not my own; it was made, I think, at a symposium on this subject in California last year. In Geneva there were two views in confrontation: that which came to be identified with Malta, namely, prohibition of the use of the sea-bed and ocean floor for military activity of any kind, and that which has been called after Senator Pell and merely limits the arms race on the sea-bed to weapons of mass destruction. The latter seems to be the one embodied in the draft treaty. But even if the treaty came to be signed, ratified and brought into force, it seems to us that the General Assembly and the Sea-Bed Committee would still maintain their full powers unchallenged.

106. My delegation strongly supports the statement by the representative of Brazil, Mr. Saraiva Guerreiro, at the meeting of 31 October, that:

> "The military-strategic approach of the Conference of the Disarmament Committee should thus be complemented by a more comprehensive approach, one which views the military uses in the framework of the other uses of the area, particularly of the exploration and exploitation of its resources. In fact the Sea-Bed Committee is in its very concept a focal point for consideration of the diverse aspects of the question, including the question of reservation for exclusively peaceful purposes" *[1674th meeting, para. 12]*.

107. My delegation also supports the contention of the Chairman of the Sea-Bed Committee, Mr. Amerasinghe, 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" *[1673rd meeting, para. 61]*.

108. Finally I would like to record my delegation's conviction that the Sea-Bed Committee and the Sub-Committees, which are completely sound in membership and admirably conducted, will work so well that the goals set by the General Assembly can be achieved. There are two goals: the use of the area exclusively for peaceful purposes and the use of its resources for the benefit of mankind.

109. I have dwelt at length on the first of those aspects. Let me sum up the second as follows: first of all, the sea-bed and the ocean floor under the high seas beyond the limits of national jurisdiction not only must not be subject to appropriation by any State, but their use must be subject to international regulation through appropriate machinery; secondly, the principle of the freedom of the seas, in the sense that States cannot exercise rights of ownership but have unlimited freedom of use, is not applicable to the sea-bed and ocean floor under the high seas beyond the limits of national jurisdiction, which cannot be appropriated but can be occupied for exploitation purposes by any State without discrimination of any kind, in virtue of a concession granted before hand by the organ representing the international community; thirdly, the expression "in the interests of mankind" must be understood to mean "in the interests of the international community" and does not imply increasing or reducing the cost of goods for use or consumption as a result of the exploitation of the sea-bed and ocean floor, but implies using the net proceeds for the economic promotion of developing countries, whether they have a sea-coast or not; fourthly, the use and exploitation of the resources of the area cannot affect the rights of States over their continental shelf or the rights they exercise for the protection of the living resources of their territorial sea and the adjacent areas under their jurisdiction; and fifthly, the machinery to serve the international community, whose legal organ is the United Nations, must pay due regard both to the security of State or private investment in exploitation concerns and to the use of the proceeds for the economic benefit of the developing countries, whether they have a coastline or not.

110. Here I would like once again to associate myself with the penetrating analysis made by Mr. Hambro of all the legal ramifications of this issue.

111. My delegation may have occasion to express its views on the draft resolutions if it feels called upon to do so.

112. Mr. HILDYARD (United Kingdom): Mr. Chairman, you on behalf of us all, and the representative of Sweden on behalf of the Western European and Others Group, spoke yesterday with deep feeling about the sad blow which we have suffered by the untimely deaths of Ambassador Ismail of Malaysia and Ambassador Danieli of the United Republic of Tanzania. Mr. Jackman of Barbados spoke on behalf of the Latin-American Group but he also emphasized the always friendly ties of the Commonwealth. I should like to join previous speakers and also to echo Mr. Jackman in expressing to our two fellow members from that essentially brotherly organization the sorrow and deepest sympathy of my delegation.

113. The report of the Sea-Bed Committee shows that much useful work has been done during this the first year of the Committee's existence. We all agree that the issues before us are extremely complex and important. Our understanding of the scientific and technical background is still limited. Discussions in the Sea-Bed Committee, moreover, tend inevitably to bring out the extent of the problems confronting us rather than the possibilities or measure of agreement. Nevertheless if we compare this

report with that of the *Ad Hoc* Committee of last year[9] it is evident that considerable and valuable further progress has been made. For this we are indeed grateful to the Committee's Chairman, Mr. Amerasinghe of Ceylon, and to the Chairmen of the two Sub-Committees together with their Bureaux. May I join various other speakers in adding a special word of appreciation to the Chairman of the Economic and Technical Sub-Committee, Mr. Denorme of Belgium, who has made such a valuable contribution to all our discussions and who, we understand, is participating in these for the last time. I should also like to express our gratitude to the Secretary-General for the lucid study of possible forms of an international régime contained in document A/7622 and Corr.1, annex II, which I think that we have all found outstandingly helpful.

114. A great deal more detailed work evidently remains to be done and the proposal for two four-week sessions of the Committee in 1970 is therefore welcome. The debates in the First Committee give all Members of the United Nations the opportunity to express views on the programme and priorities for the future as well as the results of the past year. The Sea-Bed Committee can then take these fully into account in its deliberations. The three main issues on which discussions have centred have been a statement of general principles, the delimitation of the area beyond national jurisdiction, and the nature of the arrangements or international régime which might be agreed for the resources of the sea-bed in this area. I should like to say a word on each of these, but particularly on the nature of an international régime.

115. We all regret that it has not been possible to reach an agreed text of a full and balanced statement of general principles. Nevertheless, it is not surprising that that should be so in the light of the wide differences of view expressed in the various papers on general principles which the General Assembly transmitted to the Sea-Bed Committee last year. It is clear that the Sea-Bed Committee has made in fact an encouraging advance in producing, after long and arduous deliberations, the synthesis contained in Part Two, paragraphs 83 to 97, of the report *[A/7622 and Corr.1]*. While this synthesis shows that many points remain to be agreed upon, it sets out clearly the issues involved and the progress made in narrowing differences of view. My delegation supports the suggestion in Part One, paragraph 15, of the report that the Committee should continue its efforts next year towards resolving the issues which are still outstanding.

116. An agreed statement of general principles would certainly be helpful and we have all thought that it might be possible to build on such a statement, following the example in other fields. I believe, however, that the practical and substantive issues of the delimitation of the area beyond national jurisdiction and the nature of the arrangements or régime to be applied to the resources of the sea-bed in this area are fundamentally the most important of all. These two questions are intimately interconnected and my delegation continues to hold the view that progress on both should proceed as far as possible in parallel. Nevertheless, it seems clear that for the present at least it is difficult to make any great advance on delimitation. We all know the complications of that issue and the problems which it raises for so many countries while our technical and scientific knowledge remain limited and the position in other fields which could have a bearing on it remains uncertain. In this context my Government is studying with interest the proposal put forward by Malta contained in document A/C.1/L.473.

117. I should like, therefore, to concentrate my remarks mainly on the nature of an international régime which might regulate the exploration and exploitation of the resources of the sea-bed beyond national jurisdiction. I believe that if we can make progress in that field we may find that movement in others, particularly in that of delimitation, becomes considerably easier. It is not possible at this point in time, and given the present state of our knowledge of the factors which have to be taken into account, to try to forecast the detailed form or structure which such a régime will take. I think that it is possible, however, to suggest what might be the basic practical elements of such a régime against the background of the excellent analysis contained in the Secretary-General's report, but leaving aside for the moment the legal concepts such as have been considered more appropriately in the context of general principles.

118. Before doing so I would emphasize that these are preliminary views only. This important and complex question needs full and detailed consideration and my Government will naturally wish to study and take into account the views and suggestions of other Member States. We should also be most interested to see any further study on the establishment of appropriate international machinery which the Secretary-General may provide, if the suggestion contained in Part One, paragraph 19, of the Committee's report receives general support. On this basis I should like to put forward eight propositions on the nature and scope of a régime.

119. The first proposition is that the régime should be established by means of an international agreement. On that I would make the following comments:

(a) Depending upon the range of questions to be regulated by the régime, one or several instruments of international agreement may be needed. If several agreements were necessary those could either be concluded simultaneously, bringing the régime into full effect at one time, or over a period of time, so that the régime might progressively embrace a broader range of matters. When in future I refer to the agreement, it should be borne in mind that that might be one or several.

(b) To ensure that the régime will be effective, it would seem necessary that it should be ratified by the great majority of Member States of the United Nations and specialized agencies, including the major maritime nations. The substantive provisions of the agreement, and those for its entry into force, should, therefore, be drafted with this aim in mind.

(c) Such an agreement might contain provision for review after an appropriate period of time to take account of international experience and of technological developments.

9 *Official Records of the General Assembly, Twenty-third Session, document A/7230.*

120. Second: The régime should apply to exploration and exploitation of the natural resources of the sea-bed and ocean floor, and of their subsoil. The agreement probably should specify precisely which resources are concerned.

121. Third: The agreement should provide for the grant of licences to States for the exploration or exploitation of resources within specific areas. This, the question of the function to be discharged within the régime, is in a sense the heart of the matter. My delegation has in mind the following points:

(a) The possible range of functions is described in the second part of the Secretary-General's study in document A/7622 and Corr.1, annex II. My delegation has explained in detail on past occasions why we do not believe that actual operations on the sea-bed could or should be conducted by an international agency.

(b) My Government inclines to favour a régime under which licences would be issued for exploration and for exploitation of the resources of the sea-bed.

(c) We also incline to believe that the best course would be to issue such licences not to individual operators, but to Member States, which would then themselves be responsible for issuing licences to operators under their own legislation, and for seeing that agreed standards and safeguards, which could be set out in the agreement, were observed.

(d) Licences could be issued to States either for all minerals in the licence area or only for specific minerals.

(e) The agreement would also have to specify the way in which licence areas would be allocated amongst States. It ought to be possible to find a means of ensuring an equitable distribution which gave all States party to the régime an opportunity for a direct stake in sea-bed exploitation, whatever their stage of technological development.

(f) The question would arise of the conversion of licences for exploration into licences for the actual exploitation of resources, and the related question of the duration and renewal of licences. That would have to be carried out in such a way as to provide the necessary economic incentive for commercial operations.

122. Fourth: A régime of this nature would evidently require the establishment of some form of international body to administer its provisions. The form and structure of such an international body would depend upon the precise nature of the functions it was to discharge. I would, however, make three general comments:

(a) Such a body would presumably form a part of the United Nations family.

(b) The agreement establishing the régime would need not only to specify the form of the international body, but also to lay down in particularly clear and precise provisions the rules by which it would operate and the criteria it should follow, in order to reduce to the minimum the scope for disagreement.

(c) However, precise the terms of the agreement, the possibility cannot be discounted that there may be international disagreement about the way the international body should operate. The agreement could, therefore, provide, as the Secretary-General's study suggests, separate arrangements for the settlement of disputes between States parties, or between States parties on the one hand and any international body on the other.

123. Fifth: The agreement should provide for the payment of international royalties and for licensing fees in respect of operations conducted under the régime. This is a complex question, and I wish only to make three broad observations:

(a) The level of such payments would have to be carefully worked out to ensure that they did not have the effect of discouraging the development of sea-bed resources. We wish to encourage such development, not to hold it back.

(b) Licensing fees should be limited to what is necessary to finance any international body set up to administer the rules for exploring and exploiting the sea-bed.

(c) The proceeds of production royalties, on the other hand, should be distributed for the benefit of States parties to the agreement establishing the régime, taking special account of the interests and needs of the developing countries. As the Secretary-General points out in his study, such funds could be administered either through some new arrangements or by making use of existing machinery.

124. Sixth: The agreement should define the area in which the régime is to apply. I have already referred to the problems which complicate progress in this field. Nevertheless, when the régime eventually comes into force, the international community must know to what area it applies. My delegation hopes that progress in regard to the detailed nature and form of the régime will facilitate progress with delimitation of the area in which it is to apply, the two issues being so closely associated.

125. Seventh: The agreement should provide that the establishment of the régime should not affect the legal status of the superjacent waters of the high seas or that of the air-space above those waters.

126. Finally, the agreement should provide that the exploration and exploitation of the resources of the sea-bed should not result in any unjustifiable interference with other uses of the sea-bed or of the high seas, including the conservation of the living resources of the sea, or in any interference with the freedom of scientific research. Under this heading it could provide measures to deal with, among others, the following questions:

(a) the prevention of pollution of the marine environment;

(b) the promotion of international co-operation in scientific research;

(c) arrangements for making the results of such research accessible to all.

127. I put forward these elements in the most tentative way for the consideration of this Committee and, I hope, for study by the Sea-Bed Committee at its sessions next year.

128. I should like to end on an optimistic note. This is not a matter on which we can take giant or sensational strides forward. Our technical knowledge is limited and we know that our movement towards the wide range of agreements which will be necessary must be cautious and slow. Inevitably we discuss problems rather than mark advances or agreements. I believe, however, that we are moving gradually forward in what can be a great co-operative effort. I said last year that in most of our other work we are caught in a web of complications spun by the past. The sea-bed is a challenge to our vision and foresight because it is ourselves who can shape the decisions which will regulate this, the larger part of our planet, for future generations. In years to come the United Nations may indeed well consider that during these years we are living through now, it was in this field that some of the most constructive and far-reaching work was done.

129. Mr. BADAWI (United Arab Republic): If my delegation has delayed so far its contribution to the debate on the item before us, 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 interest of mankind", it is because we consider that the general debate reports of Committees established by the General Assembly should afford, in the first place, the opportunity to those Members of the United Nations that have not participated in the deliberations of those Committees to express their views, which could only be of benefit to future discussions.

130. Therefore, my delegation, having had the occasion to participate actively in the proceedings of the *Ad Hoc* Committee and in the first three sessions of the standing Committee, will intervene briefly in the current debate on a number of points which my Government considers of particular importance and relevance for the next stage of the Committee's work.

131. It is apparent from the report submitted to the General Assembly *[A/7622 and Corr.1]* that, within the Committee's competence and jurisdiction and notwithstanding the multiplicity of other questions of which it is seized, a great deal of effort and time was spent, and rightly so, on two major points. First, the elaboration of the legal principles and norms which would promote international co-operation in the exploitation and use of the sea-bed and ocean floor and would ensure the exploitation of their resources for the benefit of mankind. Second, the question of establishing, in due time, appropriate international machinery for the promotion of the exploration and exploitation of the resources of this area.

132. As a matter of fact, the Legal Sub-Committee devoted all of its two sessions to the discussion of the first point. Furthermore, as soon as the report of the Secretary-General on the second point *[*ibid., *annex II]* was available to the members of the Committee, the Economic and Technical Sub-Committee undertook as thorough a preliminary discussion thereof as the time at its disposal permitted. What further indication is needed to underline the great importance that the large majority of the Committee's membership attaches to those questions? In view of this priority, I would like to add my own delegation's views to those of the speakers who have preceded me in this debate.

133. Having followed the various phases through which the question of the elaboration of legal principles passed, I would venture to say that the major achievement of this year's activities of the Sea-Bed Committee is the fuller understanding of the intricacies involved in that process and the realization that unless the declaration of agreed principles is both comprehensive and balanced, future co-operation in this new and challenging field of endeavour will soon collapse.

134. To this I would add that in reaching this conclusion it was borne in mind that if we are to achieve the avowed objective of ensuring the utilization of the resources of this area for the benefit of mankind as a whole, irrespective of the geographical location of States and taking into account the special needs and interests of developing countries, due consideration should be given to the legitimate concerns and interests of all parties involved.

135. Would we be entitled to qualify this as progress? For my part, I would hesitate to speak of progress and would be satisfied to state that a first step has been taken in the right direction. We would only hope that the second, third and fourth steps will follow faster and with the least possible loss of time. This is not a pious hope. I say this with the knowledge that modern science and technology are bringing those who possess them and the necessary financial resources nearer to the exploitation of the area. The danger does not lie in this but in the possibility of the early exploitation of the sea-bed and its resources in an uncoordinated and unregulated manner, the consequences of which will be felt by all of us—and I dare say, not beneficially. To those who are still hesitant, I would add that it would be more equitable for those who would be undertaking such exploitation to know beforehand the limits and the extent of their rights and obligations.

136. The synthesis which appears at the end of the report of the Legal Sub-Committee *[A/7622 and Corr.1, Part Two, paras. 83-97.]*—and let me say in parenthesis that it is the outcome of the collective efforts of the members of that Sub-Committee—has underlined certain common denominators as well as points of divergence. As a reflection of the understanding and realization I referred to earlier, this is a laudable attempt which is only marred by the fact that the over-all principle of "common heritage of mankind" still figures among those areas of disagreement.

137. This is neither the time nor the place to go over the arguments for and against this principle, for that has been exhaustively dealt with at some length in the report. Suffice it to say at this juncture that its acceptance by all, and its incorporation into the text of a declaration of principles, would be the continuation and affirmation of the concept already unanimously approved; namely, that the use of the resources of the area should be in the interest of mankind.

138. We of the developing world attach the greatest importance to this principle. We consider that it should constitute the corner-stone of any future régime regarding the sea-bed, the guiding principle that would encompass the activities conducted in the area. In other words, we deem it an insurance that the less technologically endowed will be able to share equitably the fruits that, in all fairness, should be common to us all.

139. I had occasion earlier in my statement to refer to another point to which the Sea-Bed Committee attached considerable importance, and that is the question of establishing in due time an appropriate international machinery. Last year the request addressed to the Secretary-General for a study of this matter was the subject of substantial controversy. While a number of delegations considered that such a machinery should be a constituent element of any régime to be established for the sea-bed and ocean floor, and that this particular element should be explored further, other delegations expressed their doubts in this regard to the extent of considering a study by the Secretary-General as unnecessary. But, having received the study, we would like to say for our part that we welcome it and to indicate our appreciation for its valuable contents and its constructive approach. We believe that we are all the richer for the insight it has brought us.

140. The study has covered adequately certain aspects of the question, yet has, on the other hand, left other aspects insufficiently explored. We think that those aspects should be studied further. Therefore, we agree with the gist of the suggestion that the Secretary-General be requested to continue in depth the study of the establishment in due course of appropriate international machinery.

141. Furthermore, we suggest that in the preparation of the study the Secretary-General should not confine it solely to those four areas mentioned in Part One, paragraph 19, of the report but should exercise an element of discretion for further elaboration on those ideas which have been enunciated both here in the General Assembly and previously in the Sea-Bed Committee.

142. Nevertheless, pending the accomplishment of the Secretary-General's homework, which I have reason to believe will be the subject of a draft resolution that will be submitted for the consideration of this Committee, I would most humbly call on all the Members of the United Nations to accomplish their own homework, which is to generate the necessary impetus towards the unanimous acceptance of the establishment of an international machinery.

143. In other words, that would constitute an endeavour to exercise the political will of individual States for the benefit of mankind as a whole. Once that political decision is made, and it is necessary that it should be made soon, we would be in an easier position to define and agree on all its aspects, including its status, structure, powers and authority, activities and functions.

144. We all recall the lengthy discussions in the *Ad Hoc* Committee, and later in the standing Committee, on a question which undoubtedly falls beyond the jurisdiction of the Sea-Bed Committee. I refer in particular to the question of the definition of the boundary between that area of the sea-bed and ocean floor lying beyond the limits of national jurisdiction and the area which falls under national jurisdiction. We also recall the very interesting and documented statement by the representative of Malta at the first session of the Legal Sub-Committee *[A/AC.138/SC.1/SR.7]* in March 1969, on the subject. We also note that in the present debate many speakers have touched on this question.

145. We fully concur with the opinion that neither the Sea-Bed Committee nor the General Assembly have the powers to discuss this problem pertinently and usefully. We also fully agree with the proponents that in the light of the developments in science and technology since the conclusion of the Convention on the Continental Shelf,[10] a review of specific provisions of that Convention has become necessary. My delegation would welcome any initiative in this direction, provided it took into consideration the relevant provision of this Convention with regard to the process of review. We would, however, wish to state that such a review should take into account the possible international régime to be established for the sea-bed beyond the limits of present national jurisdiction.

146. We are given to understand that with the report of the Conference of the Committee on Disarmament we shall receive a joint draft treaty on the demilitarization of the sea-bed which would prohibit certain types of military activities in the sea-bed. We are also informed that several members of the Conference of the Committee on Disarmament have submitted certain amendments to that draft treaty, some of which have been taken into consideration, but that the draft still remains a joint text and has not yet become a recommendation by the Conference.

147. The delegation of the United Arab Republic to the Geneva Conference of the Committee on Disarmament has actively participated in the debate on the question. We have formulated our position on the various drafts submitted and we intend to comment further on the latest joint draft when the report of the Conference is considered at a later stage in the First Committee.

148. We expect that a full debate will ensue in this Committee in which all Members of the United Nations will have the opportunity freely to comment or submit amendments to the draft treaty. However, it is important to state that the consideration of this draft treaty should not be restricted to its political or disarmament context only. Its examination, in the context of a régime for that particular area by the competent body established by the General Assembly, should be taken fully into account, and the possibility of transmitting to other relevant bodies views expressed in the Sea-Bed Committee should be envisaged.

149. I should now like to touch on a subject which is of particular consequence to all developing countries; that is, the need to promote international co-operation for the exploitation and use of the resources of the sea-bed and ocean floor. We are all committed to the notion of international co-operation, not only because it figures as one of the purposes of the Charter, but particularly since, in the present state of affairs, it is the *sine qua non* for our future survival.

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

150. Let me here ask a question. What type of useful or fruitful international co-operation can be established between the haves and the have-nots? I refer in particular to those who possess the technology and the facilities to apply it and to those who for obvious reasons do not yet possess them. If we really aim at going beyond the stage of merely paying lip service to international co-operation, we should devote some time to the study of ways and means of making it possible for the developing countries to benefit from international co-operation in this field. We welcome the statement in the report of the Economic and Technical Sub-Committee *[A/7622 and Corr.1, Part Three, para. 32]* that: "An important element of such co-operation would consist in training national experts, in particular of developing countries, and in providing them with basic equipment to carry out research and investigation in this field. Such measures would prepare the ground for the direct participation of the countries concerned in the exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction" in paragraph 33.

151. We also appreciate the conclusion that "for the development of the resources of the ocean floor new forms of international co-operation should not reflect present inequalities and differences between developed and developing countries. They should provide not only for equality of opportunity, but also for equality in the actual enjoyment and equitable sharing of benefits derived from exploitation of the resources of the ocean floor".

152. These, we agree, are constructive and useful steps in the right direction if they are in fact put into practice. We still believe that an unusually sincere effort should be made by those who now have the capability of carrying on scientific research on a large scale. That effort should be in the field of the dissemination of scientific data and knowledge.

153. We have no quarrel with the principle of the freedom of scientific research. On the contrary, we would encourage every effort in that direction which would enhance our knowledge and understanding of this new environment. However, we harbour strong reservations with regard to the restrictive approach of the more technically developed countries towards making such information available.

154. We believe that the availability or accessibility approach advocated by those countries tends to limit the circulation of new data among a limited number of nations which are fairly advanced in this field. We believe that in order to assist the developing countries to catch up with the rapid advance in marine science and technology, the developed countries should undertake, along with the above-mentioned training programmes, to disseminate the results of their findings in a serious effort to narrow the ever-widening gap between the richer and poorer nations.

155. These are the preliminary remarks which my delegation wishes to make at this stage. We reserve our right to take the floor on future occasions on specific questions, when the Committee is considering the various drafts already before it or still in preparation.

156. Mr. ROSSIDES (Cyprus): In the first place, may I express my delegation's sorrow at the sudden death of Ambassador Ismail of Malaysia and Ambassador Danieli of Tanzania and extend our profound condolences to the delegations and to the families of our deceased colleagues.

157. This is the third year that the General Assembly has dealt with the present item. We have before us the report *[A/7622 and Corr.1]* of the Sea-Bed Committee which succeeded the *Ad Hoc* Committee. We express our appreciation for the dynamic leadership of the Chairman of the Committee, Mr. Amerasinghe of Ceylon, and we also extend our congratulations to the Chairmen of the two Sub-Committees and to the Bureaux and membership of the Committees for their patient and laborious work. We wish particularly to say how indebted we are to the Rapporteur, Mr. Gauci, for a lucid and comprehensive report.

158. Special mention should be made of the significant study prepared by the Secretary-General *[ibid., annex II]* on an international machinery for the exploration and exploitation of the sea-bed. We are grateful for the analytical presentation of the relevant possibilities. It is a most useful study, which, together with previous studies and Committee deliberations over the last two years, should afford the possibility of proceeding towards more concrete action on these subjects.

159. One of the major aspects of the problem is the use of the deep sea-bed for peaceful and not military purposes. This is an aspect that has been marked by effective progress through the agreement on a draft treaty jointly sponsored by the United States and the Soviet Union prohibiting the placing of nuclear weapons or weapons of mass destruction on the sea-bed beyond a twelve-mile limit of territorial waters and contiguous zones.

160. The other major and important aspect with which we are concerned is the reservation and use of the sea-bed beyond the limits of national jurisdiction for the benefit of mankind as a whole. The Main Committee and the two Sub-Committees discussed the various aspects of the problem diligently and on a proper level of approach with the purpose of reaching concrete results. However, in spite of its laborious work, the Committee was unable to make any recommendations or to reach agreement on any issues that could constitute meaningful progress towards the objectives set. This is a matter for concern, particularly as technology and its development are not waiting for our slow deliberations. Despite the absence of actual results, it may be gauged from the discussions that the general spirit in the Committee moved towards better understanding of the problems and of the need for establishing a régime and a machinery for the orderly exploration and exploitation of the sea-bed and the ocean floor.

161. Progress in the work of the Committee can be regarded as slow or normal, depending on one's perspective. It is slow in that after two years of deliberations and study no agreement has emerged on a set of legal principles or on any principle or on the economic and technical aspect. And it is indeed dangerously slow if seen in relation to the implications of the gigantic advance of technology during that period.

162. On the other hand, it is normal if it is compared to the progress of other similar Committees for the elabora-

tion of legal principles, and particularly if we recall that this is a novel subject. We are suddenly dealing with 70 per cent of the earth's surface containing wealth and resources as yet unclaimed and only recently opened to exploitation in the wake of technological developments. Governments of nations were at first understandably reluctant to commit themselves to a position on so new and vast a subject, because of the lack of knowledge as to where their own particular national interest lay. The relevant weighing of potentialities might not yet have reached the maturing stage of decisions. It is now, however, increasingly being realized that it is as much in the interest of the maritime and developed Powers as in that of the developing States that there should be an orderly exploration and exploitation of the sea-bed lying outside national jurisdiction, and that it should be placed under the impartial control of an international régime and appropriate machinery. The régime must preserve the area agreed upon as a common heritage of all mankind. It must develop ways in which all States, particularly the developing States and the land-locked States, may benefit from this common heritage.

163. It is hoped that eventually the developing States may acquire the capacity to explore and exploit the sea's riches. A United Nations agency should provide a training programme to help in such a process. And the agency should preserve a portion of the sea-bed for future use, for it would not be serving the purposes of the common heritage if the maritime States were to license all of the good areas of the sea-bed immediately. This agency must be carefully set up with a governing board that represents maritime States, developing States and land-locked States.

164. The Commission to Study the Organization of Peace states in a relevant report:

> "The General Assembly should keep in mind that the common interest of the world community and the legitimate long-range interests of all States would be better cared for under an international régime. The maritime States have nothing to fear and the land-locked States, the developing States, and indeed all States, have much to gain under a régime that will bring justice and opportunity to all."

165. Anarchy and a scramble for possession and exploitation can bring no good to any nation. It will be the cause of conflict and friction and will create new problems further threatening our precarious peace. On the other hand, if we decide to proceed to an orderly exploitation of the wealth of the sea-bed for the benefit of mankind, we will be providing the solution for many threatening world problems. The equitable sharing of profits of the sea and improvement of the economic positions of the less-developed countries would be a major step towards a more durable peace. When these basic concepts are adopted, progress towards agreement will be greatly enhanced. We believe that there is a noticeable trend in that direction, and we may perhaps hope to be on the verge of the acceptance of general principles.

166. Meanwhile, there seems to have emerged a degree of general agreement in the Committee, or a common denominator, on the following principles: first, that there is an area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction; second, that this area shall not be subject to national appropriation by any means, nor shall any State exercise or claim sovereign rights over any part of it; third, that there are principles and norms of international law which apply to this area in question. These principles and norms should, however, be developed; fourth, that a declaration of principles would contain the idea that the sea-bed and ocean floor shall be reserved exclusively for peaceful purposes; fifth, that there is need for the establishment of a régime, as well as for the use of the resources for the benefit of mankind, irrespective of the geographical location of States and taking into account the special interests and needs of the developing countries; sixth, that there is necessity for the adoption of appropriate safeguards for the protection of the marine environment against the dangers of pollution.

167. Furthermore, the freedom of scientific research through international co-operation, and with the intention of open publication, was generally accepted. Those general agreements, are but marginal. Yet they may open the way to more substantial agreements on the legal principles towards a regulated exploitation of the sea-bed for the benefit of mankind.

168. The Main Committee and the two Sub-Committees must continue their positive work with an increased sense of urgency and with a view to producing constructive results by next year. Further studies, useful as they may be, should not provide an excuse for delaying the necessary agreements on the principles and on the machinery in broad outline for carrying out the main purpose of this item. The details of the machinery may be supplemented later.

169. It appears that there was a strong feeling in the Committee in favour of the international régime or authority coming within the United Nations family. It is our view that the international régime and relevant machinery should be within the United Nations on the pattern of the United Nations Development Programme or a specialized agency, and also that an agreed percentage of revenues should be set aside for the benefit of the developing countries through the United Nations and for other agreed purposes intended to strengthen the Organization as an instrument of international peace and security in the world.

170. However, all these efforts towards legal principles and machinery would hardly be purposeful if there were no parallel effort to define and delimit the area which is to be exploited in the interest of the world community. We cannot be working for the construction of an edifice without knowing whether the ground on which it is to be constructed exists and where it is.

171. The definition contained in the 1958 Convention on the Continental Shelf, by its elasticity in making the continental shelf extend beyond the depth of 200 metres to any exploitable depth, becomes meaningless through the development of technology which is rendering all depths exploitable. Such a definition provides no definite limit to national jurisdiction, thereby defeating the very purpose and raison d'être of the Convention and making it in this respect outdated and inoperative. The Convention should therefore be legally interpreted through a proper procedure of the International Court of Justice, because if it uses the

words "continental shelf", it shows that its intention is not that national jurisdiction is to extend to the whole sea-bed up to the median point, in which case there would be no need to mention the continental shelf.

172. I believe that this is an occasion for an interpretation by the International Court of Justice of a multilateral convention; or the Convention should be revised through the appropriate procedures provided in the Convention itself in order to provide meaningful limits of national jurisdiction. For the Convention was intended to bring legal order, and not confusion; and legal order requires clarity of definition. The present technological situation was, presumably, not foreseeable at the time of the drafting of the Convention, for the developments of technology in this field during the last two years have been amazing, particularly since attention was focused on the subject through discussion in the United Nations.

173. The suddenness of technological progress appears also from the fact that only a year and a half ago we were told in the *Ad Hoc* Committee that oil could not be found on the deep sea-bed. Now we know that oil does exist there and full-scale preparations are afoot for its extraction in areas beyond the continental shelf in the Mediterranean, the Atlantic, and other seas and oceans.

174. Still more significant evidence of the advance of technology in this field and of the resulting new situation appears in the publication *The American Metal Market* of 24 October 1969, which refers to a statement by the President of Deep Sea Ventures, a private firm, to the effect that a research vessel is currently working in an area southwest of Hawaii charting areas of immense mineral wealth and that a few years hence a consortium or collection of firms may be raking millions of tons of ore from the sea bottoms. It is also stated that a thousand square mile area would be adequate for a twenty-year mine and one million to one million and a half tons of rock could be extracted annually. He estimated the world supply of ocean bottom modules in the trillions of tons and said that his firm planned to mine those on the bottom perhaps through an air lift process. In other oceans and seas similar explorations and exploitations are afoot.

175. Our most urgent and paramount concern, parallel to our other concerns and endeavours in relation to this item, should be, first, to take steps for a proper definition of the area of the sea-bed beyond the limits of national jurisdiction either by interpretation of the 1958 Convention by the International Court of Justice, or by taking appropriate procedural steps under the provisions of the Convention for its revision; secondly, and perhaps more important, to take urgent measures to preserve the area of the sea-bed beyond the limits of national jurisdiction for the benefit of mankind.

176. Last year a draft resolution sponsored by Cyprus, Liberia and Uruguay[11] was introduced in this Committee by which the General Assembly urged all States to give priority to the question of clarifying the definition of the "continental shelf" as contained in the 1958 Convention, in accordance with relevant procedures, and requested all States to refrain from exercising rights of exploitation of the sea-bed beyond the limits of national jurisdiction, pending the clarification of the definition of the continental shelf in the Convention. This draft resolution, together with other draft resolutions, because of the lack of time was transmitted to the Sea-Bed Committee. However, we have not seen anything taking place in the Sea-Bed Committee concerning this aspect.

177. The draft resolution introduced this year by the representative of Malta *[A/C.1/L.473]* adopts a similar line in drawing attention to the need for ascertaining the extent of the area of the sea-bed and the ocean floor subject to national jurisdiction, and provides also for procedures to that end. We go along entirely with this idea, but the Maltese draft makes no provision for the prevention of the occupation and exploitation of parts of the area or the whole area of the sea-bed in question during the period of time–and it may be a long time–that will be taken up by the procedures provided for in the draft resolution for the ascertainment of the area of the sea-bed for the benefit of mankind. I believe that something should be done in this respect and my delegation is considering its own previous resolution in relation to the resolution of Malta and how we could move in this direction.

178. If we move effectively in the right direction towards attaining the objectives set in this item, we shall make significant progress. Contrary to the power struggle for new areas and the colonial scramble of the past, we shall be establishing an international régime for over two-thirds of the surface of the earth, as yet unclaimed, which will be treated, preserved and developed as the common heritage of mankind. This and the agreement that outer space shall be "the province of all mankind" may well be the most far-reaching advances made since the United Nations was established.

179. Mr. HASAN (Pakistan): My delegation would like to compliment Mr. Victor Gauci of Malta, Rapporteur of the Sea-Bed Committee, who so ably introduced the Committee's report contained in document A/7622 and Corr.1 on 31 October. This report is as comprehensive in its contents as it is precise in reflecting faithfully the different points of view expressed in the course of the third session of the Sea-Bed Committee on such complex questions as the elaboration of legal principles and norms and technical and economic aspects of the evaluation, exploration and uses of the sea-bed and ocean floor beyond the limits of national jurisdiction. It shows that, despite limited time, the Committee was able to produce results which augur well for its future work. For the progress achieved, we pay tribute to the Committee's Chairman, Mr. Amerasinghe, and to the two Sub-Committee Chairmen, Mr. Galindo Pohl and Mr. Denorme, and to their wise and skilful stewardship.

180. We entirely endorse the proposal made in Part One, paragraph 20, of the report that the Committee may be allowed more time to carry out its work under the mandate given to it by the General Assembly and that for that purpose it should hold two sessions of four weeks each in 1970.

181. Since the world's population is growing and industrial development expanding, the problem of steady supply

11 *Official Records of the General Assembly, Twenty-third Session, Annexes*, agenda item 26, document A/7477, para. 12 (b).

of food for the former and fuel for the latter has assumed critical proportions. Consequently man is looking towards the oceans as a source of supply of both food and fossil fuels. According to Dr. Glenn Seaborg, Chairman of the United States Atomic Energy Commission, it is conservatively estimated that the world's oceans contain about 50 quadrillion metric tons of minerals. That includes 2 quadrillion tons of magnesium, 100 billion tons of bromine, 20 billion tons of uranium, 15 billion tons of copper and 10 billion tons of gold. Besides, the oceans are increasingly becoming an important source of fresh water, sand and gravel, dissolved chemicals and nutrients and marine hydrocarbons. Further, as the final report of New England Assembly on the Uses of the Seas points out: "Knowledge of the ocean environment may make possible new activities in transportation, commerce, communication, defence and environmental prediction and modification".

182. Although the oceans and the high seas have been used by man for centuries either for commerce or for defence, it is the development of new technology that has brought the increased exploration, exploitation and use of the sea-bed and ocean floor beyond the limits of national jurisdiction rapidly within the range of possibility. The planning of these activities has become difficult because it involves national sensitivities. The existing international legal framework is too rudimentary to provide any satisfactory guideline for technologically feasible, and economically profitable undertakings.

183. It was aptly remarked by the distinguished Rapporteur of the Sea-Bed Committee that the length and content of the report were proof of the complexity of the subject. It is obvious that agreement has not been reached on all aspects of this complex problem. Yet the debates in the Legal and Economic and Technical Sub-Committees have served to clarify a number of issues. For example, the Legal Sub-Committee report shows the attention that has been directed to the elaboration of legal principles and norms which would promote international co-operation and the use of the sea-bed for the benefit of mankind. Despite the lack of agreement, certain common denominators as reflected in the synthesis have emerged after detailed examination of the various facets of this question.

184. The report of the Economic and Technical Sub-Committee makes certain observations regarding the ways and means of promoting the exploitation and use of the resources of the sea-bed and of international co-operation to that end, taking into account the foreseeable development of technology. For example, it is stated, *inter alia*, in paragraphs 20 and 48 of the report of the Economic and Technical Sub-Committee that to a large extent the geological structure of the sea-bed, prerequisite to further exploration and exploitation, remains unkown; that our knowledge of the ocean is still fragmentary and perhaps too scant to provide a basis for economic exploitation of the sea-bed and its resources beyond the geophysical continental shelf; that a main objective of an international régime in this respect should be that all countries, whether coastal or land-locked, benefit from such a development and that the special needs of developing countries be taken into account and, last but not least, that the international régime should be effective, equitable and trustworthy.

185. While we realize the enormous complexity of the question, we must express our satisfaction at the progress, small though it may be, made during the third session of the Committee on the sea-bed. It was rightly remarked by the representative of Brazil *[1674th meeting]* that the report provided a sound basis for progress in 1970.

186. As far as my delegation is concerned, we have had occasion to express our views in respect of the legal principles during the third session of the Sea-Bed Committee. I shall recapitulate them briefly. We adhere to the idea that the areas of the sea-bed beyond the limits of national jurisdiction be considered as the common heritage of mankind. The corollary is that the area cannot be appropriated by any one nation, State or group of States and that all States should participate in its use and obtain equitable benefits from the exploration and exploitation of the area. Once the concept and its corollary are accepted, one cannot but recognize the need for an appropriate international machinery for the regulation and management of the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction on behalf of the international community. In the perspective of contemporary progress, there does not seem to be anything fanciful in this notion.

187. My delegation is also of the view that the administration, exploration and exploitation of the sea-bed and subsoil thereof beyond the limits of national jurisdiction should be undertaken in accordance with the generally accepted norms of international law and the Charter of the United Nations. The administration of the sea-bed and its resources should be so regulated as to provide clearly for the participation in it of all States, because all States are entitled to equitable benefits obtained from exploitation of the resources of the said area. Furthermore, no infringement of this title should be permissible through any arrangement, national or international. If there should be a reference to an international régime in this context, then the qualification will have to be made that this régime will be under the aegis of the United Nations.

188. That brings me to another aspect of this problem. This relates to the freedom of scientific research and exploration. It would seem to my delegation that there is obviously a difference between two types of activities: one motivated by commercial gain and the other oriented toward scientific research. We cannot possibly favour unbridled freedom of commercial exploitation. To guard against any apprehension that research is being used for sectional profit, we favour the concept that research programmes should be announced in advance and their results made available to all concerned. We should also stress that the research potentials of the developing countries should be strengthened so that international co-operation is enhanced to promote a comprehensive understanding of fish migration, marine ecology and ocean-atmosphere interactions.

189. In the course of his statement *[1673rd meeting]* Mr. Amerasinghe proposed a set of general principles concerning the sea-bed beyond the limits of national jurisdiction. My delegation fully appreciates the need for the drafting of a set of principles and we will no doubt examine such a draft with the earnestness that it deserves. It was out of our deep concern for the need to establish an

international order for this area that the Pakistan delegation stated at the twenty-third session of the General Assembly:

> "In pursuing that goal we are engaged in a race with technological developments which will enable the most advanced and powerful countries of the world to stake, and make good, claims to national sovereignty over that area. Unless an international convention is concluded without delay to establish its legal status as a common heritage and to govern its exploration, use and exploitation for the benefit of all nations, it is inevitable that conflict and tension will supervene and the great majority of mankind will be deprived of their patrimony".[12]

190. In the course of the debate in the Legal Sub-Committee, it was emphasized by many delegations that there was need to delineate the limits of the continental shelf. We agree that the Geneva Convention of 1958 on the Continental Shelf[13] lacks precision. We therefore support the view that an international conference governing the law of the sea may be convened to consider this and other related matters.

191. Pursuant to resolution 2467 C (XXIII), the Secretary-General was requested 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 the sea-bed and the ocean floor beyond the limits of national jurisdiction and the use of these resources in the interests of mankind. He has submitted this report and we are glad to see that it forms an annex to the report of the Committee. It may be recalled that we had voted in favour of General Assembly resolution 2467 C (XXIII) because we attach very great importance to the establishment of such international machinery. We have no doubt that the need for having such international machinery has been more than justified. It only remains to decide its shape and functions. We, therefore, strongly favour the idea that the Secretary-General should undertake a study in depth to determine the status, structure, powers and functions of an international machinery. Any resources which the proposed international machinery may obtain from the exploitation of the sea-bed should be made available to all countries, in accordance with their needs and in relation to their economic and social development.

192. These are the preliminary observations of my delegation in respect of the proposed international machinery. At present, consultations are going on among the Asian, African and Latin American delegations in regard to this and other related matters. My delegation will continue to direct its efforts in concert and co-operation with them towards achieving an acceptable formulation determining the establishment of an international machinery.

193. In conclusion, I may mention that we have heard with interest the news that the Soviet Union and the United States have submitted to the Conference of the Committee on Disarmament a joint draft treaty to ban nuclear and other weapons of mass destruction from the sea-bed beyond the limits of national jurisdiction. We welcome this development in principle. However, we hope that before this Committee debates that draft treaty, the sea-bed Committee will get an opportunity to examine it at length. For the present it is sufficient for my delegation to state firmly that there should be comprehensive demilitarization of the sea-bed and the ocean floor. But considering the realities as they exist today, we are not too optimistic that such an objective will be achieved in the near future. This should, however, not discourage us from recognizing and supporting the imperative need to prohibit immediately the emplacement or use of nuclear or other weapons of mass destruction on the ocean floor.

Organization of work

194. The CHAIRMAN: We have exhausted the list of speakers for this afternoon. May I refer to the statement made by the Ambassador of Brazil at the start of this afternoon's meeting. I have been informed by the Secretariat that two working papers submitted to the Conference of the Committee on Disarmament by Brazil, namely, documents ENDC/264 and CCD/267, have been distributed to all delegations in New York. The Secretariat further informs me that in case any delegation has not received those documents they will be made available on request.

195. In this context I wish to inform the Committee that the Conference of the Committee on Disarmament adopted its report to the General Assembly on 31 October 1969. The report has been received in New York and is now being processed for distribution to delegations with all possible speed. It is expected that distribution will take place on Friday, 7 November. The report contains as an annex all working documents submitted to the Committee on Disarmament, including the documents referred to by the representative of Brazil.

196. Mr. ARAUJO CASTRO (Brazil): Mr. Chairman, thank you for that information. We knew that these working papers had been sent—I suppose with all the documents of the Disarmament Committee—to delegations directly. But what we said here was that when one asked for them at the documents window, they were not available. That was the problem. We thank you very much for the assurance that any delegation wishing to see the working papers may obtain them from the Documents Service in this room.

197. The CHAIRMAN: At the 1669th meeting on 29 October I made a statement regarding the progress of our work. In that statement I drew particular attention to the proposal made by the representative of Mexico on behalf of twenty-three Latin American countries that the debate on disarmament should begin on 10 November. There are over fifty delegations still wishing to speak in the general debate on the present item. On the basis of the availability of conference services, meetings scheduled for this week are as follows: Wednesday, one—in the morning; Thursday, two; Friday, one—in the afternoon. If services become available, a meeting will be held also on Friday morning.

198. It is obvious that it will not be possible to complete the list of more than fifty speakers by Friday, even if this extra meeting, on Friday morning, is held. In the circumstances I would suggest for the consideration of the

12 *Ibid., Twenty-third Session, First Committee,* 1601st meeting, para. 24.

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

Committee the holding of a night meeting on Thursday. Of course, that would depend on the readiness of speakers listed for Friday to speak on Thursday night. From informal consultations, it seems that Thursday night is preferable to Friday night or a Saturday meeting. One delegation has expressed its readiness to speak on Thursday night; some others are inclined to consider the possibility of co-operating in a like manner.

199. However, I am not requesting the Committee to take any decision now in regard to a Thursday night meeting. We shall defer that decision until tomorrow, when the delegations that have promised to let the Secretary of the Committee know whether they would be prepared to speak on Thursday night have indicated their decision.

200. Mr. AMERASINGHE (Ceylon): I wish to draw attention, Mr. Chairman, once again to the statement I made earlier in the course of our meetings regarding the possible need for a special session of the Sea-Bed Committee to consider the Disarmament Committee's proposals relating to the demilitarization or non-armament–however they may wish to put it–of the sea-bed and ocean-floor. You have just announced that the Disarmament Committee's report will be released to members by Friday. I should therefore like to know how you propose to plan the rest of this Committee's work so far as next week is concerned.

201. I raise this question because it seems to me that that would be an appropriate occasion to provide for a special session of the Sea-Bed Committee. If, as I believe, you intend to conclude the sea-bed item on Friday and propose to start on the substantive aspects of the Korean question on Monday, 10 November–and I believe you think that three days would be sufficient for the latter item–that would fit in perfectly with what I would consider to be necessary in regard to the session of the Sea-Bed Committee. I would therefore ask that you bear in mind the possibility of a special session of the Sea-Bed Committee being held on Thursday and Friday of next week, with the possibility of its spilling over to Saturday.

202. The CHAIRMAN: I thank the representative of Ceylon for drawing my attention to his previous statement in this regard. I would like to assure him that I have not been oblivious of the suggestion that he made earlier and that I have been carrying on extensive consultations with the interested delegations, which, I am glad to say, are fully alive to the importance of enabling the Committee on the Peaceful Uses of the Sea-Bed to consider the report of the Conference of the Committee on Disarmament in regard to the denuclearization treaty on the sea-bed and ocean floor. I was purposely withholding a definitive statement in regard to the suggestions made earlier by the representative of Ceylon, possibly for tomorrow or Thursday.

203. At the present moment I would like only to do some thinking aloud in order to take the Committee into my confidence. If we can start the discussion on the substantive aspects of the Korean question on Monday–that discussion would take a few meetings–we can thereafter take up the question of disarmament. But if we do take up disarmament before the Sea-Bed Committee has had the necessary time to conclude its consideration of the sea-bed denuclearization treaty, it is my intention to consult with delegations in order that the denuclearization treaty not be taken up in the disarmament debate right at the start, but that we commence with the consideration of all the disarmament items except the denuclearization treaty, which would be taken up subsequently. But, as I have said, my statement should not be taken as definitive because I should like to conclude my consultations.

204. Mr. AMERASINGHE (Ceylon): Thank you very much, Mr. Chairman, for admitting us to the inner sanctum of your private thinking. I am deeply grateful to you. If the arrangement is going to be as you proposed, then I shall have no further statement to make. I take it that it is understood that even if the disarmament item is to be taken up by this Committee, that portion of it that deals with the treaty regarding the demilitarization of the sea-bed will not be taken up until the Sea-Bed Committee has had a chance to meet.

205. The CHAIRMAN: I thank the representative of Ceylon, but, as I have said, I have divulged my own thinking. The Chairman can propose, but it is the Committee which can dispose. Therefore, as I have said, I should not like to hold out a definitive promise until I have concluded my consultations.

The meeting rose at 6.20 p.m.

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