United Nations
GENERAL ASSEMBLY
TWENTY-FOURTH SESSION
Official Records

FIRST COMMITTEE, 1683rd MEETING

Monday, 10 November 1969, at 3 p.m.

NEW YORK

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Chairman: Mr. Agha SHAHI (Pakistan).

AGENDA ITEM 32

Question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *(continued)* (A/7622 and Corr.1; A/C.1/L.473/Rev.1, L.474 and Add.1-2, L.475, L.476, L.477 and Add.1, L.478 and L.479)

1. Mr. MORTENSEN (Denmark): There is no doubt that the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor is a matter which, in the longer run, could become of the greatest significance to the welfare of mankind. It is essential, therefore, that we should endeavour from the outset to establish arrangements that would provide for a reasonable balance between technological, economic and ideal considerations and the legitimate interests of all nations. The report of the Committee on the Peaseful Uses of the Sea-Bed and the Ocean Floor *[A/7622 and Corr.1]* contains many valuable views and suggestions which could form the basis of an international régime to govern the activities of States in this area.

2. The Government of Denmark attaches great weight to the endeavours that are being made to promote social balance between the various parts of the world. Consequently, we support the idea that international co-operation in the exploration and exploitation of the resources of the sea-bed should avoid reflecting the existing differences between industrialized countries and developing countries. Denmark shares the view that the sea-bed and the ocean floor should be regarded as the common heritage of mankind in the sense that the United Nations should assume exclusive responsibility for ensuring that exploration and exploitation of the sea-bed and the ocean floor are undertaken in the interests of all mankind and in accordance with predetermined criteria. From this it follows, in our view, that no State can appropriate or lay claim to the sea-bed and the ocean floor beyond national jurisdiction.

3. The recognition of the existence of an area of the sea-bed and the ocean floor beyond national jurisdiction implies that internationally recognized criteria must be established for a precise delimitation of that area. The Convention of 29 April 1958 on the Continental Shelf[1] purported to lay down such a criterion in its article 1. For such purpose it used the criterion of exploitation, but technical developments since then have made it impossible to determine a fixed line on the basis of that principle. What we need, therefore, are new criteria on the basis of which the line between national and international jurisdiction can be drawn.

4. Several members of the Committee have pointed out that the Committee has no mandate to discuss in detail the criteria for examining the exact delimitation of the area of the sea-bed beyond the limits of national jurisdiction. My delegation understands very well that the Committee is hesitant to deal with this difficult problem, and we recognize that the Committee has no mandate to take decisions in this matter. It would, nevertheless, be valuable if the Committee, with the great expertise it has achieved, could study this question as soon as possible with a view to formulating alternative proposals regarding concrete criteria for a geographical delimitation. Such a study, if it could be carried out without delaying the Committee's work as a whole, would be of great assistance to governments when the question comes up later for consideration at an international conference.

5. The Government of Denmark supports the endeavours to demilitarize the sea-bed and the ocean floor in conformity with the goals set out in resolution 2467 A (XXIII). Consequently, my delegation has noted with satisfaction that as a first step in this direction a substantial measure of agreement has been reached in the Conference of the Committee on Disarmament on the wording of a draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof. I shall not on this occasion comment upon all the legal aspects of this matter, but mention only some of the points which I think deserve special attention at this stage.

6. Denmark supports the view that all States, as heretofore, should have free access to conduct scientific explora-

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

tion of the sea-bed and the ocean floor. My delegation, therefore, endorses the wish to promote international co-operation in such exploration. The desirability of expanding to the greatest possible extent and in the interests of all mankind the knowledge of the conditions of the sea-bed and the ocean floor and the subsoil thereof implies that all States should publish their plans in regard to scientific exploration and make the results of their activities known to the international community. My delegation can subscribe to the formulation presented by the Norwegian delegation during the third session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor according to which:

"In order to promote international co-operation in this field, States shall, *inter alia,* publish beforehand in a timely fashion their plans for such scientific research, make the results of their research available and, to the extent practicable, promote and participate in common research programmes".

7. Provisions governing the right of States to explore and make use of the sea-bed and the ocean floor and the subsoil thereof should be counterbalanced by provisions to secure protection of the interests of other States on the high seas and the interests of the international community in protection against harmful effects on the living resources of the sea. In this context it is quite obvious that the arrangements to be established for the sea-bed and the subsoil thereof should not in any way affect the existing regulations governing fishery and other exploitation of the high seas.

8. I have already touched upon the question of protection against pollution of the coastal areas, but this important question will also come into the foreground in connexion with the Committee's elaboration of the principles for access to exploitation of the resources of the sea-bed. In the severe risk of destruction which, at worst, might result from the lack of precautionary measures in this field, lies an urgent appeal to all States to elaborate as adequate a set of rules on security and liability as would be technically and financially feasible.

9. The Danish Government has no doubt that it will be necessary to establish some form of international machinery with powers to secure, on the basis of agreed principles, that the exploitation of the sea-bed and its subsoil is undertaken in a rational manner serving the interests of all States. Only through an international régime and machinery will it be possible to ensure for States which do not possess the technological and financial capabilities to conduct their own exploration and exploitation in these new environments that their interests are safeguarded on an equal footing with those of technologically and economically more advanced States. In this connexion the Danish Government has noted with great interest the report of the Secretary-General [ibid., *annex II]* describing various models of international co-operation which could be taken as a basis for the establishment of a machinery for the exploitation of the sea-bed.

10. In the view of my delegation, the first essential for providing international control of activities on the sea-bed must be the establishment of a system of registration combined with some form of licensing arrangement whereby conditions for concessions relating to exploitation can be laid down. It is essential that the rules should be formulated in such a manner that the organization to be established will have proper authority to make decisions that would promote the basic goal: to extract a portion of the unmined resources of the world for the benefit of all nations.

11. It is, I think, premature to form any final view as to the structure of an international machinery and as to the scope of its powers. But, in general, the aim should be to achieve the best possible balance between, on the one hand, the interests of the international community in sharing in the benefits to be derived from the exploitation of the sea-bed and, on the other, the interests of those States which possess the technological and financial capabilities of conducting such exploitation. As I have already mentioned, it would be desirable if the arrangements could be established to help promote the economic development of the less developed areas of the world. And let me add that my delegation considers it important that the developing countries should participate to the greatest possible extent in the actual exploration and exploitation.

12. It has been suggested that there should be created an international agency which itself should be in charge of the exploration and exploitation of the resources of the sea-bed. My delegation questions the advisability of establishing such an agency. Nor do we consider it realistic to imagine that all activity on the sea-bed beyond the limits of national jurisdiction could be held up pending the establishment of an international régime. Such suggestions serve, however, to underscore the urgency of the matter. My delegation is pleased to recommend that the Committee continue its work on the lines set out in its report to the twenty-fourth session of the General Assembly.

13. Mr. RAMANI (Malaysia): My delegation's attitude to the general problem of the exploration and exploitation of the resources of the sea-bed and ocean floor are well known and are on the record. Last Tuesday I made a statement *[1676th meeting]* on which certain criticisms have been made. This afternoon I should like, if I may, to confine myself to answering some of those criticisms to my suggestion. After I had made my short statement on Tuesday last you asked me if I would formulate the actual question upon which I had suggested a reference to the Legal Counsel of the United Nations. I said yes, and I am now driven to believe I said so rather too readily.

14. I thought, and I still think, I was being helpful in the direction of promoting a logical debate. I had not realized that all that I had contrived to do was to open a Pandora's box of inane controversy. Perhaps I should have known that, not being an international lawyer, I did not know what I now know–that international law is less law than politics, and that precision is not one of its major virtues. Indeed, the very opposite is its normal climate and it avoids precision like the plague.

15. Its history is replete with instances of a carefully cultivated capacity for turning away from contexts, and a conscious endeavour to indulge in diagnostic niceties of nomenclature, without arriving at any conclusive decision

on the condition of the patient while he may be actually dying. One only has to look at recent as well as remote resolutions of our own Security Council and General Assembly to understand how international thinking and expression always function, in a rarefied atmosphere, where clarity is carefully avoided to give place to ambiguity and where all rational processes are at a clear discount. Napoleon is recorded to have said to his Minister Caulaincourt when the latter brought him the draft of a treaty, "There aren't any ambiguities in that treaty: take it back and slip them in." We are a century-and-a-half away from that situation but we seem to be precisely in the same mental state in 1969.

16. At the risk of repetition, permit me to put this whole picture in its proper context, though I have just said that contexts are always side-stepped in international discussions. On 21 December 1968 the General Assembly set up a Committee on the Question of the Sea-Bed and Ocean Floor. This area is delimited by the phrase "beyond the limits of national jurisdiction". This phrase is repeated at least eleven times in that resolution. Referring only to the immediate context–once again I am doing the unpardonable–that resolution instructed the Committee to study the elaboration of the legal principles and norms which would promote international co-operation in its use and exploitation. Deriving from that injuction, the Legal Committee began its study. Before submitting its report it examined eight formulations, or "elements" as they were called, as being necessarily comprehended in the legal status which had been prepared by a drafting group *[A/7622 and Corr.1, Part Two, annex]*, and gave its blessing to all of them.

17. It also agreed that activities in the area should be carried out in accordance with international law and recommended the establishment of an international régime. If I may digress here for a moment I wish to ask, "Are we reasonably certain of the contour and content of the international law that governs an area such as this? " Let me read to the Committee the latest exposition of it by way of editorial comment in the *American Journal of International Law:*

"Those who are interested in how international law is made in our day, those who care about what international law ought to be, would do well to note what has been happening in regard to the law governing the exploitation of the mineral resources of the sea-bed.

"A new environment of golden promise looms on the distant horizon and it is not governed by any clear, compelling law. Unlike an earlier day, in part due to the existence of the United Nations and to instant communication, all of today's many nations see an opportunity to influence the future law. But they do not yet see where their interests lie, and what kind of legal régime will further them. For the present, they are concerned to assure their part in the process of future lawmaking: despite some bold initiatives, the debates in the U.N. General Assembly have been largely hortatory and noncommittal on substantive legal issues, but there is now a permanent Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. . . .

"The over-all legal issues are simply stated: How far do and should the exclusive rights of the coastal State extend? And what legal régime should govern exploitation 'beyond the limits of national jurisdiction'? Only little more than ten years ago both these issues seemed too remote to trouble either the International Law Commission or the Geneva Conference on the Law of the Sea. It seemed enough to give the coastal States 'sovereign rights' in respect of the resources of the sea-bed in approximately the area contemplated by President Truman when he launched the modern law of the Continental Shelf . . ."–he explains that and goes on–"It was assumed that exploitation substantially beyond the 200-metre isobath would not be feasible for many years to come. Now we are told that depth of water is no important obstacle to exploitation anywhere; the 1958 definition of the shelf, then, has no clear outer limit, and the law that should apply beyond the shelf has more than academic interest.

"Few nations have decided what law they desire on either of these two issues. Because no one yet knows how much wealth lies where, because no one yet knows what law will govern the bed beyond the shelf, wherever it ends, no nation can yet see precisely how its interest would be affected by having more shelf and less deep sea-bed, or less shelf and more deep sea-bed. Most nations of the world have some coastlines and might be tempted to claim as wide a legal shelf as possible. But, as is evident from the history of the territorial sea and other claims by coastal States."–and some of them have been made here only recently–"these States, too, often have competing interests, and there are political and other considerations which also delimit extensions of sovereignty into the sea. None of the coastal States, moreover, sees clearly the consequences to itself of giving similar wide shelf to others. . . . Coastal States and others do not yet know how the combined effect of national jurisdictions in coastal areas and some yet unknown régime beyond would affect their own needs now and in the future. . . .

"The United States has been one of the first to begin to think about these questions but it, too, is yet far from a position, even a negotiating position. Various voices are being heard: some urge 'wait and see' until the problems and the interests are clarified; others reply that actions are being taken and interests are vesting"–mark those words "interests are vesting"–"which are making law that might not be the law which the United States desires."

18. Then the learned author continues:

"There are those who urge the United States to proceed by unilateral actions and declarations or jointly with others like-minded, to take what it can unilaterally in the coastal area, and to assert freedom to do what it can in the seas beyond, postponing new law to the day when conflicts among entrepreneurs produce a need for agreement."

This is vital–this is how he concludes:

"Others see a golden opportunity for new departures in international co-operation and organization, for a bold effort to preserve the seas from the divisive influences of

> the national State system and to dedicate their promising wealth to narrowing the chasm between rich and poor nations. And, of course, there are positions in between."[2]

He goes on further, but that is the limit of the quotation that I should like to make.

19. Coming back to the resolution, the original resolution of the Assembly had also requested the Secretary-General to study the question of setting up appropriate international machinery for the promotion of the exploration and exploitation of the area.

20. Now, to my simple way of thinking the structure of that resolution is mounted on twin pillars. The first is the patent exclusion of State domestic law as in any way applicable to that area. The second is that the sole and vital interest of the United Nations therein is as representative of the whole of mankind whose total and joint interests are also referred to at least eleven times in that resolution. If nothing else those two basic facts alone indicate that the United Nations will alone be solely responsible for the exploration and exploitation of that area, putting aside for the moment the additional desideratum of preserving the whole area for peaceful purposes.

21. To me therefore plain logic requires that the United Nations should have that whole area vested in itself. By such vesting I did not and do not mean that the United Nations should be given proprietary rights over the area, so that perhaps all or parts of it could be sold to the super-Powers with a view to paying off its debts. "Vesting" in law means no more than vesting in possession, so that the United Nations may have the right to permit the use or deny the abuse of this area to particular States. I am not aware of the existence of any organization, apart from the United Nations, which represents the widest segment of mankind, if not all of it, or tries as hard to shape the destinies of this earth and those that inhabit it. I invite special attention to Articles 55 and 56 of the Charter, to which all of us have subscribed without reservation. That, I repeat, in my submission is not only good law but also good sense.

22. Here is another quotation:

> "The presence in the diplomatic circle of a third, neutral influence, representing no particular State interest but the international interest, is a development that Governments have naturally viewed with some suspicion. But it may well be one of the more hopeful signs of the times."

Those are not my words, but the words of Professor Jennings, the Whewell Professor of International Law in the University of Cambridge.

23. My proposal was not born of some ingenious academic cerebration, unrelated to the facts as we have them right in front of us. All that I am saying is that a gleaming and glorious superstructure for this area is being assiduously argued and formulated without the foundation being laid. Indeed, it would appear that views have been expressed here that are consistent only with a refusal to face this fact. It appears to be, if one may be permitted to give expression to one's feelings, that the prevailing mood of the Committee is that the Malaysian representative is doing something by way of sleight of hand, and that therefore everyone should watch out against being tripped up. Nothing is farther from my mind.

24. The practice of taking the objective opinion of the Legal Counsel of the United Nations is as old as its history, and with the utmost deference to my critics, I am surprised at some of the attitudes expressed here. Year after weary year we have presented to us the United Nations Juridical Yearbooks, which collect, print and publish those legal opinions. I refuse to believe that, by some egregious error, that diligent annual collection is being put together as mental pabulum for the edification of States.

25. As to the actual criticism of my proposal that I have read in the verbatim records, it falls into two categories. First, this is so vitally important that it should be first discussed in the Legal Sub-Committee of the Committee before it is taken up in the First Committee. This, I venture to suggest, is the bureaucratic mind that is incapable of facing any problem unless it is channelled and funnelled through proper channels. But it is not as if this matter has been sprung on this Committee suddenly and perhaps with some malice aforethought. I did raise it in the Legal Sub-Committee and I had the opportunity of speaking again on it, more *in extenso*, after the representative of India had then asked me specifically to provide some needed clarifications. As I said the other day, a reference to this is to be found in paragraph 21 of the Legal Sub-Committee's report.

26. The second category of criticism is as to the substance of my proposal. I am particularly indebted to the representative of Norway, for whom I have high personal regard, who thought the problem was so important that we should not be in a hurry to decide it. I apologize to him for having been so signally obscure that, not only did doubts begin to assail his mind when he listened to my statement, but he had to read the verbatim record twice over to discover what I meant. I feel profoundly flattered, but may I just say that very often nothing is more obscure than the obvious. But whatever it was, the decision he had to make a great effort to understand was not a decision on the problem of vesting, as such, but the much more simple question of seeking the views of the Legal Counsel on it. Moreover, he called the problem "too vast". Perhaps it is. But he called it also "too hypothetical"—a characterization which took my breath away. I could discover in no dictionary a meaning for that word that would support what he meant to convey. This does arise and has arisen in the immediacy of our discussion. Whatever else it may be, it certainly is not hypothetical.

27. I am afraid the representative of Cameroon fell into the same error. It will be time for him to make up his mind as to one part of the question one way, and as to the other part of the question the same way or another way, after the opinion has been obtained. If the Legal Counsel should, not improbably, express the view that the question does not lie or he would only answer a part of it, the representative's

[2] *American Journal of International Law,* July 1969, vol. 63, No. 3, pp. 504-505.

mental dilemma of seeing before him a divided duty would be stopped *in limine.*

28. Perhaps I should explain that I framed the question in that alternative form because, even in domestic law, what is permissible is not always desirable and what may be desirable may be impermissible. *A fortiori,* in international law. I also regret to observe that the representative of Canada permitted himself the statement: "The question of desirability is obviously a highly political one, and to our mind it would be inappropriate and unfair to pose such a question to the Secretary-General or to a member of his staff."

29. Perhaps the representative did not remember after my question had been, perhaps, rapidly read by the Chairman that I took care to state in my formulation of the question "is it permissible and/or desirable in law"–the words "in law" qualifying both parts of the question. But I have already said that you can hardly ever formulate any legal question in international law which is entirely divorced from politics. However, if it is felt that "desirability" is undesirable in the question, surely "permissibility" should be permissible in it. I am wedded to the principle behind the question, not to the words in which it is expressed.

30. Mr. TARABANOV (Bulgaria) *(translated from French):* The report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction which succeeded the *Ad Hoc* Committee appointed in the preceding year for the same purpose, presents a detailed account of the efforts it made during the past year to acquit itself of the task assigned to it by the General Assembly. The three sessions of the Committee and the consultations held during the two months immediately preceding its third session, in which our delegation took part, bear witness to its determined and effective work.

31. Before submitting several considerations on certain aspects of the question, we wish to express the gratitude of the delegation of the People's Republic of Bulgaria to Mr. Amerasinghe of Ceylon, to Mr. Denorme of Belgium, and to Mr. Galindo Pohl of El Salvador, Chairmen respectively of the Committee, of the Economic and Technical Sub-Committee and of the Legal Sub-Committee, for their unremitting and dedicated efforts to achieve constructive and substantial results.

32. If the hopes of certain delegations to create, during this year of study, a solid basis for the simple and final solutions to the questions raised in General Assembly resolution 2467 (XXIII) have not been realized, that is certainly not due to any lack of effort on the part of the Committee or its two Sub-Committees, but rather to the vastness and complexity of the task.

33. The material gathered and submitted in systematic fashion in the Committee's report to help in providing a solution to the problem posed in the General Assembly's resolution is the result of a conscientious screening of conventions, treaties, and previous studies of the *de facto* situation obtaining in this field. The Committee also endeavoured to use the studies prepared by the services of the Secretariat and its own analyses, so as to bring order to the mass of material it had before it.

34. Several representatives, in particular the representative of Belgium, emphasized the efforts of the Committee to arrive at a common denominator that could serve as the basis for reaching the necessary solutions as regards the legal principles. But, in spite of all the work done by the *Ad Hoc* Committee the previous year and the efforts made this year, the Committee did not succeed in working out more than a few formulations. While these formulations were not rejected by delegations, there were substantial reservations on the common denominators derived from them.

35. An illustration of this state of affairs is given by the synthesis in paragraphs 83 to 98 of the report of the Legal Sub-Committee which emphasizes that, despite the significant progress achieved, the debates have merely served to reduce all efforts to generalities and to the drafting of a certain number of specific ideas, on which, however, important reservations were made by several delegations. This was, of course, easily foreseeable when the Committee was established, in view of the magnitude of its task and of the lack of sufficiently specific ideas in such a subject as the sea-bed and ocean floor.

36. Yet, despite the difficulties and divergencies of views among delegations, and despite different national jurisdictions, a certain community of views did seem to emerge on the following points: the sea-bed and ocean floor, and the subsoil thereof beyond the limits of national jurisdiction, must not be subject to appropriation; the area in question will be reserved for exclusively peaceful purposes; freedom of scientific research in the area will be assured to all without discrimination, and international co-operation for scientific research will be promoted; there must be appropriate safeguards against the dangers of pollution on the high seas and in the marine environment in general; and there must be reasonable regard for the interests of States in their exercise of the freedom of the high seas.

37. The delegation of the People's Republic of Bulgaria considers it essential to continue working for a reconciliation of views and a formulation of principles on a sufficiently broad basis, so as to eliminate the objections raised so far. Only in this way will it be possible for States to reach agreement in their views on the question of the sea-bed and ocean floor.

38. While expressing their satisfaction with the work done, some delegations have urged that certain formulas and questions should be defined more accurately so that work could be begun immediately on the exploration and exploitation of the sea-bed beyond the limits of national jurisdiction. It was affirmed in particular that the sea-bed and the ocean floor and their subsoil beyond the limits of national jurisdiction should be defined as "the common heritage of mankind". Some delegations believe that this could have served as a basis for the establishment of an international machinery the task of which would have been to organize later the exploration and exploitation of the wealth and resources of that area in the interests and for the welfare of mankind as a whole, and in particular for the developing countries. This idea of a "common heritage", which does not have a clearly defined meaning and gives rise to controversies and important reservations on the part of several delegations, lends itself to different interpretations and represents a serious obstacle to the drafting of

general basic principles which should guide the activities of States in this important area of our planet.

39. In fact, a prolonged discussion on a more specific definition of the idea of a common heritage, because of the controversies it might give rise to, would certainly delay the formulation of other ideas and principles intended to guide the activities of States and would thus play into the hands of those who want to benefit from the absence of any principles or standards of behaviour.

40. It is true that, in order not to allow the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction to be wasted, some delegations insisted on the urgency of establishing an international machinery to regulate the activities of States and private persons in that area on the basis of the idea of the "common heritage of mankind", which they had put forward. The Secretariat has been requested to present a detailed study on this same question of the establishment of appropriate machinery to promote the exploration and exploitation of the resources of the sea-bed and the ocean floor in the interests of mankind.

41. A mere glance at the document prepared by the Secretariat *[A/7622, Corr.1, annex II]* is enough to show the complexity and magnitude of the task which would be entrusted to such machinery. It also shows how illusory would seem to be the expectations of those who would have a certain number of developed countries, and particularly private companies, work for the benefit to mankind as a whole, and, in particular, to promote the economies of the developing countries by exploiting the sea-bed, and more particularly the subsoil.

42. Given the dimensions of the task that would confront the international machinery, such machinery would doubtless have far vaster proportions than the United Nations and the specialized agencies put together. Such an international machinery would have to deal with direct exploitation as well as with the settlement of disputes that might arise with and between countries, as several delegations have mentioned though they have nevertheless defended the idea. Thus it would have vast ramifications and would represent something far larger than can at present be imagined.

43. Taking all these considerations into account, we wonder whether it would really be realistic to undertake such a task at present, when we have not yet even been able to draft non-controversial principles which should guide and underlie the activities of States in this field. One wonders too whether it would not be an illusion to want some developed States to work for the well-being of mankind as a whole, in the light of past experience and particularly in the light of a very recent past in other areas.

44. At present, and in the immediate future, the exploitation of the resources of the sea-bed and the ocean floor and their subsoil, by way of an international machinery for the benefit of mankind, and in particular for the benefit of the developing countries, is, to say the least, rather difficult to conceive. There are many reasons for this. It is worth noting, in passing, that it is stressed in paragraph 48 of the Economic and Technical Sub-Committee's report 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".

45. To meet the needs of such an exploitation of the resources of the sea-bed and ocean floor, it has been suggested that we adopt the system of concessions by granting exclusive licences for research in a given area and for a given period. According to the United States, a true "... international régime should include an international registry of claims governed by appropriate procedures. The registry should be neither complicated nor costly, so that maximum proceeds will be available to the international community" *[1673rd meeting, para. 97]*. Thus, it is maintained, "Governments would be responsible for adherence by their nationals to internationally agreed criteria".

46. It is edifying to note, first of all, that the system of concessions, which has been practised so far by the nationals of developed countries, has until now not contributed, in conditions of independence and national sovereignty, to the development and prosperity of the countries on the territory of which these concessions have been granted. This state of affairs has in the past led the Governments of a large number of countries, and recently of certain Latin American countries, to take action so as to counter the methods of exploitation practised by foreign companies holding concessions.

47. These legitimate actions of Governments of sovereign countries and the reactions which these actions produced in the countries of origin of the private concessionaire companies have only recently led to a number of international complications which will be recalled. In his last speech addressed to Latin America, the President of the United States deemed it necessary to declare that such actions by a country, that is, measures taken against private companies holding concessions in the country in question, affect the confidence of investors in the entire region. That is why the Government of the United States has warned that it will no longer encourage investments wherever these are not desired, and in saying that, it clearly has in mind countries like the Latin American ones I referred to which provoked this reaction on the part of the United States of America.

48. This brings us back to reality. For many decades, sovereign and independent countries have granted concessions. Yet these countries have not found it possible to make sufficiently rapid economic progress because they had not succeeded in bringing foreign companies under sufficiently strict control. In the case of the high seas, they will find it even less possible to make them adhere more closely to international laws and regulations. For all these reasons it is indeed difficult to imagine that a system of concessions could be applied in the case of a régime regulating activities on the sea-bed and ocean floor, the sole purpose of which is to reserve this area of our world for exclusively peaceful purposes and for the benefit of all mankind.

49. Would it not then be desirable to revert to the original idea, which it will be recalled was the basis of the item submitted at the twenty-second session of the General

Assembly,[3] namely, "the reservation exclusively for peaceful purposes of the sea-bed and ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind"? This is, furthermore, more fully expressed in the English title of the item than in its French translation, where it is said that the resources will be for exclusively peaceful purposes. In the French text it is said that the resources will be *affectées* i.e. "allocated" to, not "reserved" for exclusively peaceful purposes. While I do not wish to digress into a semantic discussion, I should like to emphasize the importance of having greater accuracy in the enunciation of the problems so that they may be examined more effectively.

50. It may perhaps be useful to recall here the words and arguments of the representative of Malta, Mr. Pardo, when he introduced this item in the agenda of the twenty-second session of the General Assembly. He said: 'My Government decided to take action at this session of the General Assembly because rapidly developing technology makes possible the exploration, occupation and exploitation of the world's sea-beds and much of its ocean floor. We are convinced that in accordance with historical precedence this capability will lead, indeed is already leading, to appropriation for national use of these areas, with consequences for all our countries that may be incalculable." *[1515th meeting, para. 6.]*

51. An editorial in *The New York Times* today, entitled "Slow down the oil rush", is edifying, both on the conditions in which private companies exploit the mineral resources of the sea-bed and on the dangers of pollution.

52. The idea of reserving the sea-bed and ocean floor and their subsoil beyond the limits of national jurisdiction for the exploitation of their resources in the interests of mankind should be at the core of the work of the Committee in the future. Exploitation of this region, on the other hand, should not be envisaged or really undertaken until the developing countries are able to participate effectively in such activities without being at the mercy of others, and in particular of the said private companies.

53. Special attention should certainly be given to the dangers of pollution which may be brought about by the exploitation of the sea-bed and ocean floor and their subsoil. This should of course represent no obstacle to scientific research and exploration which must be continued and which we are sure will be carried out at an accelerated pace.

54. As for the problem of the demilitarization of the sea-bed and ocean floor, we hope to be able to express the position of the People's Republic of Bulgaria when we discuss disarmament problems in this Committee. However, we are already very pleased to note the progress made in this field in the drafting of a treaty presented in the report of the Disarmament Committee. Like several other delegations, we believe that the useful work which has already been started on the legal, technical, scientific and institutional bases of a régime for the sea-bed and ocean floor must be pursued so that we may find the best solution compatible with the interests of mankind as a whole.

55. It is with these considerations in mind that the delegation of the People's Republic of Bulgaria will vote on the various draft resolutions submitted to the Committee on this question.

56. Mr. PHILLIPS (United States of America): In the ten days since the Committee began the debate on the sea-bed item we have heard a large number of exceedingly thoughtful statements on a very wide spectrum of issues. In the same period we have accumulated an imposing collection of draft resolutions and amendments. In speaking to the Committee on 31 October *[1673rd meeting]* I set forth the general views of the United States delegation as to the way the General Assembly should proceed on the report of the sea-bed Committee, and I should now like to up-date and supplement those remarks in the light of these subsequent developments.

57. In our initial statement my delegation proceeded from the general position that the Sea-Bed Committee's report reflected significant movement towards a variety of shared objectives, but we found no issues on which the work of the Committee had sufficiently matured to call for substantive action by the General Assembly. Therefore, it was our hope that the Assembly would, after further discussion of these issues through debate in the First Committee, refer them back to the Sea-Bed Committee and encourage that Committee to proceed with its useful and important work. To my mind, the intervening days have served to confirm the foregoing premises. In further illuminating the issues which the Sea-Bed Committee grappled with during its 1969 sessions, the debate in the First Committee has made even clearer the scope and difficulty of those issues.

58. Consequently, the United States delegation welcomes the draft resolution submitted by Belgium early last week *[A/C.1/L.474 and Add.1-2]* and now co-sponsored by a substantial number of other delegations. We believe that such a draft resolution discharges the main responsibility towards the sea-bed item of the twenty-fourth session of the Assembly, and indeed we should have thought it preferable to make such a single draft resolution the vehicle of all proposed actions under the sea-bed item by the Assembly at this session. We are in any event happy to support the draft resolution in its present form.

59. One feature of this draft resolution which we find particularly appropriate is its treatment of the work of the Sea-Bed Committee on the question of legal principles, which is contained in substantive paragraphs 3 and 4. It would be a mistake, as a number of delegations have indicated, to exaggerate either the extent or the nature of the progress which the Sea-Bed Committee made on this question. Nevertheless, as I indicated in my first statement, it is correct, in our view, to characterize the work of the Committee as "progress", particularly in establishing a framework within which further negotiations can proceed during the coming year and in setting down within that framework some limited areas of agreement.

60. A number of the more important issues falling under the rubric of the question of legal principles have been dealt

[3] *Official Records of the General Assembly, Twenty-second Session, Annexes*, agenda item 92, document A/6695.

with by various statements to the Committee—although my own delegation, in view of the complexity of these issues and the brevity of the time available, has shrunk even from the attempt.

61. The delegation of Iceland, for example, dwelt at some length on the legal and practical relationship between activities on the sea-bed and activities in the superjacent waters—particularly fishing—raising the question whether coastal States should not be granted greater rights in this respect *[1678th meeting]*. May I take this opportunity to say that the United States shares many of the concerns of Iceland in this connexion.

62. As the representative of Iceland was good enough to recall, I stated to the Committee on 31 October that the goal of preventing sea-bed exploitation from leading to damaging imbalance or depletion of either marine life or resources was one which must be emphasized in the International Decade of Ocean Exploration. Certainly this is a goal which should be effectively provided for in an international régime for the sea-bed and taken into account in the development of the machinery which will be a part of such a régime.

63. More particularly, the United States is among many nations which, like Iceland, are concerned about the depletion of important fish stocks throughout the world because of a continuing rapid increase of fishing activities which are not always accompanied by appropriate conservation measures. This is a serious problem. On the one hand, it is important to maintain the upward trend of world fisheries production to assist in meeting protein needs throughout the world and, on the other hand, it is important to conserve each stock of fish in order that it may produce the maximum yield today and for future generations. When any stock is depleted for whatever reason, whether through lack of proper conservation measures or over-exploitation, the whole world suffers. This is particularly unfortunate with respect to a nation such as Iceland which, as the representative of that country has pointed out, is uniquely dependent on fisheries and consequently suffers relatively more than most other nations. But it is bad with respect to any nation.

64. I might note, in urging the Sea-Bed Committee to take full and careful account of problems of living resources of the sea as they impinge on its own work, that the United States is encouraged that activities are continuing and intensifying through both formal and informal mechanisms to deal directly with the fisheries problem and to accommodate the interests of the world at large. Examples are found in the North Atlantic which have been generated by the very concerns of which Iceland spoke. Both the Northeast Atlantic Fisheries Commission and the International Commission for the Northwest Atlantic Fisheries, for example, have initiated intensive efforts to improve the conservation régime and to limit the burgeoning fishing effort. Only a few days ago a protocol to the International Convention for the Northwest Atlantic Fisheries was signed which will immeasurably assist the Commission in reaching resolution of these pressing needs. And so we hope that this intensification of action in the North Atlantic will serve as a precedent for the entire world.

65. I had originally intended to comment in some detail on the various draft resolutions which have been submitted, but I should prefer, if I may ask your indulgence, Mr. Chairman, to reserve my right to intervene at such time as the Committee takes up consideration of the draft resolutions and amendments.

66. The CHAIRMAN: We have concluded the general debate on the item relating to the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of (present) National Jurisdiction.

67. There are four draft resolutions before the Committee. Two of them were presented at our last meeting on Friday by the representatives of Belgium *[A/C.1/L.474 and Add.1-2]* and Malta *[A/C.1/L.473/Rev.1]*. There are two other draft resolutions before us, one in the name of the delegation of Cameroon and a number of other delegations, including Kuwait, in document A/C.1/L.477 and Add.1, and the second contained in document A/C.1/L.478, submitted by the delegation of Uruguay. These two draft resolutions have not yet been formally introduced in the Committee. In addition, there are a number of amendments to which I shall advert later.

68. I shall now, with the permission of the Committee, call on the representative of Belgium, who I understand wishes to present a revised version of his draft resolution in document A/C.1/L.474 and Add.1-2, which he formally introduced at the last meeting. Thereafter I shall request the representatives of Kuwait and Uruguay to present their draft resolutions.

69. Mr. DENORME (Belgium) *(translated from French)*: When on 7 November I formally presented draft resolution A/C.1/L.474 to this Committee, consultations were in progress to meet certain objections and criticisms raised by a group of delegations regarding this text.

70. Some of those criticisms concerned mainly the wording of the text, particularly in its English translation. It was in order to avoid further misunderstanding that the revised text, which has just been submitted on behalf of 28 sponsors and which, I hope, will be distributed soon, is drawn up in two original languages, French and English.

71. Other objections were of a substantive character. They concerned the evaluation of the work accomplished so far by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. We must recognize that the report submitted to our Assembly makes no recommendations, though that was in fact the explicit mandate of the Committee.

72. Thus, for example, we read the following in paragraph 83 of the Legal Sub-Committee's report:

"The debates during the two sessions of the Legal Sub-Committee and the informal consultations that have taken place during the intersessional period have been useful inasmuch as they have contributed towards the clarification of positions on legal principles. They have furthermore, in what in fact should be considered a significant progress, been instrumental in steering the discussions of the Legal Sub-Committee away from a

generalized approach towards the task of devising specific formulas for a number of defined ideas."

In paragraph 84 it is stated:

"Yet it could be considered suitable to attempt a synthesis of the related formulations in order to determine in so far as possible common denominators."

73. The Committee pointed out that this synthesis "reflects the measure of progress achieved in the sustained attempt to arrive at a formulation of principles". *[A/7622, Corr.1, Part One, para. 15.]*

74. While we wish to pay tribute to the members of the Committee for their efforts, some delegations do not seem to be satisfied with the progress achieved. They say this synthesis repeats certain well-known positions on questions which were not discussed, while on other points the Sub-Committee was unable to reconcile viewpoints to any appreciable extent. This document has nonetheless made it possible—and this is its great merit—to go beyond the stage of individual proposals and to concentrate the future work of the Committee on a single catalogue which would list both the points of agreement and disagreement. Not only is this the result of considerable effort, but it seems to us also to constitute a solid foundation on which the Committee can base its efforts, which we hope will be pursued diligently, and if possible, more intensely.

75. It is in that spirit that the expression "the extent of the work done", which appears in paragraph 3 of the revised text, and the expression "to expedite its work" which appears in paragraph 4 of the revised text, should be understood.

76. Further, the revised text indicates that the goal is to submit a "draft declaration" to the General Assembly at its next session. This declaration which should be the subject of a recommendation of the Committee, should contain a complete and balanced set of principles to govern the exploration and the utilization of that zone.

77. We know that some delegations feel that it would be advisable to envisage a more modest objective such as the working out of a draft declaration which would be balanced, of course, but not necessarily complete. Some feel that the principles which should be adopted should be of a general character, leaving for the future the elaboration of more detailed legal norms. Others, conversely, insist upon the speedy adoption of a limited number of basic principles whose formulation could then be completed in the future as a result of the approval of additional principles, so as to arrive finally at a declaration which would be general and comprehensive. I shall take the liberty of reminding them, first of all, that the aim of the Committee itself was precisely the elaboration of a "balanced and comprehensive" declaration. Paragraph 84 of the report of the Legal Sub-Committee indicates in that connexion that the common denominators listed in the synthesis 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".

78. On the other hand, there would seem to be no doubt that, whatever the efforts made to draw up such a declaration, it could not be as exhaustive or as detailed as the norms to be included in the legal instruments which will determine the régime to be set up.

79. In the view of the sponsors it is nevertheless very important to prepare a statement which would at least cover all aspects of the question as listed in the programme of work adopted by the Legal Sub-Committee on 14 March 1969 *[ibid., Part Two, para. 5]*, even though that programme is not restrictive in character.

80. As regards the report of the Economic and Technical Sub-Committee, various delegations have felt that it would be somewhat premature to welcome with satisfaction all the suggestions it contains, as most of them have not been sufficiently studied and have not been unanimously recommended.

81. It was felt, therefore, that it would be preferable, as in the case of the Legal Sub-Committee, merely to place on record the suggestions made, at the same time designating a specific task for the Economic and Technical Sub-Committee. That is why paragraph 5 of the original draft has been replaced by two separate paragraphs, the first of which "takes note of suggestions contained in the report", while the second contains a specific directive which, in its original version, had given rise to some doubts as to the nature of the "code", the system of exploitation, the régime to be set up and the international machinery that, in the view of the great majority of delegations, would have to become an integral part of the régime.

82. Those of us who have participated in the debates in the Economic and Technical Sub-Committee know what the intentions of its members were when they proposed to translate the experience acquired at the national level into a code for the exploitation of the resources of this new area. Going back in that connexion to the decision taken by the Sub-Committee and recorded in paragraph 99 of its report and to the explanations which I gave in my statement of 7 November *[1681st meeting]*, I am happy to note that the wording of the new paragraph 6 now seems clear. The Committee is requested to "formulate recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of this area in the context of the régime to be set up".

83. The sponsors have taken the opportunity afforded by this revision to alter the general lay-out of the draft: former operative paragraph 6 has become part of the preamble. The structure of the operative part is now clearer and at the same time perfectly balanced. The first two paragraphs have a general character and are addressed to the whole Committee: the first relates to the work accomplished during the year; the second deals with the future. The same applies to the following two paragraphs which concern the Legal Sub-Committee: paragraph 3 puts on record what the Sub-Committee has already achieved, and paragraph 4 entrusts it with an urgent task. Finally, as I have already explained, the new paragraphs 5 and 6 follow the same pattern: the General Assembly takes note of the suggestions made by the Economic and Technical Sub-Committee and, on the basis of those suggestions, gives it a specific directive.

84. Two considerations which were omitted in the initial draft have been added. The first relates to the debate held

in this Committee, to which many delegations made very useful contributions that should stimulate and guide the work of the Committee on the Peaceful Uses of the Sea-Bed. When it resumes its work it will have to take into account the opinion expressed during the twenty-fourth session. A passage has been added at the end of operative paragraph 2 to cover this consideration. The fact that the Committee does not include the whole of the membership of the United Nations makes this addition even more important.

85. The second addition refers to the invaluable contribution made by the Secretary-General. Resolution 2467 A (XXIII) requested the Committee to fulfil its mandate "in co-operation with the Secretary-General". This co-operation has become a basic factor, so much so that no explicit mention of it has been made. We have all appreciated this year the remarkably efficient work of Mr. David Hall, Mr. Valentin Sapozhnikov and Mr. Jean-Pierre Levy, Secretaries of the Committee and of the Sub-Committees, and their colleagues, and many delegations have emphasized how useful had been the studies provided by the Secretary-General and more particularly the study relating to international machinery. The formula "as well as to the Secretary-General for his assistance", which has been added at the end of the third preambular paragraph of the revised text, is an inadequate expression of all our admiration and of our appreciation of the outstanding services rendered to us by the Secretariat.

86. I have thus reviewed the main changes made in the wording of draft resolution A/C.1/L.474 which, in its revised form, is now sponsored by 28 delegations: Australia, Austria, Belgium, Bolivia, Brazil, Cameroon, Canada, Ceylon, Chile, Cyprus, India, Iceland, Jamaica, Kuwait, Libya, Madagascar, Malta, Mauritania, Nigeria, Peru, Philippines, United Kingdom, Singapore, Sudan, Thailand, Trinidad and Tobago, Turkey and Yugoslavia. I should like to express once more my gratitude to all these delegations for the very valuable assistance they gave me. I am confidently submitting this revised version for the approval of the First Committee.

87. The CHAIRMAN: I now give the floor to the representative of Kuwait for the introduction of the draft resolution in document A/C.1/L.477 and Add.1, in the name of 20 delegations.

88. Mr. AL-SABAH (Kuwait): The work of the Sea-Bed Committee during its last session benefited a great deal from the study on international machinery prepared by the Secretary-General *[A/7622 and Corr.1, annex II]*. Most delegations recognize the merits of that study and its usefulness in developing their views on international machinery. In fact, it is not presumptuous to say that the idea of establishing an international machinery has now gained wide acceptance.

89. However, most delegations have also recognized that the study prepared by the Secretary-General is not complete. While it defined the various alternatives and major issues involved, it did not deal exhaustively with all of them. In some respects it was a general outline of a preliminary and exploratory character. Maybe its chief merit is that it recognized its own limitations. In spite of its shortcomings, it provided the right forum for a constructive exchange of views on the various aspects of international machinery. As stated in Part One, paragraph 19, of its report, the Sea-Bed Committee approved a suggestion to request the Secretary-General to continue in depth the study on international machinery.

90. I have the honour to introduce the draft resolution contained in document A/C.1/L.477 and Add.1 on behalf of the co-sponsors. The topic is so vast and complex that a request for any study should include specific guidelines and points of interest. The specific guidelines for the projected study are contained in paragraph 1 of the draft resolution contained in document A/C.1/L.477 and Add.1: the general principle that all activities with respect to the sea-bed, including the exploration, use and exploitation thereof, shall be carried out in the interests of mankind as a whole, irrespective of the geographical location of States and taking into consideration the special interests and needs of the developing countries; that the sea-bed shall be placed under the jurisdiction of an international machinery; that the machinery should have full international legal personality for ensuring a rational exploration, conservation, exploitation and development of the resources of the sea-bed beyond the limits of national jurisdiction; that the study should cover in depth the status, structure, functions and powers of an international machinery which would have regulatory and operational functions; that its regulatory functions shall include organizing, controlling administering and co-ordinating all activities with respect to the sea-bed; that it may undertake operations independently either in association with investors or by the use of its own expertise and equipment. It will be recalled that the earlier study did not deal adequately with those matters. The new study should supplement the earlier omissions and bring into sharp focus all possible alternatives open to us.

91. In operative paragraph 2 of the draft resolution the Secretary-General is requested to submit his report on international machinery to the Sea-Bed Committee for consideration during one of its sessions in 1970. We are confident that this projected study will give a new impetus to the work of the Sea-Bed Committee on the question of international machinery, thus enabling it to analyse all aspects of the matter in great depth. That is indeed essential before the Sea-Bed Committee can make appropriate recommendations to the General Assembly.

92. It is not possible to predict that the proposed study will be the last one. In fact, multiplicity of studies and exhaustive deliberations are the best guarantee against premature action. It is also pertinent to note that voting in favour of preparing a certain study does not prejudice the position of delegations with regard to the final action to be taken upon it. It will not be over-optimistic, therefore, to voice the hope that the draft resolution requesting a new study on international machinery will be unanimously adopted.

93. The CHAIRMAN: I now call on the representative of Uruguay to introduce the draft resolution in the name of the delegation of Uruguay appearing in document A/C.1/L.478.

94. Mr. LEGNANI (Uruguay) *(translated from Spanish)*: Document A/C.1/L.478 just distributed contains the draft

resolution which we announced our intention to submit for consideration by the members of the First Committee.

95. In announcing it we spoke of the need, or the usefulness, of a basic declaration by the General Assembly, without prejudice to later legal developments, establishing the principle that the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction constitute a source of wealth for the international community, particularly its less developed members.

96. In the resolution as finally drafted we have preferred to establish the principle in question in the context of the draft itself, specifying the need to adopt an international régime governing the exploration and exploitation of the sea-bed and the ocean floor for the benefit of the international community. Hence the second preambular paragraph reads:

> "*Recognizing* the need to adopt as soon as possible an international régime governing the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, lying beyond the limits of national jurisdiction, which constitute a source of wealth for the international community, particularly the less developed members of that community."

Here we have the recognition of the principle with which we are concerned.

97. Next, the third preambular paragraph emphasizes the existence of a strong interest in preventing the occupation of various areas of the sea-bed beyond the limits of national jurisdiction in the following words:

> "*Desiring* to prevent a race to occupy various areas of the sea-bed beyond the limits of national jurisdiction pending the adoption of an international régime governing those areas."

98. The draft in no way implies that after the adoption of the international régime competition or a race to occupy areas of the sea-bed beyond the limits of national jurisdiction will be authorized; it is obvious, I think, that the régime adopted is to regulate the occupation of those areas.

99. Nevertheless, if it were felt that the idea we are trying to express would gain in clarity thereby, the words "pending the adoption of an international régime governing those areas" could be deleted.

100. Since the draft recognizes that the sea-bed and the ocean floor beyond the limits of national jurisdiction constitute a source of wealth for the international community, operative paragraph 1 requests all States to refrain from claiming or exercising sovereign rights over any of the areas "pending the establishment of an international régime governing the exploration and exploitation of those areas, without prejudice to any existing claims relating to the boundaries of the territorial sea or the continental shelf".

101. The proposed request by the General Assembly aims at avoiding or preventing conflicts in the exercise of what are to be accepted as the rights of the international community in the exploration and exploitation of the source of wealth recognized as belonging to it. With regard to claims already existing, or potential claims, relating to the boundaries of the territorial sea or the continental shelf, the draft resolution is anxious, as has been pointed out, not to make any discrimination by taking a stand in favour of them.

102. This part of the draft is concerned to ensure that the request formulated does not interfere with claims already made, as it would if it took a stand either for or against them, the grounds for them, or the rights claimed. The words "without prejudice" used here are intended to mean, or are the equivalent of, the current expression in legal jargon "without prejudice to any rightful claim".

103. Such claims would be supported or otherwise on their merits, and in accordance with existing international law. But it is not part of the purpose of the draft resolution either to proffer recognition or to deny it.

104. Lastly, the statement in operative paragraph 2 is an immediate and direct consequence of the recognition, in the context of the draft resolution, of the existence of an area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction which constitutes a source of wealth for the international community. The General Assembly would declare that in that area no one—State, organization or individual—may carry out activities or perform acts which are, or claim to provide, the basis for asserting rights over those areas to the detriment of the developing countries and, in general, of the interests of the international community. In so declaring, the General Assembly would be affirming the basic principle that the sea-bed and subsoil area outside national jurisdiction constitute a source of wealth for the international community.

105. The Committee that prepared the weighty report we are examining will continue its vastly important task, and this First Committee and the General Assembly, or the international conference it might be decided to convene, would establish, on the basis of the declaration thus made by the Assembly and of the results of the work of the Committee, the statute governing the sea-bed belonging to the international community. It does not seem to us to be indispensable to ask States specially for their views on the delimitation of the sea-bed within their national jurisdiction and that beyond their national jurisdiction.

106. In our opinion, there already exists an excellent international instrument: the Convention on the Continental Shelf, signed at Geneva on 29 April 1958[4] and brought into force on 10 June 1964, which lays down two criteria for external limits—the isobath of 200 metres and the subsidiary criterion of exploitation of natural resources. The criterion of the depth of the waters is specific, and the subsidiary one of the exploitation of resources is likewise clear if it is interpreted in terms of adjacency.

107. At any rate I think that the application of the criteria laid down in the international instrument mentioned above could produce useful results as far as the interests of the international community and the developing countries are

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

concerned, since it would be possible in accordance with those criteria to undertake exploration and exploitation of the resources of the sea-bed and ocean floor. With respect to divergencies or differences between States in the application of the criteria laid down in the Geneva Convention, I do not think it would be wise or helpful to provoke or raise them. If they already exist, they are bound to be brought up and substantiated, and they may give rise to decisions consonant with international law. They might even give rise to new approaches to the delimitation of the sea-bed areas. But although this may well occur, it should not constitute an obstacle to the crystallization of the principle that the sea-bed and ocean floor beyond the limits of national jurisdiction constitute a source of wealth for the international community.

108. Without trying to equate situations or find parallels, it may be that the problems of the boundaries dividing areas within national jurisdiction and areas beyond the limits of national jurisdiction are actually neither more numerous nor more complex than those of the geographical boundaries between States, the solution of the former having the advantage of the existence of the criteria embodied in an international instrument–the Geneva Convention already mentioned.

109. In conclusion, may I say that in considering this item my delegation is prompted by the same concern as the other delegations, namely to promote the economic and social progress of peoples in accordance with the Charter. It may be encouraging to realize that while differences of opinion exist–and it is normal that they should–with regard to the means, all of us are motivated by the same lofty aims and are actively pursuing them.

110. The CHAIRMAN: I understand that another draft resolution will be presented to the Committee, and I now call on the representative of Mexico.

111. Mr. GARCIA ROBLES (Mexico) *(translated from Spanish):* The Secretariat has just been handed the text of a draft resolution *[A/C.1/L.480]*, original English and Spanish, sponsored by the delegations of Ceylon, Ecuador, Guatemala, Kuwait, Mauritania and Mexico. It has not yet been distributed, and since it is quite short I shall take the liberty of reading it out in it entirety.

112. By way of introduction let me just say that the purpose of the draft is to reconcile the need for the Sea-Bed Committee to have all the time necessary to bring to a fruitful conclusion its task of drafting an international régime–which in the opinion of the co-sponsors should include international machinery–with the equally important need to ensure that while the Committee is deliberating, States or persons, physical or juridical, will not be appropriating the resources of the sea-bed or exploiting them for their own profit. That would be at variance with the very spirit of all our work, which is designed to ensure that exploitation will take place solely for the benefit of mankind, with due regard for the special needs and interests of the developing countries.

113. Having said that, I shall read out the text of the draft resolution, which as I said is short:

"*The General Assembly,*

"*Reaffirming* that the exploration and exploitation of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries,

"*Convinced* that it is essential, for the achievement of this purpose, that such activities be carried out under an international régime, including appropriate international machinery,

"*Noting* that this matter is under consideration by the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction,

"*Considering* that it is therefore necessary to adopt interim measures which would preserve the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, from actions and uses which might be detrimental to the common interests of mankind,

"*Declares* that, pending the establishment of the aforementioned international régime, States and persons, physical or juridical, are bound to refrain from claiming or exercising any right, title or interest, which is not at present expressly and internationally recognized, in any part of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, as well as from exploiting the resources of any part of this zone."

114. Let me add that the purpose and aim of this draft resolution is quite specific: it is what I said at the outset: Thus it makes no attempt to decide, or to prejudge in any way, what are the limits of national jurisdiction. As far as it is concerned, this notion will remain in the same deplorable, but unfortunately inevitable, state of vagueness that everything else connected with this topic is in at the moment.

115. With regard to the exception provided for in the operative part, the phrase "which is not at present expressly and internationally recognized" refers exclusively to any right, title or interest not, as it says, "expressly and internationally" recognized as of now.

116. Our intention in inserting this clause was to cover the options which the holders of rights or interests undoubtedly possess in regard to matters such as–to take a concrete case–laying under-water cables and pipelines. This right, as everyone knows, is expressly recognized in article 2 of the Convention on High Seas[5] signed at Geneva on 29 April 1958.

117. To conclude with a comment along the same lines as the ideas outlined at the outset, I should like to read what I had occasion to say on behalf of my delegation at the 1678th meeting of this Committee on Thursday, 6 November:

"Since everything seems to indicate that the formulation and adoption of the statute defining the structure,

[5] United Nations, *Treaty Series*, vol. 450 (1963), No. 6465.

function and powers of the proposed international machinery will also take some time, my delegation is likewise convinced that it would be useful if the General Assembly at this session were to adopt precautionary measures in the form of a resolution expressly recognizing that until such time as the international régime and machinery are established, all States are to refrain from exploiting the resources of the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction." *[1678th meeting, para. 39.]*

118. This ban–covering "all States" according to my statement–to be included in the wording which should be used in a United Nations declaration, has now been made more specific by the adoption of the formula which the representative of Ceylon included in the draft declaration he read out in his statement to the First Committee *[1673rd meeting]*. That explains why the operative part speaks of both "States" and "persons, physical or juridical".

119. Mr. ROSSIDES (Cyprus): I refer to my delegation's amendment *[A/C.1/L.476]* which was tabled with regard to the original draft resolution of Malta *[A/C.1/L.473]*, and I see now that the Maltese resolution has eliminated one part which was objectionable to my delegation: that is, operative paragraph 1 requesting the Secretary-General to ascertain the views of Member States on the extent of the area of the sea-bed and the ocean floor lying beyond national jurisdiction. In other words, the Secretary-General will first have to ascertain what the views of the Members are, and we know how difficult these are for them to express and how few will reply. Then, again, when a State is considering a matter in its capital and not in an international forum, its views are more inclined to be parochial than world views. So my delegation thought this part should not be in the document and that the text should go straight to the question of convening a conference.

120. Now, I see that the delegation of Malta, in its revised draft *[A/C.1/L.473/Rev.1]*, has probably adopted this line which might also have been suggested to them by others but it is in keeping with the line of our amendment to eliminate that part. I also see that it has adopted the use of the word "desirability" of convening a conference, which is also in our amendment which was issued before the revision. Now, so far so good; we go along with this and we will be inclined not to insist on our amendment; but unfortunately another matter appears in the revised draft which renders it difficult for us to accept. Again I speak about operative paragraph 1, with its sub-paragraph 2 for the purpose of agreeing on an equitable international régime for the area beyond national jurisdiction.

121. Now this sub-paragraph 2, read in the context of the resolution, means this: requests the Secretary-General to ascertain the views of Members on the feasibility of convening at an early date a conference for two purposes: one for the purpose of reviewing the Convention on the Continental Shelf[6] and, two, for the purpose of agreeing on an equitable international régime.

122. That is, one of the purposes of the conference will be to agree on an equitable international régime. My delegation understood that this is the task of the Sea-Bed Committee which is going to work out an international régime and machinery. So the addition here either means that there will be concurrent jurisdiction, that the Sea-Bed Committee will be working on the international régime and the machinery on the one hand, and the conference which will be convened will also be working on the same subject; or else we must take it to mean that the convening of the conference for the definition of the area and the reviewing of the Convention on the continental shelf will have to wait until the Sea-Bed Committee works out a régime so that the conference may agree upon that régime as an accepted and worked-out régime.

123. But we know from experience how long these matters take. We express each time the hope that they will finish in a year, and then the next year; but the legal principles and other matters may take perhaps as long as, if not longer than, the international law on friendly relations. So then, probably, this conference will have to wait all that time. What then is the purpose of submitting a resolution now in order that the conference will have either to compete with the Sea-Bed Committee or wait for the end of its deliberations and its results? That is why we will not withdraw our amendment, but we shall insist on it mainly because of this aspect.

124. Also, once there is this aspect, I shall mention another aspect where, I think, our draft resolution may perhaps improve somewhat the Maltese draft resolution which is otherwise very good. I want to praise the delegation of Malta for its initiative in submitting such a draft resolution for the purpose of obtaining a definition of the area for which all this work is done. That is, the régime and the machinery and the legal principles are all intended for an area–and the location of that area cannot remain for ever indefinite. It would seem that one is preparing to build a house, making the architectural plans, going into all the details on how it is going to work, and not being mindful at all as to where the land lies that one is going to place it on. A delay of a year or two could be understood. But now that two years have elapsed it is time to move ahead towards defining the area. The representative of Malta deserves to be praised for introducing this draft resolution. I might mention here that my delegation submitted a draft resolution last year with the same aim of defining the area. Because of lack of time, like other resolutions it was sent to the standing Committee for consideration. I am referring to draft resolution A/C.1/L.432 which, by the addition of other co-sponsors eventually became A/C.1/L.432/Rev.1/Add.1,[7] and which asked for this definition. So I go along entirely with the Maltese draft resolution for the definition except for the difference that I have just mentioned about the régime.

125. Another point is the fact that in our amendment we specify: ". . . the desirability of convening at an early date a conference with the aim of adopting a protocol interpreting or revising the Convention . . ." *[A/C.1/L.476]*.

126. My delegation thought that that was a more practical way. The reason for convening that conference is first to

[6] *Ibid.*, vol. 499 (1964), No. 7302.

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

obtain a definition of the international area; otherwise it would not have been convened. So we have to attend to that purpose and nothing else if we want to move on this subject of the use of the sea-bed and the ocean floor beyond national jurisdiction for the benefit of mankind. If we are to use it for that purpose, and if we are to define the area, we must do it in the most expeditious way. And I believe that the most expeditious way, if it is agreed that we should have a definition, is by a protocol interpreting or revising the Convention. As is well known, a protocol can interpret or revise a convention. Therefore, here we have a full description of the most expeditious mode of proceeding towards interpreting or revising the Convention with the aim of making the definition.

127. I wish to say that my delegation is flexible on this point. If it is considered that it is better to leave it open without mentioning the protocol and merely with the aim of revising the Convention, I am willing to go along. However, what my delegation would insist on is that this matter should not be mixed up with the régime in the way it is done here. If it were to ask for a more precise definition, having in mind the aim of the establishment of a régime that is all right, because the conference would not deal with the régime; it would merely bear in mind the aim of the establishment of the régime. But in the way it is drafted it places responsibility on the conference itself to deal with the régime.

128. The second amendment seeks to add an operative paragraph 3, which reads as follows:

> "*Recommends* that all States should refrain from claiming or exercising jurisdiction over any part of the sea-bed or ocean floor, or the sub-soil thereof, beyond a depth of 200 metres or beyond the limits of the national jurisdiction they at present exercise, whichever is further from the coast, pending the clarification of the extent of national jurisdiction, without prejudice to any rights or claims concerning the limits of the relevant national jurisdiction."

129. This is the sense of putting a stop to the arbitrary procedure of claiming and exercising jurisdiction over a great extent of the area, because, as we all know, the limit which was placed by the Convention on the continental shelf was 200 metres depth or any depth, any extent which is found to be exploited. At the time of the Convention every part of the sea was not exploited—probably not beyond the 200 metres. But the rapid advance of technology made it exploitable at any depth. Therefore, that definition has become useless as a definition because it really extends national jurisdiction to all the depths of the sea and the ocean where they are exploitable—and those claims would clash.

130. It is therefore suggested that, pending the decision on the definition of the area and on the régime and the machinery, there should be a kind of freeze or moratorium, but not a strict moratorium that would bring about a complete stoppage, but one that would prevent further extension of jurisdiction into larger areas. In the amendments here we say that they may continue exploring and exploiting to the depth of 200 metres or to any depth beyond that limit as long as at present they exercise national jurisdiction at those depths. All that we ask here is that they should not go beyond those limits and that they should await the working-out of the legal principles, the definition of the area and the régime. Some are very hopeful that this can be finished in a year or two or three, so it is not much to ask them to wait for a short period like this before proceeding to explore at further depths.

131. I believe that this is a very moderate view of a moratorium, one which answers the need of a moratorium but at the same time gives latitude for necessary activities that would not in any way be prevented and that could perhaps not possibly be prevented. It gives sufficient latitude but at the same time brings a sense of restraint, deterring further exploitation to the point of leaving no area to be used for the benefit of mankind. That, I think, goes along with the views of those who want—I believe they all so want—to leave some area to be used for the benefit of mankind. This is, on the whole, what I had to say on my amendments to the draft resolution. I repeat that we are flexible on the amendments to both paragraph 1 and paragraph 3 with regard to any views that may be put to us.

132. The CHAIRMAN: I thank Mr. Rossides, the representative of Cyprus, for his amendments to the draft resolution of Malta in document A/C.1/L.473/Rev.1. Does any other delegation wish to speak at this time?

133. Mr. ZELLEKE (Ethiopia): I should like to make a suggestion, if possible. It seems to me that some of the suggestions and amendments and draft resolutions are at cross purposes. I think it would be good if the authors of these were to get together and work out a document that would be acceptable to all. I do not think there is any very, very serious difference between most of them.

134. The CHAIRMAN: I thank the representative of Ethiopia for his suggestion. I will touch upon that aspect of our work presently, in regard to how best we can proceed with the vote and when we should take up the various draft resolutions for voting. But before I do so, and if there is no other representative who wishes to speak on the draft resolutions and amendments before us, may I now revert to the proposal of the representative of Malaysia.

135. At the 1679th meeting, held on 6 November, I read out to the Committee the formulation of a question, to be addressed to the Legal Counsel, which was given to me by the representative of Malaysia. A short debate ensued thereafter as to the action that this Committee should take on the Malaysian delegation's request, and I stated at the end of that short debate that we should first await the promised clarification by the representative of Malaysia and thereafter proceed to consider how best it should be acted upon. This afternoon the representative of Malaysia spoke in clarification of that request.

136. I have had consultations with some of the delegations that took part in the discussion after the formulation of Malaysia was read out to this Committee at the 1679th meeting and it is my belief that the following course of action is likely to be without objection by any delegation. That course of action is this: that the question as formulated by the representative of Malaysia be referred to the Sea-Bed Committee for the consideration of its Legal

Sub-Committee; and the Legal Sub-Committee may wish to refer that formulation, or any other version of it, to the Legal Counsel for opinion and submission to the Sea-Bed Committee again, for the consideration of its Legal Sub-Committee. I have consulted the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, and he is agreeable to that course of action. Is there any objection?

137. Mr. ROSSIDES (Cyprus): I am afraid I was not here at the time when the representative of Malaysia made his explanation, but as I understood it, his statement was in favour of the view that the area of the sea-bed and the ocean floor which is international should be vested in, or could be vested in, the United Nations.

138. Speaking in the year when this item was first brought to the United Nations, on 16 November 1967, I said:

"The United Nations is the existing Organization that represents the world community. Title to the sea-bed and the ocean floor beyond the internationally accepted limits of national jurisdictions could possibly be vested in the United Nations on behalf of, and in trust for, all the nations of the world."[8]

139. Then I quoted from two studies, one the Commission to Study the Organization of Peace and the other, which is more important, a declaration by the Peace through Law Conference, in which there were a few hundred States represented, which also called emphatically for a declaration that the sea-bed and the ocean floor should be vested in the United Nations.

140. Therefore, I do not want this occasion to pass without affirming my delegation's view that the sea-bed and ocean floor could be vested in the United Nations. Surely this is a matter for judicial examination and interpretation and the Legal Counsel's views, certainly not on the desirability but on the legal aspects–whether it is possible and how it could be done–are necessary. To send it to the Legal Sub-Committee on the sea-bed for discussion there and to get an opinion from the office of the Legal Counsel of the Secretary-General are, I think, a good procedure, and I would support that procedure.

141. The CHAIRMAN: As I hear no objection, I take it that the course of action proposed by me, following consultations with the representative of Malaysia and the other delegations that expressed themselves on that proposal, is agreeable to the Committee.

It was so decided.

[8] *Official Records of the General Assembly, Twenty-second Session, First Committee,* 1530th meeting, para. 43.

142. The CHAIRMAN: I had hoped that, following the introduction of the various draft resolutions and amendments thereto, the Committee would be able to proceed to vote on them this afternoon. However, a number of delegations have informed me that they would like to have some more time to undertake informal consultations concerning the various draft resolutions and amendments before they are put to the vote, in order that the widest possible consensus may be reached on each of them, and so that further debate may be dispensed with.

143. In view of this I would propose for the consideration of the Committee that we adjourn further discussion on item 32, on the draft resolutions pertaining to this item, and on the amendments to those draft resolutions, and begin consideration of the next item, The substantive aspects of the question of Korea, at our meeting tomorrow morning. If this suggestion is accepted, we shall return to the consideration of the various draft resolutions and amendments on the sea-bed item after the completion of the consideration of the substantive aspects of the question of Korea.

144. May I express the hope that the consultations will be concluded in two or three days' time, so that the Committee may be able to conclude its proceedings on the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor.

145. I should like to remind the Committee that action on agenda item 103, The strengthening of international security, is still outstanding, as will also be the case in regard to the present item. We have been able to take action on one item–that is, the invitational aspects of the Korean question, which has been largely a procedural one–out of the three items considered so far. If I hear no objection, we shall adjourn the further consideration of the present item for a few days and take up the question of Korea tomorrow morning.

It was so decided.

146. The CHAIRMAN: Accordingly, the Committee will begin consideration of the question of Korea at tomorrow morning's meeting, which will convene at 11 a.m. instead of 10.30 a.m. because of the meeting of the General Committee. There will be no meeting tomorrow afternoon. There will be two meetings on Wednesday. I would request those delegations which wish to speak in the general debate on the question of Korea to kindly give their names to the Secretary immediately.

The meeting rose at 5.25 p.m.

Litho in United Nations, New York 77101–April 1973–2,100