United Nations
GENERAL ASSEMBLY
TWENTY-FIFTH SESSION
Official Records

FIRST COMMITTEE, 1782nd MEETING

Thursday, 3 December 1970, at 10.30 a.m.

NEW YORK

CONTENTS

Page

Agenda item 25:
(a) 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)*;
(b) Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General *(continued)*;
(c) Views of Member States on the desirability of convening at an early date a conference on the law of the sea: report of the Secretary-General *(continued)*;
(d) Question of the breadth of the territorial sea and related matters *(continued)* 1

Chairman: Mr. Andrés AGUILAR M. (Venezuela).

In the absence of the Chairman, Mr. Farah (Somalia), Vice-Chairman, took the Chair.

AGENDA ITEM 25

(a) 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/8021, A/C.1/L.536, 542-544);

(b) Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: report of the Secretary-General *(continued)* (A/7924, A/C.1/L.536);

(c) Views of Member States on the desirability of convening at an early date a conference on the law of the sea: report of the Secretary-General *(continued)* (A/7925 and Add.1-3, A/C.1/L.536 and 539);

(d) Question of the breadth of the territorial sea and related matters *(continued)* (A/8047 and Add.1, Add.2/Rev.1, Add.3 and 4, A/C.1/L.536)

1. Mr. YANGO (Philippines): My delegation associates itself with the eloquent expressions of appreciation already heard from previous speakers in praise of the patient and indefatigable efforts of Ambassador Amerasinghe, in his capacity as Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, for the bringing into fruition the draft declaration of principles governing the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction reproduced in document A/C.1/L.544. In his statement of 25 November *[1773rd meeting]*, Ambassador Amerasinghe thanked the members of the sea-bed Committee and the officers of its sub-committees for their valuable contributions to the work of the Committee, and cited the officers of the Legal Sub-Committee in particular for their persistent labours in trying to secure agreement on the set of principles which, although not successful, obviously contributed to the evolution of the draft declaration now before us.

2. As has been emphasized by many previous speakers, the draft declaration is a product of compromise with a very delicate balance. It is not a consensus document, inasmuch as two members of the sea-bed Committee declared in an informal meeting that their delegations felt the document should be the subject of further consultations. However, it has commanded the widest measure of agreement possible at this time in the Committee. My delegation took the view that the document had also commanded wide support in the group of 77 developing countries and, in the context of the statement on the sea-bed adopted by the Third Conference of Heads of State or Government of Non-Aligned Countries held in Lusaka last September, we venture to suggest that the draft declaration could also gain support from these countries. Furthermore, it is encouraging to note that the document has already received the endorsement of many delegations during this debate.

3. Under these auspicious circumstances my delegation is pleased to add its support to the draft declaration, well aware of the fact that it contains a set of principles which was arrived at through goodwill, mutual co-operation and accommodation, arising out of a compelling desire to establish a foundation for an international régime to govern the sea-bed and the ocean floor and its resources beyond the limits of national jurisdiction. The international régime is the *sine qua non* of any other steps towards the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor and the use of their resources in the interest of mankind. My delegation, in lending its support to the draft declaration, would urge other delegations to do the same.

4. The Philippines voted in favour of General Assembly resolution 2574 A (XXIV), which was adopted on 15 December 1969. In that resolution the General Assembly requested "the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea".

5. In our views imparted to the Secretary-General on the matter, the Philippine Government considered it desirable that a conference on the law of the sea be convened at an early date *[see A/7925/Add.1]*, the purpose of which, in the exact wording of General Assembly resolution 2574 A (XXIV), would be:

"to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction, in the light of the international régime to be established for that area".

6. The United Nations Conference on the Law of the Sea of 1960 was attended by 88 States, but now we have 127 States Members of the United Nations, in other words an increase of almost 50 per cent in the membership of the international community. Surely, this change in membership is reason enough, as my delegation holds, for a review of the far-reaching conventions on the law of the sea adopted at Geneva in 1958. The new members of the international community should be afforded the opportunity to have their say on a subject such as the law of the sea which, as new developments in science and technology become clearer, will have a more significant impact on the future of mankind. Furthermore, the conventions themselves provide for review, and it would appear that that review is now due.

7. With due respect to the other delegations which maintained different views, my delegation believes that the review of the law of the sea should encompass all the régimes mentioned in General Assembly resolution 2574 A (XXIV), to which I have already referred. The marine environment is a unity, a single whole; hence, it cannot and should not be treated piecemeal. This view is supported by precedent.

8. It will be recalled that the International Law Commission, in its report to the General Assembly in 1956, submitted a number of draft rules on the law of the sea wherein it recommended that the General Assembly convene a meeting of plenipotentiaries to examine the law of the sea and to formulate conventions thereon. The recommendation was coupled with the following observation:

"The Commission is of the opinion that the conference should deal with the various parts of the law of the sea covered by the present report. Judging from its own experience, the Commission considers–and the comments of Governments have confirmed this view–that the various sections of the law of the sea hold together, and are so closely interdependent that it would be extremely difficult to deal with only one part and leave the others aside."[1]

9. If that observation was so valid in 1956 that the General Assembly gave heed to it by convening a conference in Geneva in 1958, it continues to be valid today, all the more so in the light of all the unresolved problems left over by the Geneva conferences of 1958 and 1960 and the rapid pace of scientific and technological developments which we are witnessing today, plus the attendant problems that pose a clear danger to the entire marine environment.

10. In the view of my delegation, the desire for the convening of an early conference on the law of the sea must be matched by an equal desire for the success of the conference. Hence, it is imperative that the preparation of the conference should be adequate to ensure a modicum of success.

11. In view of the foregoing considerations, my delegation is inclined to the view that only one committee should be authorized to undertake the preparatory work. That procedure is much simpler, less expensive, and avoids the confusion that crops up when there are two committees which must of necessity spend time and effort in co-ordinating their respective work.

12. Perhaps the most important unresolved question of the law of the sea is the breadth of the territorial sea. The international community failed in three attempts to settle the question: in 1930 at The Hague and in 1958 and 1960 at Geneva. The request contained in document A/8047 and Add.1-4 for inclusion of a supplementary item in the agenda of the twenty-fifth session of the General Assembly on the question of the breadth of the territorial sea and related matters indicated that consideration of that question might lead to an agreement generally acceptable to the international community. Hence, my delegation's understanding of the explanatory memorandum is that the question of the breadth of the territorial sea might be considered in an international conference. On that basis, my delegation contended in the General Committee that that question should be referred to the First Committee, which will take up the question of the desirability of convening a conference on the law of the sea at an early date.

13. I referred earlier to the need for adequate preparation for the conference of the law of the sea and I here reiterate the view that there is necessity for such preparation if we take into account the past experiences of the international community in failing to resolve the question of the breadth of the territorial sea in three international conferences. The next conference on the law of the sea must resolve the question of the breadth of the territorial sea because it is only after this question has been settled that we can determine the points from which the contiguous zone begins, the extent of the high seas and the delimitation of the continental shelves. It was precisely because of this failure to resolve the problem in Geneva in 1958 and in 1960 that the conventions adopted provided rules relating to particular régimes but without a clear and definite delimitation of the areas to which those régimes should apply.

14. The Philippines has a vital interest in the question of the breadth of the territorial sea. The whole world knows that our exercise of jurisdiction in our inland waters and territorial sea has historical, legal, geographical, economic and political bases. My Government has taken this position for the past 25 years and we have not deflected nor do we intend to budge on this issue as we clearly defined it at Geneva in 1958 and 1960.

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1 *Official Records of the General Assembly, Eleventh Session, Supplement No. 9*, para. 29.

15. On 25 March 1960, Senator Arturo M. Tolentino, speaking on behalf of the Philippines during the 5th meeting of the Plenary Committee at the Second United Nations Conference on the Law of the Sea at Geneva, said:

"In determining the approach to the problem before us, it may be worth-while to recall the reasons for establishing what is known as the territorial sea. The reasons generally accepted as justifying the extension of the sovereignty of a State over the territorial sea are as follows:

"First, the security of the State demands that it should have exclusive possession of its shores and that it should be able to protect its approaches.

"Second, for the purpose of furthering its commercial, fiscal and political interests, a State must be able to supervise all ships entering, leaving or anchoring in the sea near its coast.

"Third, the exclusive enjoyment of the products of the sea close to the shores of a State is necessary for the existence and welfare of the people and its land territory."

16. The Constitution of the Philippines described the territory of the Philippines in its very first article as follows:

"The Philippines comprises all the territory ceded to the United States by the Treaty of Paris concluded between the United States and Spain on the tenth day of December, eighteen hundred and ninety-eight, the limits of which are set forth in Article III of said Treaty, together with all the islands embraced in the treaty concluded at Washington, between the United States and Spain on the seventh day of November, nineteen hundred, and in the treaty concluded between the United States and Great Britain on the second day of January, nineteen hundred and thirty, and all territory over which the present Government of the Philippine Islands exercises jurisdiction."

17. The Constitution, with its description and delimitation of Philippine territory, was signed and approved by the President of the United States, the late Franklin Delano Roosevelt, as required by the United States Congress. And when the Philippines became independent on 4 July 1946, the United States withdrew all its authority and sovereignty over this territory and the Republic of the Philippines succeeded in the exercise of such sovereignty and jurisdiction over that same territory. When the Filipino people ratified the Constitution in a plebiscite, it was with the knowledge that it contained the description and delimitation of this territory over which they would exercise sovereignty upon acquiring independence.

18. Under Article III of the Treaty of Paris referred to in the Constitution of the Philippines, Spain ceded to the United States the archipelago known as the Philippine Islands and comprehending the islands lying within the following line–and here follows a description of the metes and bounds of the archipelago indicating exactly the degrees and minutes of latitude and longitude.

19. It is on the basis of this treaty that the Philippines exercises sovereignty and jurisdiction over its territorial sea, comprising the waters beyond the outermost islands of the archipelago but within the boundaries set forth in the Treaty.

20. It is because the Philippines is an archipelago composed of more than 7,100 islands which are compact, closely knit and connected together by a single submarine platform, that we have considered all the waters around, between and connecting the various islands of the Philippine archipelago, irrespective of their width or dimension, as necessary appurtenances of the land territory forming part of the inland waters of the Philippines. Parenthetically, it should be stated in this connection that from the waters between and around the different islands, numberless generations of Filipinos have drawn a large part of their food supply.

21. The foregoing is a clear exposition of what constitutes the island waters and the territorial sea of the Philippines as we have declared it in Geneva in 1958 and 1960.

22. My delegation would wish to point out that the Philippine Islands, ceded by Spain to the United States under Article III of the Treaty of Paris, is an archipelago. According to the Glossary of Oceanographic Terms published in 1966 by the United States Naval Oceanographic Office, an archipelago is defined as "a sea or part of a sea studded with islands or island groups; often synonymous with island group". Historically, these islands have always been under a single sovereignty; first under Spain, then under the United States and now under the Republic of the Philippines.

23. Beyond these considerations, however, there is a compelling political basis for my Government's decision to consider its inland waters and territorial sea as such. We firmly believe in the implicit right of all coastal States to determine their land and sea limits in complete security. Curtailed of that right, a coastal State would be at the mercy of the play of international forces. We believe that every nation should have the right to defend its possessions. The Philippines form a single unit with the stretches of sea between its islands as part of that unit. If those stretches of sea were controlled by other States, the unity of the Philippines would be destroyed, its security imperilled and it would lose its independence.

24. These are the vital considerations at stake for the Philippines in a conference on the law of the sea that would formulate the breadth of the territorial sea. The position and views which we maintained in Geneva in 1958 and 1960 will continue to be maintained as these are tantamount to the very survival, existence and self-preservation of our country and people.

25. I apologize to the Committee for discussing at some length the question of the breadth of the sea in relation to my country but I trust that the Committee will understand my doing so.

26. Mr. BENITES (Ecuador) *(interpretation from Spanish):* The matters at present before this Committee have one very strange characteristic: they are a series of four

sub-items of an item that is not defined and to study them we must first solve an initial problem which is very similar to what we might call a jigsaw puzzle. This may well be an entertaining intellectual exercise but it is obviously a signal loss of time.

27. Apparently sub-items *(a)* and *(b)* of the unknown item are concomitant and sub-items *(c)* and *(d)* refer to a different item. At least this was the interpretation given when a debate took place in the General Committee on the inclusion of sub-item *(d)* as an independent item.

28. I said that this division was purely apparent. The basic item we are debating is in sub-item *(a)* and it must be broken down into its different elements through analysis. Understanding it thus, the problem before us has to be defined as follows: *(a)* reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof; *(b)* this reservation refers to an area that is beyond national jurisdiction and *(c)* the utilization of the resources of the area must be for the benefit of mankind.

29. This formulation also presupposes that the utilization of the resources, calling for the twofold labour of exploration and exploitation, shall be carried out without causing contamination or other damaging effects, which constitutes the subject of sub-item *(b)*. However, I must point out that the danger of marine contamination is not reduced to the mere effects of exploration and exploitation of the sea-bed and ocean floor and the subsoil thereof but is a much wider problem. An example of this is the disputed act of the United States of dumping into the sea an enormous number of containers of highly dangerous paralysing gas.

30. The reservation for exclusively peaceful purposes of the sea-bed and the ocean floor and the subsoil thereof and the use of their resources for the benefit of mankind are conditioned by the fact that the sea-bed and the ocean floor referred to lie beyond national jurisdiction. This leads to an exclusively legal area and the following previous questions: *(a)* to determine national jurisdiction and how it is exercised; *(b)* to determine the legal principles applicable to the new area of the sea-bed and the ocean floor; and *(c)* the question of the international régime to be applied so that the utilization of the resources of the new area will be for the benefit of mankind.

31. It is obvious that in the present state of legal doctrine, national jurisdiction is exercised on three levels. The first is the territorial sea, that is, the waters adjacent to the coasts of a State, over which the latter exercises full sovereignty so that these waters are considered a liquid portion of the territory and sovereignty is extended to the air space above it and to the entirety of the sea, namely, the surface, the sea-bed and the ocean floor and the subsoil thereof and the intermediate column of water. The second level is the contiguous zone, which is that part of the sea adjacent to the territorial sea, over which the coastal State exercises an extension of its jurisdiction only for the repression of acts committed in its territory or on its territorial sea. The third jurisdictional level is the continental shelf, which may be under the territorial waters, in which case it exercises full sovereignty, or which may go beyond them, in which case the State exercises sovereign rights for exploration and exploitation of the resources of the shelf and the subsoil.

32. Of these jurisdictional levels, only the contiguous zone can be considered a legal concept referring only to the surface and not to the sea-bed, despite which the super-Powers tried to take it as a criterion of limit for the denuclearization of the sea-bed and ocean floor and the subsoil thereof in drafting the treaty which was so plagued with errors and which was submitted to us a few days ago. It may well be that the powers of the super-Powers include that of being able to create their own elastic and expedient logic.

33. Having defined the subject in this way, we can now deal with it in a logical and over-all fashion.

34. The problem of the reservation for exclusively peaceful purposes of the sea-bed and the ocean floor has been dealt with outside the special Committee, through the 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 presented by the co-Chairmen of the Conference of the Committee on Disarmament, a treaty so interwoven with subtleties and mental reservations that in reading it one gets the impression that one is walking in a booby-trapped field. I shall not refer to it, since it has been the subject of a separate debate.

35. The question of the utilization of the resources of the new area for the benefit of mankind stumbles on one problem that has turned the subject into a dialogue of the deaf: what is and how are we to consider the benefit of mankind. The very concept of the benefit of mankind seems to have different meanings for the developed countries and for the developing countries. Also between the world of opulence and the world of development there is another dialogue of the deaf taking place with regard to what is meant by the international régime. For the former, that is, the developed countries, it is access by all States without discrimination to the exploitation of the wealth which they alone can exploit economically and technically, but for the developing countries access to the exploitation must be conditional upon the obligation to share the benefits with those countries that, for the time being, are technically and economically unable to undertake such exploitation.

36. The danger lies in the fact that, while this dialogue of the deaf over the international régime and the applicable machinery continues, the industrial Powers, without in this case any ideological discrimination, can go ahead and take possession of this under-water new empire and create a colonialism of the sea. Thus it might be appropriate to renew the moratorium contained in resolution 2574 D (XXIV) and to define it even further.

37. The second way is to avoid a premature and restrictive limitation of maritime jurisdiction before the international régime and the administrative machinery have been established for the sea-bed and the ocean floor. It will be recalled that in resolution 2574 A (XXIV), which was adopted when the Assembly was considering the 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, it is stated in the first preambular paragraph:

"*Having regard* for the fact that the problems relating to the high seas, territorial waters, contiguous zones, the continental shelf, the superjacent waters, and the sea-bed and ocean floor beyond the limits of national jurisdiction, are closely linked together".

And in paragraph 1:

"*Requests* the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction, in the light of the international régime to be established for that area".

38. Sub-item *(c)*, "Views of Member States", is very closely linked to the subject dealt with when resolution 2574 (XXIV) was adopted. Sub-item *(d)*, which refers to the breadth of the territorial sea and related matters, is therefore linked to the provisions of that resolution and cannot be dealt with at a conference separately from the other questions that are enumerated in the resolution.

39. Once we have dealt with the subject as a whole we can now analyse the separate aspects that may be of greater interest. I shall not refer to the question of the reservation exclusively for peaceful purposes, since that matter was dealt with separately by decision of the co-Chairmen of the Conference of the Committee on Disarmament in Geneva. Nor shall I refer to the machinery to be applied in the sea-bed, ocean floor and subsoil thereof beyond the limits of national jurisdiction, for despite the efforts made by the sea-bed Committee, and the studies of the Secretary-General contained in document A/8021, no appreciable advances have been made towards a final solution.

40. In the field of the formulation of general principles, although there was no official consensus, the Chairman of the sea-bed Committee, Ambassador Amerasinghe, after laborious consultations submitted a draft declaration of principles *[see A/C.1/L.542]* now contained in document A/C.1/L.544 which, although not totally satisfying to my delegation, nevertheless is a significant contribution which my delegation supports in the hope that a majority opinion will also endorse it in the General Assembly.

41. I should like to explain that, so far as my delegation is concerned, the statement that the sea-bed, the ocean floor and the subsoil thereof, as well as their natural resources, are the common heritage of mankind is in itself an expression of a new legal concept. We take a dynamic view of the law and we believe that the law must apply to changing realities. Today, the sea is no longer a mere means of communication, nor an inexhaustible breeding ground for fish. It is a deposit of minerals of incalculable value; manganese nodules with cobalt, gold, nickel and other precious metals which have accumulated on the dorsal summits of mountain ranges, and of oil and gas which lie in the deep geological stratas and in the *guyots*. These resources have not yet been claimed in the area beyond national jurisdiction, and it is indispensable that we define its legal régime.

42. We do understand that for these areas we cannot apply the old legal rules nor the rules of Roman law. We need a new régime which will give all States access to these resources and will divide the benefits of their exploitation with those at a lower level of technological and economic development. After the industrial revolution, the world was divided up among the European Powers, and colonialism, with its abominable consequences, emerged. The most serious of these consequences was that industrial development was very often based on the exploitation of the wealth of the colonial countries, which gave rise to the ever-increasing and as yet unbridged gap between development and underdevelopment. If the wealth of the sea is the "common heritage of mankind" it must not be held under a new type of colonialism, but rather the benefits of the exploitation of the sea must be equitably administered so that they can be used to assist the developing nations. The expression "the benefit of mankind", in the view of my delegation, means that the benefits should be shared between the industrialized nations and the developing nations.

43. If the area to which the legal régime and the administrative machinery is to be applied is the one which lies beyond the national jurisdiction in the high seas, it is only natural that the developing countries should refuse to agree to a limitation of their jurisdiction until a legal régime and administrative machinery are established. This explains the adoption of resolution 2574 A (XXIV), which maintains the unity and the indivisibility of the problems of the sea.

44. Now that I have their ear I should say that both super-Powers have, together, during the past two years, constantly and firmly pressed for a conference on the breadth of the territorial seas, fishing and the régime of the straits, independently of the other problems of the sea or of the establishment of an international régime for the area of the sea-bed beyond national jurisdiction. And, as though to rejoice at this event on the part of the industrialized super-Powers, one of them has stretched its jurisdiction to meet that of its other maritime co-adventurer and reached a figure of 12 miles as the maximum acceptable extension of national jurisdiction. Beyond that Pythagorian and cabalistic figure of 12 miles there would suddenly open up the unknown and lawless world where the industrial Powers could take possession of incalculable wealth.

45. This is not the time to give the reasons why the coastal States must have the right to set the extension of their sea in accordance with their geographical, geological and economic characteristics for it will be discussed at the forthcoming conference and is not one of the subjects for debate at present. I would wish merely to point out that there is no rule of law determining the breadth of the territorial sea, and if the unilateral setting of this breadth is to be called arbitrary, then it is just as arbitrary to set it at 3, 6, 12, 20 or 200 miles. The naval Powers with fishing fleets might find it uncomfortable for the limit to be set at

200 miles, since it might cut down the profits of fishing firms and the fees of those who represent those enterprises in national and international bodies. But, for the developing countries, such as my own, a limit of 12 miles might gravely threaten with extinction, the biological species on which the wealth of our people depends.

46. My delegation believes that the problem of the setting of the breadth of the territorial zone must be the subject of a wide and carefully prepared conference to deal with the interrelated problems of the sea, but we consider as unacceptable any attempt now to limit the breadth of the territorial sea without first knowing what régime is to be established to apply to the sea-bed and ocean floor beyond national jurisdiction, and what share the developing countries will have in the exploitation of the wealth of that area.

47. Nor must we separate the delimitation of the territorial sea from the study of the continental shelf and particularly of the submarine topography and geology; the problem of fishing, too, cannot be solved without a complete study of marine biology and the effects of pollution due to the exploration and exploitation of the resources of the sea-bed and the ocean floor.

48. I shall quote a very important excerpt from the report of the Secretary-General.

> "It may be taken as accepted that if pollution were to be prohibited in absolute terms, the exploration and exploitation of mineral resources could not be conducted. Either, therefore, a 'baseline' of permissible change must be established (which would require, at the least, a series of scientific inquiries and probably a full-time system of international scientific monitoring and surveillance of the oceans), or the matter could be left to be regulated by action between States, whereby those who consider that their interests had been adversely affected might submit claims against offending States (or operators). The fact that pollution from other activities may increase at the same time as exploitation of the international zone proceeds, may need to be taken into consideration here." *[A/7924, para. 31.]*

49. To sum up, my delegation would like to define its views on the subject as follows.

50. First, the Special Committee must be encouraged in its work to device a legal régime and administrative machinery applicable to the sea-bed and the ocean floor beyond the limits of national jurisdiction.

51. Secondly, pending that a moratorium of the nature of that established in resolution 2574 D (XXIV) of 15 December 1969 must be maintained.

52. Thirdly, it would be appropriate to adopt the draft declaration of principles contained in document A/C.1/L.544 which, even if not entirely satisfactory, represents a positive step.

53. Fourthly, without previous determination of deadlines but rather of target dates, it is indispensable that a conference be held on the aspects listed in resolution 2574 A (XXIV), but in no case must it be a conference limited to special items, such as the breadth of the territorial sea or fisheries.

54. Fifthly, my delegation feels that the existing draft resolutions can be further revised or negotiated, and therefore we reserve our right to express our views on those draft resolutions in due course.

55. Mr. FARTASH (Iran): Speaking on the subject of the sea-bed and the ocean floor, it gives great satisfaction to my delegation to see that the concept of the "common heritage of mankind", once repugnant to a number of States, is now gaining favour. New States have adhered to this notion. We continue to believe that there will be no genuine progress on questions of principles, of a régime and of machinery until there is agreement on this pivotal issue.

56. It has been said that the idea is devoid of legal basis or does not tally with the conceptual framework of international law. Far from being empty, the formula is seminal in the same way as other formulae, such as those of equality, independence of States and self-determination of peoples have been in the development of international society. How prolific of legal principles the notion can be was demonstrated by Ambassador Amerasinghe, the Chairman of the sea-bed Committee, when he introduced 15 principles derived from it at the opening of our debate *[1773rd meeting]*.

57. It has also been maintained that the way in which they have been designed, the principles, the régime and the machinery would lead to the development of a supernational institution. This assertion seems quite unlikely to us, but we would welcome the development of an international institution with its own financial autonomy at the service of mankind as a whole. The world was not born with the nation-state system, neither have the nature and character of nations and States always been the same. The world is changing; the nation-state system is changing; so should the international institutions.

58. In the course of our debate we have heard counsels of prudence and have been urged to make haste slowly. We have been told we do not yet know enough; we have been warned that the problems of law and administration facing us are difficult. We may acknowledge the justice of all this without agreeing with the implication that we have to revert to the principles which have served the objectives of the few, rather than the interest of all mankind. We are neither bewitched by nor wedded to the exact words of the phrase. Our adherence to this idea is the sincere expression of the fact that novel approaches are required to meet the changing demands of our modern world, particularly in new areas which the advance of science and technology has opened to us. Inadequacies in the traditional principles of the régime of the high seas for meeting the challenge of the technological breakthrough have been widely discussed in this Committee. I see no need for further elaboration, mindful of the fact that the far-reaching effects of technological progress on the areas of application of these principles have made their viability as regulatory norms highly questionable. This has indeed been the very reason behind the proposal of General Assembly resolution 2574 (XXIV) for the convening of a conference to review the régime of the high seas and other related subjects.

59. It is perhaps too much to hope that we can altogether escape the web of complications spun by the past, but surely we need not seek from the outset to entangle ourselves in it. It is for this very reason that we shall not allow verbal differences or ancillary problems to delay the discharge of our chief task. In this connexion, I would remind the Committee of the compelling arguments for urgent action made earlier by representatives who have spoken in the last 10 days. We must give priority to the elaboration of the legal principles and norms for a régime of international co-operation in the exploration, use and exploitation of the sea-bed for the benefit of mankind.

60. This was what the sea-bed Committee was instructed to do. Now we see that progress is being made. We have before us the document on a comprehensive and balanced set of principles prepared by the sea-bed Committee.

61. We have studied with great care and interest the compromise formula and the accompanying letter contained in document A/C.1/L.542. This compromise set of principles, which is the result of arduous and skilful efforts on the part of the Chairman of the sea-bed Committee, has our special praise and appreciation. In the accompanying letter he correctly states that the draft declaration "reflects the highest degree of agreement attainable at the present time". In order to give us the true picture of the situation he further mentions that the text "does not . . . represent a consensus of all the members of the sea-bed Committee".

62. I shall not enter into detailed consideration of these principles contained in document A/C.1/L.544. However, at this stage I would rather touch on certain points in a very general way. The existence of an area of the sea-bed and the ocean floor to which the draft set of principles applies is reflected in the second preambular paragraph as the common heritage of mankind. It implies that the area of national jurisdiction could not be an open-ended one, as some are inclined to interpret it on the basis of the exploitability clause of the Convention on the Continental Shelf.[2] In other words, it has set up a moral barrier against unreasonable claims of States on the area of common heritage.

63. The third preambular paragraph concerns the question of applicable law in this area. It correctly implies that the principle of freedom of the seas and the supposed organic unity of the waters of the ocean and its floor have no applicability in this context.

64. The fifth preambular paragraph indicates that the declaration of principles is the corner-stone of the international régime and the machinery to be set up. The provisions of operative paragraphs 2 and 3 single out the legal characteristics of the concept of common heritage inserted in operative paragraph 1. To the extent that the area is susceptible of neither public nor private appropriation and is to be exempt from the assertion of sovereignty and sovereign rights, they further imply that such claims find no warrant in those doctrines of international law which developed to support the acquisition of title to territory by occupation, prescription or the like. It follows that the floor and its resources are not severable. What holds for the ocean floor also holds for its resources.

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

65. Paragraph 4 strongly emphasizes that the main law applicable to this area is the international legal régime that is to be established, which is to be supplemented by the applicable principles of the international law as described in paragraph 6. The inalienable and indivisible character of the international area and the collective interest it must serve are fully reflected in paragraph 9 of the draft declaration.

66. Though this draft is not wholly satisfactory to my delegation we are willing to support this compromise set of formulae, in a spirit of compromise and co-operation. We are certain that once these principles are adopted we shall have to use our best efforts to draw up the structure of the régime and the international machinery that will regulate all activities in the area.

67. The road before us is neither short nor easy, but with a strong sense of dedication, patient, painstaking and tactful efforts and—most important—a continual sense of compromise and co-operation, we shall be able to achieve our real objective.

68. There are before the Committee a number of working papers on the question of the legal international régime and international machinery. They are annexed to the report of the sea-bed Committee *[A/8021]*. I shall not at this stage enter into a detailed consideration of them all. However, I must point out that the United States, in its working paper which appears as annex V of the report, approaches the whole question somewhat differently and outlines its own preferences in considerable detail. Therefore, I should like to express my delegation's view on two important issues that have been tackled seriously and comprehensively in this working paper. One is the issue of the delimitation of boundaries between the sea-bed area under national jurisdiction and the international area; the other is recognition of preferential rights for coastal States in sea-bed areas beyond the limits of national jurisdiction but adjacent to it.

69. The controversial question of delimitation results from the ambiguous character of the 1958 Geneva Convention on the Continental Shelf. In fact, the right of coastal States to exercise jurisdiction over areas off the continental shelf is far from clear. In the Geneva Convention of 1958 there exist three distinctive and at the same time interrelated elements which determine the scope of the continental shelf.

70. Those are elements of adjacency, isobathics and exploitability. The phrase "adjacent to the coast" appearing in article 1 of the Convention appears to be rather vital in the context of jurisdiction in the sense that it has set up a subjective limitation to the seaward advance of the national claims. On the other hand the exploitability criterion appears to be subject to the limitation of adjacency. But "adjacent area" has never been legally defined, and accordingly it does not appear as an objective barrier to the excessive claims of the coastal States. Besides, the question of what is adjacent cannot be determined with any exactitude in terms of coastal interests. In the context of States bordering the ocean, "adjacent" might mean something different from what it would mean in an area where several States had interests. Accordingly, States have felt quite free to extend their jurisdiction far beyond the 200-metre isobath through national legislation or, perhaps

more importantly, through the issuance of exploration and exploitation permits.

71. The controversial question of delimitation is supposed to be re-examined by the conference on the law of the sea. However, at this cross-roads of opinion, the United States working paper suggested the 200-metre isobath as the sole criterion for the delimitation of national and international sea-bed areas. According to this suggestion, the continental shelf would end at the 200-metre isobath which, at the same time, is the starting point for the international sea-bed area.

72. A major difficulty with a limit based on depth alone–whether 200 metres or more–is that States would be allotted submarine regions of varying sizes, some gaining huge areas and others relatively small areas. That approach, which in our view is highly discriminatory, leads to extremely unequal treatment.

73. In fact, one of the basic reasons for the insertion of the exploitability clause in the Geneva Convention on the Continental Shelf was to offset the discriminatory character of the 200-metre isobath. In other words, the exploitability clause was added principally at the behest of countries that had no geological shelf and whose coast dropped into deep waters. Since the definition using the 200-metre isobath would give them nothing, the exploitability clause was added to give them equal treatment in principle.

74. In order not to revert to the intrinsic problem of the isobathic criterion, it might be logical that a modest lateral distance be added to the 200-metre isobath. Without setting a precise width in the distance criterion, we believe that it should be enough to take account of technological advances and of the legitimate rights of coastal States.

75. I now turn to the question of allocation of the zone of interest, or recognition of preferential rights for coastal States. In the last three years, this idea has been entertained in various papers and put forward by many speakers in this Committee. Suggestions of this kind are usually regarded as an escape valve barring excessive claims by some States and confining such claims to reasonable limits. This idea was raised more systematically in last year's report of the Economic and Technical Sub-Committee.[3] In paragraph 147 of that report the Sub-Committee suggested that: "preferential rights should be granted to the coastal State with regard to mineral deposits lying within a zone beyond its jurisdiction but adjacent to it". The idea of a zone of interest in a more concrete form has found much wider expression in the United States' working paper under the heading "The international trusteeship area".

76. In our opinion, the geological scope of the "trusteeship area" is so wide that actually, for many years to come, operations in areas outside the zone, namely, continental abyss or rise, would be non-existent and, in practice, exploitation would be almost confined to the trusteeship area. On this issue we share the view of the representative of Sweden that the less the breadth of the trusteeship area, the more it seems to be acceptable.

77. I now turn to the question of a future conference on the law of the sea. Looking back to the years 1958 and 1960, we find that concerted efforts have been made in Geneva for the solution of problems relating to the law of the sea. In regard to this important issue, the United Nations Plenipotentiary Conference was able to prepare four Conventions in 1958, which have all entered into force. However, these Conventions did not resolve some of the issues definitively. Some questions were left vague and have often raised controversy and concern. To add to all this, the very impact of technological breakthroughs in all aspects of the maritime world and also the large-scale political metamorphosis which the international community has undergone during the last decade made a new range of orders imperative.

78. We, for our part, entertain no objection to the convening of a general conference on the law of the sea. We, of course, see no need at this stage to engage in detailed consideration of issues. However, a general view on an important question seems to us imperative.

79. The intensive use of sea and ocean space in all its dimensions, in particular the ever-increasing application of technological development for the exploitation of the animal and mineral resources, has raised problems that are new either in geographical, geological and ecological terms or in economic, social and political content.

80. From the ecological point of view, conservation of the animal resources of any sea depends to a great extent on such geographical and geological characteristics of the area as its size, depth and degree of connexion with the ocean. For instance, the effect of a pollutive incident such as a spill of offshore oil in an enclosed sea would not be the same as in an ocean. An oil incident of that type happened in Santa Barbara, California, covering an area of more than 700 miles and causing great damage to the marine life. If it had happened in a small or enclosed sea, it would have led to almost complete destruction of its animal resources.

81. In short, these unhappy geographical, geological and ecological features have made the marginal and small seas highly vulnerable to the threat of pollution, contamination, overfishing and other depletive operations.

82. From an economic standpoint, also, the whole breadth and length of a marginal sea fall within the field of economic gravity of the coastal communities. This was true in the distant past when peoples were dependent for their living on fishing and even in some areas on pearl-fishing and carrying fresh water from the sea. It is still true at the present moment when we are in the very midst of technological expansion, when peoples in general, and peoples of the developing countries in particular, are more than ever dependent upon the animal and mineral wealth of the sea.

83. In the light of those facts, we continue to believe that in the forthcoming conference the special status of the small or marginal sea must be taken into serious consideration. All the rules established for the oceans cannot be automatically applied to that area without disadvantage to the coastal State and community concerned.

84. I shall not elaborate on the subject at this stage, hoping that my delegation will have the opportunity to express its views at a proper time and in a proper forum.

[3] *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22,* part three.

85. Mr. KJARTANSSON (Iceland): Last Tuesday the Icelandic delegation explained in considerable detail our Government's position on sub-item *(a)* and *(b)* of agenda item 25 *[1778th meeting]*. At that time we made known to the Committee—as we had already done before on several occasions—that we were in favour of, and fully supported, the compromise draft declaration of principles governing the sea-bed and ocean floor submitted, after arduous and difficult negotiations, by the Chairman of the sea-bed Committee, Ambassador Amerasinghe of Ceylon. We also made known at that time that we would be one of the sponsors of the proposed draft resolution which is now contained in document A/C.1/L.544.

86. The third sub-item of agenda item 25 is a subject of great importance for Iceland. As all are fully aware, there is no independent country in the world as heavily, as nearly totally, dependent upon the oceans surrounding it and their riches as Iceland. It is no exaggeration to say that the Icelandic nation lives by the sea and from the sea; over 80 per cent of Iceland's total foreign currency earnings and 90 per cent of our exports are derived from fisheries, and they are therefore the very foundation of our national economy.

87. The Icelandic Government has already declared, in its note of 22 June 1970 to the Secretary-General *[see A/7925]*, its support for holding a conference as envisaged on a broad basis. Few nations will come to such a conference with as high hopes as the people of Iceland; for few States is the successful outcome of that conference as important as it is to Iceland.

88. However, in recent years a situation has developed which has threatened the very basis of my country's vulnerable economy. The fish stocks of the north-east Atlantic are being depleted at a rate which gives occasion for serious concern in spite of well-meant but insufficiently effective conservation efforts by international bodies in the area.

89. These ominous developments, which are well known to the nations of the North Atlantic, have nowhere caused such concern as in my country, for understandable reasons. These developments well illustrate the urgent need for granting coastal States much wider jurisdiction over coastal fisheries than they now normally enjoy. For my country it may be said to be a matter of life or death. We have seen international conservation plans fail, and we are convinced that the equitable solution is to be found in exclusive rights for the coastal State in this respect. Such jurisdiction over the continental shelf fisheries of Iceland has been emphasized repeatedly by the Icelandic Parliament; in his statement to the United Nations General Assembly on 29 September last, the Foreign Minister of Iceland, Mr. Emil Jónsson, said:

> "We are in favour of convening a conference on the law of the sea whose mandate should be sufficiently broad to cover all aspects of the rights of the coastal State in areas adjacent to its coasts. We maintain that coastal States are entitled to establish the limits of their coastal jurisdiction within a reasonable distance, having regard to geographical, geological, economic and other relevant considerations. We realize that many States consider that a limit of 12 miles is sufficient for their purposes, although, in point of fact, coastal jurisdiction varies now from three to 200 miles. In the special situation where a nation is overwhelmingly dependent upon its coastal resources a limit of 12 miles is not sufficient. In the case of Iceland, jurisdiction and control over the continental shelf and the waters above the shelf are reasonable and just and should be recognized by the international community.
>
> "It is our earnest hope that the forthcoming conference will be able to serve the really progressive development of international law." *[1853rd plenary meeting, paras. 24 and 25.]*

90. That is the Icelandic viewpoint in a nutshell. The 1958 Geneva Conference on the Law of the Sea recognized the special rights of coastal States, and in 1951 the International Court of Justice declared that, in the delimitation of territorial waters, consideration might be given to the economic circumstances of the coastal communities. We hope that a third conference on the law of the sea will go a step further in this direction and grant the coastal State explicitly exclusive jurisdiction over the coastal fisheries. Such a jurisdiction is based on obvious economic justice. It is manifestly illogical to allow the coastal State to utilize the natural resources of the continental shelf, but not the natural resources of the superjacent waters.

91. We do hope that such equitable rights will gain recognition. The recognition of exclusive jurisdiction over the resources of the coastal areas will be the chief aim of Iceland at the new conference on the law of the sea, and we shall seek allies from all parts of the world who want to proceed in this same direction.

92. In our view, the projected conference should be held not later than 1973; preparations for it should be made by a committee of not fewer than 60 members and, possibly, a committee of the whole, in order to reflect a broad range of opinions on the different issues.

93. My delegation sees considerable merit in both draft resolutions before us and reserves the right to comment on them later.

94. It is our earnest hope that the conference will truly contribute to the progressive development of international law. But that will only happen if we leave old dogmas behind us and give up entrenched positions which find no echo in contemporary realities. In our view, the new conference would fail miserably if it did not succeed in meeting the reasonable and equitable requirements of nations like my own, whose main objective is to safeguard the basis of their very existence.

95. In preparing the conference let us therefore endeavour to formulate new rules on the law of the sea which will meet the contemporary needs and requirements of nations in every part of the world successfully.

96. On the basis of our various statements and consultations with different groups and representatives, we hope that all the members of the Committee fully realize the great importance for Iceland of having a representative on the committee preparing the conference on the law of the sea, whatever form that preparatory committee takes. We sincerely hope that all members will be in a position to grant us their support in this respect.

97. Mr. BORCH (Denmark): The Government of Denmark has always given high priority to the development and codification of the law of the sea and has consistently taken an active part in efforts to formulate, at the international level, provisions that would be acceptable to the greatest possible number of States. To mention just one example, my country has ratified the four Geneva conventions and the Optional Protocol codifying essential rules of international law relating to the sea. Everybody will easily understand this interest.

98. The law of the sea is of vital interest to a country like Denmark, including the Faroe Islands and Greenland, with important shipping and fisheries industries and with very long coast lines in the North Sea and the Baltic, as well as in the North Atlantic and in Arctic waters. The prospect of sea-bed exploration and exploitation only adds to the importance which my Government attaches to the question.

99. Also, considerations of a more general nature make it desirable, even imperative, to reach commonly accepted rules of law in order to further friendly relations among nations and strengthen our common desire to contribute to an orderly development of the world's resources, so as to reduce the possibilities of conflict of interests between nations.

100. The Danish Government, as an observer, has followed the work of the sea-bed Committee closely. The Committee's task is a most complex one with far-reaching implications, and we fully recognize the difficulties which the Committee has so far encountered in its work.

101. Still, it was a source of disappointment to my Government that, after three years of deliberations in the Committee and in the *ad hoc* body preceding it, the Committee was not able to reach a consensus and present to this twenty-fifth session of the General Assembly a set of legal principles for the exploration and exploitation of the sea-bed.

102. We therefore found it very encouraging that the Chairman of the sea-bed Committee, the Ambassador of Ceylon, took upon himself to conduct consultations during the present session in an effort to prepare a draft declaration of principles that would command general support. My Government is gratified that he succeeded in drawing up a set of principles and in submitting it to this Committee. We do recognize that the draft declaration does not represent a consensus of all the members of the sea-bed Committee, but have noted that it reflects the highest degree of agreement attainable at the present time. We fully understand that the draft in the circumstances had to be in the nature of a compromise.

103. We wish to express our general support of the draft declaration contained in document A/C.1/L.544. In our opinion it represents a well balanced document which could serve as a useful basis for the future work of drafting detailed legal provisions for the exploration and exploitation of the sea-bed.

104. We do not want at this stage to comment on each of the principles but should like to mention just a few. We have noted with satisfaction paragraph 10, according to which: "States shall promote international co-operation in scientific research exclusively for peaceful purposes". This principle opens up prospects of drawing all nations—especially developing countries, but also countries with limited economic and technological capabilities—into a world-wide co-operation, thus providing the basis for all nations to be able to benefit on equal terms from the exploration and exploitation of the sea-bed.

105. We also consider it highly important to have it laid down, as it is in the draft declaration that in exploring and exploiting the resources of the sea-bed, States shall pay due regard to the legitimate interests of coastal States and shall prevent interference with the ecological balance of the marine environment.

106. One of the main obstacles encountered by the sea-bed Committee in its efforts to establish a set of principles has obviously been the existing uncertainty about the delimitation of the area to which an international régime should apply.

107. It is the hope of my Government that wide agreement can be reached now to instruct the sea-bed Committee to take up the substantive question of defining the area of the sea-bed which lies beyond the limits of national jurisdiction and to which the régime is to apply, with a view to having this question submitted to an international conference on the law of the sea. We feel that simultaneous discussion in the sea-bed Committee of both the boundary question and the question of the international régime could help promote solutions to both problems.

108. Without wishing at this time to formulate final conclusions as to where to draw the border line between the area of the sea-bed under national jurisdiction and the area of the sea-bed to which an international régime should apply, my Government is inclined to believe that efforts should be directed towards establishing a clear and precise criterion which would be easy to apply in practice. Experience gained from the negotiations in Geneva in 1958 and 1960 on the breadth of the territorial sea would seem to indicate that it does not serve the interests of the international community to establish too narrow limits for the legitimate interests of coastal States in connexion with the uses of the seas if it is hoped to obtain universal support for the establishment of an outer limit.

109. The Danish Government has studied with interest the United Nations Draft Convention on the International Sea-Bed Area submitted by the United States *[A/8021, annex V]* with its detailed proposals for a sea-bed régime and for the demarcation of the continental shelf from the deep ocean floor. In our view, the draft contains valuable ideas, which merit further consideration together with other suggestions and ideas on the subject.

110. Another problem which, in the opinion of the Danish Government, requires a speedy solution through an international agreement is the question of the maximum permissible breadth of the territorial sea.

111. Suggestions have been made to discuss also the question of granting to certain States preferential rights to

fish in areas adjacent to the territorial sea. The Danish Government recognizes that such rights may be necessary in the case of countries whose economy is particularly dependent on fishery, and we support the idea that reasonable provisions be worked out in this field.

112. We attach the greatest importance to the question of preventing marine pollution. Studies of very recent date confirm that pollution in all its forms is taking place at an increasing rate and that its noxious effects are much greater than was previously assumed. A grave source of contamination of the seas is the discharge of noxious and poisonous substances. Therefore, we consider it urgently necessary to halt this development before irreparable damage has occurred, by working out provisions for prevention of pollution at national, regional and international levels. We find that the Secretary-General's report, contained in document A/7924, offers a most valuable and useful contribution to clarification of the many aspects of marine pollution. The Danish Government whole-heartedly supports all efforts to this end and hopes that increasing understanding of the problems involved will make it possible, in connexion with the 1972 Conference on the Human Environment, or immediately thereafter, to achieve adoption of internationally binding provisions which could effectively counteract marine pollution.

113. Finally, I should like to turn to the question of convening a new conference on the law of the sea. My Government's basic position was stated in its reply to the Secretary-General's inquiry pursuant to General Assembly resolution 2574 A (XXIV) *[see A/7925]*.

114. The Danish Government supports the convening of one or more conferences to deal with the important issues which were left unresolved by the 1958 and 1960 Geneva Conferences but we consider it essential that the new conferences be carefully prepared. A successful outcome will require a will to co-operate and to compromise on the part of all Member States, and it is our sincere hope that the present debate will demonstrate a widespread desire among Member States to see the conferences lead to positive results.

115. The problems involved are so complex and of such a heterogeneous nature that it would, in our opinion, enhance the prospects of finding solutions to them if agreement could be reached to limit the agenda of each conference to interrelated subjects.

116. We fully recognize that the replies to the Secretary-General's inquiry *[A/7925 and Add.1-3]* have revealed a prevailing desire in the membership to have all the unresolved questions relating to the law of the sea taken up for consideration, not necessarily at one and the same conference, but at any rate in such a manner that they can be dealt with in interrelation and also, as far as possible, be interrelated in time.

117. In these circumstances, we do not object to an over-all solution of the questions relating to the law of the sea. We find, however, that efforts should be directed towards an in-depth study of the subjects at the preparatory stages. In our opinion, the best procedure for reaching this goal would be–as proposed in the United States draft resolution contained in document A/C.1/L.536–to have the sea-bed Committee prepare the questions which naturally fall within its mandate, that is, the question of an international régime for, and the definition of, the area of the sea-bed beyond the limits of national jurisdiction, and to establish a new preparatory committee to prepare the questions concerning the breadth of the territorial sea and the related matters of international straits and special fisheries rights of coastal States.

118. In order to secure proper preparation, we would also prefer to leave it to the twenty-sixth session of the General Assembly to determine, in the light of the progress reports of the two committees, the exact dates for convening the conferences and their agendas.

119. In conclusion, I should like to add that it is the desire of the Danish Government that the two committees be given a sufficiently broad composition to allow for membership also of small countries having a vital interest in this matter. It should be borne in mind that a large number of States will probably attach great importance to participating in the preparatory work because their national interests might be involved. Our normal preference for committees of rather limited membership will in this case obviously have to give way to the interests of such countries.

120. Mr. JOHNSON (Jamaica): Ever since the Maltese delegation introduced the subject three years ago, the Government of Jamaica has been following with keen interest the efforts that are being made through the United Nations to reserve for mankind the sea-bed, the ocean floor, and the subsoil thereof beyond the limits of national jurisdiction.

121. The economic potential of this area is becoming increasingly well known. It still holds the promise of facilitating the improved distribution of the world's wealth for the benefit of all mankind. It is therefore understandable that developing countries, in particular, must seek to ensure that their interests are properly protected.

122. My delegation has from time to time been encouraged by those constraints which the major Powers have applied in order to inhibit what could become a scramble to put a cloak of international respectability on a new type of colonial frontier. We have also been encouraged by the acceptance by so many Member States of the concept of the "common heritage". Indeed, it would be a fatal blow to our Charter and to world progress if, in this decade of ocean exploration, the technologically advanced countries were to indulge in the pursuit of nationalism in the vital area now under consideration, without perceiving the inevitability of their oneness with the international community.

123. We are, at this twenty-fifth anniversary of the United Nations, entering upon the Second United Nations Development Decade, on the Disarmament Decade and on the International Decade of Ocean Exploration. Here is a glorious opportunity for narrowing the gap between the rich and the poor nations, a time for bringing a better life and a better quality of life to the world's peoples. Scientific and technological advancement is moving at such a rapid

pace that it could easily being us to a new day of colonialism and to greater wars than we have yet experienced. We must therefore press on promptly to establish in connexion with the sea-bed and the ocean floor the urgently needed principles, régime and machinery which alone will ensure the reservation exclusively for peaceful purposes of the sea-bed, the ocean floor and the subsoil thereof in the interest of mankind.

124. Members of this Committee will no doubt recall that the representative of Jamaica who spoke in this Committee in November 1968 *[1601st meeting]* called for the convening of an international conference on the law of the sea to review the 1958 and 1960 Geneva Conventions on the law of the sea.

125. Again, during the twenty-fourth General Assembly session, Jamaica, in association with the delegation of Trinidad and Tobago, submitted amendments to a draft resolution which is now referred to as General Assembly resolution 2574 A (XXIV). Operative paragraph 1 of that resolution states that the General Assembly:

"*Requests* the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lies beyond the limits of national jurisdiction, in the light of the international régime to be established for that area."

126. Resolution 2574 A (XXIV) gives priority and emphasis to the new call for a conference on the law of the sea and contemplates that a régime covering the area beyond the limits of national jurisdiction should precede a precise delimitation of the area. My delegation recalls that General Assembly resolution 2574 A (XXIV) was in fact adopted in the plenary by a vote of 65 to 12, with 30 abstentions.

127. The Secretary-General, pursuant to the mandate given him in resolution 2574 A (XXIV), consulted with Member States and the replies indicate that the majority of States favour the convening of a comprehensive conference on the law of the sea to review all the régimes *[A/7925 and Add.1-3]*.

128. It is well known—and this is natural—that the existing law of the sea is largely the creation of the major maritime Powers. The established interests of the maritime Powers may or may not coincide with the interests of the newly independent States, or for that matter with the long-term interests of the older States themselves. And here it is important to point out that a large number of developing countries did not participate in the Conference on the Law of the Sea in 1958 and 1960, and more than 70 of those developing countries are in fact coastal States. A new comprehensive conference on the law of the sea will provide the newly independent countries with the opportunity to participate directly and to help in shaping the laws in a manner which will protect the interests of the world community as a whole, including of course those of coastal and land-locked States.

129. So far the Committee has before it two draft resolutions: one in document A/C.1/L.536, submitted by the United States, and the other in document A/C.1/L.539, submitted by Trinidad and Tobago and Brazil.

130. My delegation, while sharing some of the concern expressed by the representative of the United States *[1774th meeting]*, finds difficulty in supporting his draft resolution in its present form. It would seem to my delegation that a draft resolution which would take into account the responses of the majority of States to the consultations by the Secretary-General would facilitate the urgently needed advancement of our work.

131. Draft resolution A/C.1/L.539, which is presented by Brazil and Trinidad and Tobago, more readily approximates the preference of my delegation. However, for overriding reasons that may have relevance to many delegations—and surely to my own—we would prefer the creation of a single committee, either through expansion of the present Committee or the creation of a new committee, either of the whole or roughly with not less than one half of the Members of the United Nations. While wishing to remain flexible on the matter of the size of the committee, our recent experience with the desires of Member States to be represented on the sea-bed Committee suggests that a committee of the whole could be of value and save many man-hours of argument and concern. In any case, however, that single committee would have terms of reference similar to, but broader in scope than, that of the existing Committee so as to enable it to prepare adequately for the proposed conference on the law of the sea.

132. My delegation believes that a committee such as we envisage would serve the needs of all much better than two committees whose mandates would most likely overlap and do more harm than good. Such overlapping could be a drain on available expertise and could conceivably lead to confusion. The coast of two committees would tax unnecessarily the budgets of both the Secretariat and Member States, particularly the smaller ones. In fact, the setting up of two separate committees seems to present problems which, when balanced against any possible usefulness, does not appear to be worth-while. For example, who can imagine how difficult it would be for some States if two sea-bed committees happened to be meeting at the same time, whether or not in the same city.

133. I wish to comment briefly on the working papers of the United States, the United Kingdom and France on the international régime, which are reproduced as annexes V, VI and VII to the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *[A/8021]*.

134. An examination of the three working papers shows that there is general agreement on the fundamental purpose to be served by a régime for the sea-bed beyond the limits of national jurisdiction. The concepts expressed in the working papers could, in one form or another, adjust themselves to the interests of those countries which are technologically capable of exploiting the resources of the sea-bed and the ocean floor. The advantages of those concepts to the large number of developing countries, however, leave much to be desired. It is for this reason that

my delegation supports the view that agreement on the régime—which is apparently taken for granted in all three working papers—is in fact the prerequisite for a solution of the problem of machinery.

135. While my delegation is not proposing to go into a detailed analysis of the working papers, there are some salient features which we should like to point out. First, virtually all nations have accepted the concept that the area of the sea-bed beyond the limits of national jurisdiction is the common heritage of all mankind: it is hard to discern in the working papers a firm desire to ensure international equity in the application of the principles which they profess; secondly, the argument for an international régime has, more often than not, laid stress on the ability of technology to exploit the area and the need to avoid a colonial-type conflict in the area, yet none of the technologically advanced countries so far appear to have recognized that in their proposals what they are seeking would almost amount to non-exclusive title of exploration and exclusive title of exploitation; and thirdly, an early international agreement, so far as the technologically advanced countries are concerned, establishes a framework of legitimacy for exploitation of the sea-bed which only they can undertake.

136. However, even if exploration were to proceed immediately with only the technologically advanced countries participating, my delegation can foresee conflicts developing between those countries. Indeed, such a conflict has already been brought to the International Court of Justice. It follows that international agreement must be reached speedily on the question of the régime and the attendant machinery.

137. My delegation, like so many others, attaches particular importance to the "common heritage" principle. We believe that this principle is the corner-stone of any régime which is to be established. But are we to understand that some other delegations oppose a régime for the area and also the principle of fair and equitable sharing of benefits—a principle which flows directly from the common heritage concept?

138. As my delegation sees it, no country should at this stage be given *carte blanche* to delimit areas of the ocean for its own purposes without consideration for the interests and aspirations of the international community. If advanced countries proceed willy-nilly to develop the oceans by some form of explorative colonialism, conflicts are bound to arise between technologically advanced countries. In such a situation the less advanced countries would be deprived of their fair share of the ocean resources and might be dragged headlong into such conflicts emanating from nationalistic rapaciousness and the unwillingness on the part of some Powers to foster international co-operation.

139. My delegation notes with appreciation the draft declaration of principles governing the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, which was presented in document A/C.1/L.542. Ambassador Amerasinghe of Ceylon and Ambassador Galindo Pohl of El Salvador deserve a special word of praise for the efforts they have made in presenting this delicately balanced compromise. However, we recognize that these principles may well need further refinement and elaboration; they nevertheless furnish a very essential basis for the work that will lead to the establishment of the régime.

140. Let me now turn to a problem which is closely associated with the question of a régime. It relates to the need in developing countries for an expanded programme of education and training in aspects of marine science and technology. In his statement to this Committee on Tuesday, the representative of Trinidad and Tobago made reference to this problem *[1778th meeting]*.

141. During the General Conference of the sixteenth session of the United Nations Educational, Scientific and Cultural Organization which was held in Paris last month, Jamaica, along with the delegation of Chile, sponsored a resolution contained in document 16C/DR 189 which, *inter alia,* "invites Member States to request the UNDP authorities for assistance in organizing training courses and providing fellowships for education and training in aspects of marine science and its technology related to the investigation and exploration of the sea-bed", and also "authorizes the Director General to assist Member States and the UNDP authorities in the formulation, appraisal and approval of their requests under this programme".

142. In this connexion, my delegation wishes to pay a special compliment to UNESCO for the effort it has made in helping developing countries to strengthen their expertise in the field of marine science and technology. Perhaps a useful purpose could be served if the representative of UNESCO were able to inform the members of this Committee what kind of programmes they may initiate in this field and how best the developing countries in particular might avail themselves of any such opportunity.

143. Finally, my delegation notes with interest draft resolution A/C.1/L.543 which deals with the very important issues of the possible impact that the production of certain minerals from the international sea-bed might have on the economies of the developing countries and seeks, *inter alia,* ways and means to prevent adverse effects on the prices of mineral exports on the world market. It is not our intention at this point to discuss the various aspects of this problem in detail but we welcome the initiative by the sponsors of the draft resolution. We would only add that it might be necessary for all of us here to consider whether this obviously vital need to safeguard against major fluctuations of prices of raw materials and possible serious interference with the balanced growth of international trade resulting from exploitation of resources of the sea-bed might be formulated as an additional statement of general principle.

144. Sir Laurence McINTYRE (Australia): In applying itself to this complex of items on its agenda, with the aim of reaching decisions on the convening of an international conference on the law of the sea and the sea-bed, and on the preparatory arrangements for it, the General Assembly has taken upon itself important responsibilities. We, the Member States of the United Nations, will be answerable in due course to the peoples we represent and to the world community at large for the manner in which we discharge these responsibilities.

145. As I said in my earlier intervention on this debate *[1777th meeting]*, my delegation believes that there is no more important business on the agenda of this session of the General Assembly than our preparation for this conference. What we decide here can have far-reaching implications for our countries and our peoples for years ahead.

146. As in other fields of human endeavour, so with the seas and the sea-bed; it is the accelerating advance of technology in recent years that has created its own problems and in the present case has confronted this Organization with the challenging task of developing an international framework of law to temper the mounting fascination among Governments and peoples everywhere with new and exciting possibilities to be explored and put to use in vast environment of the seas and on the sea-bed beyond national jurisdiction. Our objective must be to work out arrangements that will safeguard and advance the interests of the peoples of the countries that we individually represent, and also the interests of the world community, in such a manner as to yield the greatest good for the greatest number. This may sound like reaching for the unreachable; but my delegation takes the view that, by and large, the two aims are compatible with one another and should be seen as such.

147. The rapid progress of technology means that the time available to us to put together a system or systems of control capable of meeting the requirements of all mankind on a basis of equity, particularly those of the developing countries, is limited. It would be disastrous if, after having built the stable and closed the door we were to find that our horse had gone. That must mean that we should seek to move forward with all practicable speed, consistent with the need to ensure that we are in fact moving along the right road and not along some side track that will lead us not only nowhere but possibly to chaos.

148. What I have been saying is intended to underline two points: first, my delegation feels that we should ensure, as far as lies within our capacity, that the decisions we take here constitute the best possible balance between the interests of our respective countries and the common interest of the international community; secondly, my delegation firmly believes that the right way to move forward in the matters we have before us is through multilateral negotiation, in an effort to satisfy the legitimate needs of each of us, and not through unilateral action, which can only produce satisfaction to some countries and frustration to others and create international ill-will and clashes of interest in the future. I recall what was said earlier in this debate by the representative of the United Kingdom regarding the supreme need to determine the breadth of the territorial sea by international agreement rather than by unilateral action, so that we all know exactly where we stand *[1775th meeting]*. My delegation fully agrees with that, and we accordingly welcomed the call by our Secretary-General, in his statement in this Committee at the beginning of our debate, for international co-operation leading to international agreement to solve international problems *[1773rd meeting]*.

149. I have spoken of the need to move forward with all practicable speed. I would like to complement that with some thoughts leading along another path. It is fair to say that many Governments have some conception of the potential benefits that the seas and the sea-bed may yield for their peoples; but we need to recognize that few Governments have accurate knowledge of what the seas might hold for them and of how to take advantage of that knowledge. That is bound to induce in many Governments a natural caution in approaching the process of international bargaining for the realization of their interests in the seas, for the very reason that they find it hard to be sure precisely what their interests are. As my Government has found, and indeed is still finding, the refinement and definition of national policy in this very complex field can be a slow and difficult process, governed by a need for prudence because of the important considerations at stake. No responsible Government will want to yield ground in this arena without being fairly clear where its interests lie and what it feels it should get in return.

150. Thus, although on the one hand it is desirable to move forward as rapidly as we can, on the other we must reckon with a natural reticence on the part of Governments when faced with decisions that may effect the well-being of their peoples far into the future. Such caution is reinforced by the need to make every effort to ensure that the conference we are to prepare for is going to succeed, because there is not much doubt that the consequences of failure could be serious. This is why, in its reply to the Secretary-General's inquiry pursuant to resolution 2574 A (XXIV), the Australian Government said that, although it considered that any further conference or conferences on the law of the sea should be convoked as early as was practicable, it attached greater importance to the need for thorough preparation than to the need for expedition *[see A/7925/Add.3]*.

151. Many speakers before me have pointed to the wide variety of interests that will be involved in the conference on the seas, and this point perhaps bears repetition. As nations come to appreciate the extent and variety of their interests in and under the seas, and as technology creates new interests in and under the seas, and as technology creates new interests in new directions, we begin to see the emergence of a pattern of new alignments. Governments are slowly beginning to define national positions according to a quite different set of criteria from those against which they would normally judge other issues of international affairs.

152. For example, land-locked countries in the various regions of the world find common interests which do not necessarily flow from normal political affiliations or kindred social systems; likewise States with narrow shelves and States with broad shelves. Nations with more traditional maritime interests will tend to make common cause in seeking particular objectives, and nations interested in distant-waters fisheries may find themselves in that respect at odds with nations that are intent on protecting local fishing interests. Some countries have more than one interest in these associated maritime matters, and on occasions these interests may be in conflict domestically. Thus it is that, in trying to see where the balance of advantage for them lies, Governments may be pulled in different directions by competing groups within their own countries. The result is that we can see taking gradual shape a framework of shared interests in certain areas that in some cases cuts across more traditional associations.

153. It is against this complex of evolving interests that my delegation approaches the question of arrangements for a conference on the seas and the sea-bed. Before setting out our ideas on this matter, however, I might explain, briefly, Australia's basic concerns in regard to the law of the sea. These are four-fold, and they make it plain that the Australian Government has a vital interest in all the main questions relating to the seas and the sea-bed that will come up for consideration at the proposed conference.

154. First, we have important strategic and commercial interests in freedom of communication and navigation on the high seas, and accordingly we wish to see agreement reached internationally on a reasonable breadth of the territorial sea and a satisfactory resolution of the complementary problem of the right of passage through recognized international straits. We share these interests with many countries.

155. Secondly we have an important interest in coastal fisheries which we shall want both to advance and to protect. This interest extends to the matter of the jurisdiction of coastal States over fishing operations in adjacent areas of the high seas. We share this interest also with many countries.

156. Thirdly, we are conscious of our existing rights in respect of the continental shelf as affirmed by the Convention on the Continental Shelf of 1958[4] and sustained by customary international law.

157. Finally, we shall co-operate fully in the establishment of an effective régime, with appropriate machinery, to control exploitation of the resources of the sea-bed beyond national jurisdiction.

158. Having explained in outline my Government's main concerns in regard to the law of the sea and the sea-bed, I should now like to offer some thoughts as to how we might proceed with preparations for the conference that is to come.

159. It is bound to be a difficult and demanding conference that will bring to the surface many differences of opinion and of emphasis and involve much hard bargaining. All of that lies ahead of us. However, at this point we can surely muster among ourselves enough spirit of goodwill and co-operation to take the political decisions that are necessary to prepare for the conference in a manner that is as fair and equitable as possible to all. In the view of my delegation, that should be our essential task at this session of the General Assembly.

160. This will require us to seek something like a consensus as to the range of the maritime matters that will need to be dealt with by the conference. My Government's view is that there should be the minimum possible reopening in detail of the matters that are now regulated by the four Geneva Conventions. It is clear, however, that there are a number of problems emerging that call for a decisive effort to adopt international rules. These include the need to establish a régime to regulate the exploration and exploitation of the sea-bed and the ocean floor beyond national jurisdiction; the need to fix an internationally recognized breadth of the territorial sea; the related question of passage through international straits; and the nature and extent of the jurisdiction of coastal States in respect of fishing in adjacent areas of the high seas. This should not, of course, exclude consideration of other important aspects of the sea, such as the conservation and management of its living resources and the preservation of the marine environment.

161. Now, as to the question of preparatory machinery, there has, as we all know, been discussion around the Assembly about the optimum form of committee structure that will be needed to make the procedural arrangements and do the basic substantive work in preparation for the meeting. This discussion has revolved, *inter alia,* around the question whether there should be one or two preparatory committees. My delegation would see certain advantages in the one committee approach. Without being at all certain at this stage as to what is likely to be the best means of giving over-all guidance and direction to the work of preparation, we foresee the need for an active plenary committee which could control and co-ordinate the work in a manner calculated, we would hope, to produce a coherent, equitable and acceptable mandate for the conference. In this connexion I listened with close interest to what has just been said on the subject by the representative of Jamaica, which I thought extremely cogent.

162. We recognize that if there is to be a single co-ordinating committee the question of its size will be important. It should at least be sufficiently large and representative to provide for membership of those countries which have the paramount interest in the outcome of the conference and also those which can contribute effectively to the work of the conference. We recognize that this could result in pressure to establish what might become in effect a committee of the whole, and we acknowledge the danger of unwieldiness and the argument that this furnishes to those who would favour the setting up of two preparatory committees which could between them perhaps accommodate the total membership of the Organization. This will obviously call for further consultation.

163. For the moment, I would only say that the decided preference of my delegation is for a single committee with appropriate sub-committees working under its direction. Bearing in mind the considerable reservoir of expertise that has accumulated in the sea-bed Committee over the past three years, my delegation would see some advantage in assigning the very important task of top-level co-ordination to the sea-bed Committee, enlarged, substantially if necessary, to encompass a wider range of interests and qualifications and given the added capacity of a preparatory committee for the conference. We would see that committee working as a strong and active plenary body to consider the texts and recommendations submitted to it by the subsidiary organs and to guide their work generally.

164. Our thinking in regard to what might be the nature of this subsidiary machinery has not advanced very far at this stage, though we would feel tentatively that it would minimize the representational problems of delegations, particularly smaller delegations, if the number of sub-committees were kept to a minimum, perhaps no more than three. We would see merit in having one sub-committee to

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

work on the sea-bed régime and limits, a second to deal with the breadth of the territorial sea, including passage through straits, and the third to deal with fisheries and conservation of living resources of the sea. We see a particular point in having the question of fisheries and fishing rights dealt with by specialists in that field.

165. Reverting to the problem of accommodating the wishes of all those Member countries that want to take part in preparations for the conference, I offer the thought that membership of the sub-committees need not be confined to membership of the preparatory committee itself, but might be drawn from all Members of the United Nations.

166. In conclusion, there is the question of the opening date of the conference. None of us I hope need to be reminded of the need to press forward with our preparations as rapidly as we can. But it is clear from what has been said already that many delegations will find it difficult to adjust themselves to a time-table that envisages an opening date in 1972. Our own preference at this stage would be to aim at a date early in 1973, to be confirmed by the General Assembly at its next session in the light of progress made with the preparatory work in 1971.

167. I have tried to set out some of my delegation's tentative thinking as regards the nature of the preparatory machinery for the conference. We hope that other delegations may find this of some use in developing their own positions, and that it may be possible eventually for the Assembly to move in the direction of acceptance, by consensus if possible, of a resolution that would establish efficient and equitable procedures for preparing a conference, taking into account the legitimate interests of all Member States. If that proves possible we believe that it will be a good omen for the conference that is to come.

168. The CHAIRMAN: Before adjourning, I should like to make two brief announcements.

169. First of all, the members of the Committee are requested to note that Austria, Belgium, Trinidad and Tobago, and the United Republic of Tanzania have joined the sponsors of draft resolution A/C.1/L.544.

170. I should also like to remind the members of the Committee that draft resolution A/C.1/L.537/Rev.2, on the question of disarmament will be considered and voted upon at the beginning of this afternoon's meeting. The Committee will then proceed with the general debate on agenda item 25.

The meeting rose at 1.15 p.m.

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