United Nations
GENERAL ASSEMBLY
TWENTY-FIFTH SESSION
Official Records

FIRST COMMITTEE, 1775th MEETING

Friday, 27 November 1970, at 10.30 a.m.

NEW YORK

CONTENTS

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

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 and 542);

(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. ZEGERS (Chile) *(interpretation from Spanish)*: The debate that we are holding on agenda item 25, which covers all the subjects bearing on the policy and the law of the sea by express decision of the General Assembly *[see 1843rd plenary meeting]*, will doubtless be one of the most significant debates of the twenty-fifth session.

2. The subjects before us, the régime that is to govern the sea-bed beyond national jurisdiction and the holding of a new conference on the law of the sea, have given rise to international expectancy and seem to be ripe for comprehensive study. We are drawing near to a stage of important decisions which will have immense consequences on the economic development of mankind and on the specific interests of States, particularly the less developed nations. We therefore participate in this debate with a deep sense of responsibility and with that eagerness that is always felt when truths are glimpsed and horizons are widened.

3. In this statement the delegation of Chile would like to refer primarily to the subject of the sea-bed and, in relation to that subject, to refer specifically to the basic matter of the declaration of legal principles which the General Assembly last year entrusted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction *[resolution 2574 B (XXIV)]*, with a priority request. Regarding the conference on the law of the sea, I shall mention only some procedural aspects that seem to us to warrant clarification at the present stage.

4. Until a short while ago, to speak of the sea-bed was something esoteric possessing connotations of escapism. We owe it to the talent and the far-sightedness of Mr. Pardo of Malta, who submitted this item to us, as well as to the hard work done for the first three years, first of all in the *Ad Hoc* Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and then in the present Committee, that the world has become aware of this subject.

5. The seas, and therefore the sea-bed, cover five sevenths of the surface of the globe. There are immense mineral resources lying there, primarily oil, phosphorite and the important manganese pellets, which in turn also contain copper, nickel and cobalt. This wealth, all this wealth, is now susceptible of exploitation through technological advances. That exploitation can be carried out for the benefit of all mankind, and particularly for the benefit of the more needy, or, on the other hand, it might be used for the benefit of only a few. It could be carried out without affecting the present day production of countries whose lives depend on certain minerals, or of others who derive their subsistence from the ocean, or it can wipe them out. That is the dilemma that we face. That is what the General Assembly, during its solemn twenty-fifth session, will have to decide.

6. The declaration of legal principles that are to serve as the basis for the international machinery to govern the sea-bed beyond national jurisdiction and are to be em-

bodied in a treaty has, therefore, acquired particular urgency today. As I have said, it is so first of all because of technological progress which is making that immense part of the world a field open for exploitation and, secondly, because the subject seems to have reached maturity in the Committee on the Peaceful Uses of the Sea-Bed. We already understand the political and economic significance of every word–I would even go further and say of every punctuation mark. The moment of truth has now arrived, as was the case recently in the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States. A political decision must be adopted, for that is all that is missing.

7. I think I should recall our disappointment at the lack of agreement in the Committee last August in Geneva. I should also like to recall the eloquent words which were pronounced, on behalf of all the developing countries, by the representative of Cameroon, today the Chairman of the Sixth Committee, Mr. Paul Engo, when he called for a speedy solution of the question of a declaration of principles.

8. But there is an additional reason for making progress in the drafting of a declaration both indispensable and urgent. In fact, in accordance with the provisions of General Assembly resolution 2574 A (XXIV), in the light of what was stated at the Third Conference of Heads of State or Government of Non-Aligned Countries held at Lusaka in September and at the Latin American Meeting on Aspects of the Law of the Sea held at Lima in August and in accordance further with the specifically stated will of a great majority of nations in their replies to the Secretary-General *[A/7925 and Add.1-3]*, an international régime of the sea-bed must be defined before we undertake the over-all preparation of the list of items for the agenda of a conference on the law of the sea. In other words, the régime for the sea-bed, and therefore the principles that will serve as its basis, are a prerequisite to that conference, which the international community wishes to see held as soon as possible.

9. It is in the light of that importance and that urgency that we have to study the generally acceptable compromise declaration that has been put before us by the Chairman of the Committee on the sea-bed, Mr. Amerasinghe, in document A/C.1/L.542. The draft is a compromise–an agreement–and, as Mr. Amerasinghe pointed out *[1773rd meeting]*, it is a result of consultations with all delegations members of the Committee, which in turn represent all areas and all systems, and it must therefore be analysed as such.

10. The ideal formulation, as far as Chile and other underdeveloped countries are concerned, will be found in document A/AC.138/SC.1/L.2 *[see A/8021, annex I, appendix I]*. That document, which was sponsored by my country and other countries of four continents, all having the common denominator of being developing countries, was later endorsed by the Conferences of Lima and Lusaka, which I mentioned earlier, and acquired very special status which assured it a wide majority in the Assembly. However, the intention of the developing countries was to work in a spirit of consensus on these vital issues, and it is for this reason that we co-operated to the utmost with the efforts begun by Mr. Galindo Pohl of El Salvador, Chairman of the Legal Sub-Committee in Geneva, and now being concluded by the Chairman of the sea-bed Committee.

11. Draft declaration A/C.1/L.542 falls short of what Chile would consider ideal, and, doubtless, many other delegations in this room will share this view. However, as Mr. Amerasinghe put it, this document represents the widest degree of agreement possible, and one on which there appears to be general agreement. It reflects mutual concessions–it is a unit–a whole which the representative of Norway, Mr. Evensen, very correctly described as a "delicate balance" *[1774th meeting]*. However, we believe that the principles proposed constitute a complete and balanced document which might serve as a basis for an international régime, pursuant to the mandate given to the sea-bed Committee at the last session of the General Assembly. In viewing this document as a compromise and as a whole that cannot be altered, the delegation of Chile, as stated by the representative of Norway, is ready to support those principles.

12. As the representative of Norway put it yesterday, it is clear that the delicate balance of this draft declaration, its over-all character, presupposes that no amendments will be submitted to it and that, therefore, we should all abstain from submitting the amendments which we might wish to present. We believe this tacit agreement to be an indispensable condition for approval of the document and it conditions our own support of it. We do feel a certain hesitance about this matter, but are convinced of the importance of defining the subject correctly.

13. The basic aspect of the draft is, doubtless, the fact that it at last states quite clearly that the area covered by the document is the "common heritage of mankind". This is a concept which the developing nations, including my own delegation, had the honour of including in the first draft of principles submitted to the earlier *Ad Hoc* Committee in Rio de Janeiro in 1968.[1] Legally, we might contend that it is an indivisible property with fruits that can be divided. But, politically and economically speaking, it means that all States, coastal or land-locked, will participate in the administration of the sea-bed beyond national jurisdiction and in the benefits derived from that region.

14. This is a new and revolutionary concept in international law and policy. We will have given expression to the so-called theory of participation and we will have moved a step towards that international social justice for which the world clamours.

15. Paragraph 1 of the draft declaration, which endorses the concept of "common heritage", must be linked to paragraphs 7 and 9. Paragraph 7 refers to the fact that the exploitation of the area and its resources must benefit all States whether or not they possess coasts, and particularly the developing nations. In paragraph 9 we define the international régime, including appropriate international machinery, which is to be applied to the area and its resources and is to ensure the equitable sharing by States in the benefits derived from the exploitation of the resources.

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

16. As far as we are concerned, there lies the very crux of the declaration. We should point out that other provisions refer to the unchallengeable rights of the coastal States contained in paragraphs 12 and 13. Paragraph 13 says that "the legal status of the waters superjacent to the areas" are not to be affected, and then there is paragraph 11 which refers to measures adopted to preserve the waters, the flora and fauna, from contamination and other dangers.

17. There are obviously omissions, particularly regarding certain questions which were very clearly spelled out in draft resolution A/AC.138/SC.1/L.2. There are certain vague expressions which we regret, such as that of international responsibility, which cannot exclude the responsibility of States and other forms of words that are inevitable in achieving a compromise of this nature. In any case, the Chilean delegation feels that nothing in this draft declaration can affect the moratorium on exploitation declared by the General Assembly in resolution 2574 D (XXIV), nor can anything imply, either directly or indirectly, the extension of the régime of the high seas to include the economic use of the sea-bed; nor can it affect the sovereign rights of States nor prejudge matters which can only be clarified at a conference on the law of the sea.

18. I must, however, refer very briefly to the gaps in the draft declaration on the question of demilitarization of the sea-bed. Obviously, we should have preferred a total prohibition of military uses of the sea-bed, as we had indicated in our own draft resolution A/AC.138/SC.1/L.2, since we believe that that would have been the right way to express the concept of the reservation of the sea-bed exclusively for peaceful purposes, as the international community had made clear in General Assembly resolution 2340 (XXII). However, as we said when we were talking about the draft treaty on the partial denuclearization of the sea-bed *[1764th meeting]* in the debate which was held a few days ago in this Committee, we understand that there is a commitment urgently to negotiate the total demilitarization of the area. The present wording is a concession which the developing countries had to make for the sake of achieving harmony. Another political concession on the part of these developing countries is the mention of the so-called problem of limits, which is outside the competence of the Committee and can be grappled with only at a conference on the law of the sea, in the form and with the priorities defined in General Assembly resolution 2574 A (XXIV). The reference, although unnecessary, naturally cannot in any way alter the contents of the resolution which I have mentioned, nor the agreements reached on it.

19. We must say that parts of the report of the sea-bed Committee round out many important aspects of the draft declaration, particularly the concept of the common heritage of mankind. Special mention should be made of part III of the report which covers the discussion held on the so-called international machinery which, as part of the régime, is to be applied to the area and its resources. The report by the Secretary-General on international machinery *[see A/8021, annex III]* and the conclusions at which the Special Committee arrived warrant careful attention and constitute important progress on this question.

20. In this connexion we must stress that the sea-bed Committee asked the Secretary-General to carry out a more complete study than the preliminary one *[ibid., annex IV]* on the criteria and methods whereby the international community will share the income and other benefits derived from the exploitation of the resources of the zone, as contained in the report. This agreement was proposed by the delegation of Chile.

21. Finally, we must make special mention of the subject matter covered in the last paragraph of the preamble of the draft declaration proposed to us: the need to adopt measures to avoid fluctuations in prices of raw materials and market conditions which might result from the new exploitations. In fact, the impact of these new exploitations of oil, copper, manganese, nickel and cobalt on the international market could be immense. So much so, that the Under-Secretary for Economic and Social Affairs, Mr. Philippe de Seynes, speaking in the sea-bed Committee, suggested that if these exploitations are not regulated, the damage to the developing countries—or many of them—might be greater than any benefits they may derive *[see A/AC.138/SC.2/L.9]*.

22. A number of delegations discussed the matter in the course of the debate in the sea-bed Committee, and that Committee's concern is mentioned in a number of paragraphs in the report. This concern is also shared by and reflected in the Secretary-General's report on the international machinery and in the preliminary report of the Secretariat on ways and means of participating, and also in the statements made by delegations from all parts of the world which appear in the records.

23. We should have preferred a clear operative paragraph governing this question. However, we understand the reference made in the last paragraph of the preamble regarding the report of the Committee as a necessary compromise in order that the future régime will decide on the subject, clearly and specifically regulating production and markets and avoiding drastic fluctuations in the prices of raw materials.

24. These preliminary comments have dealt with the question of the sea-bed. We believe that the Chairman of the sea-bed Committee, as well as the Chairman of the Legal Sub-Committee, deserve the First Committee's thanks for the outstanding diplomatic efforts they have made to achieve a draft that will be generally acceptable. This must also be said of the work of the Vice-Chairman of the Legal Sub-Committee, Mr. Yankov, of Bulgaria, and of the Rapporteur of the Sub-Committee, Mr. Badawi; as well as the representatives of the Main Committee, of the Technical and Economic Sub-Committee and of the Secretariat, so ably represented by the Secretary of the Committee, Mr. David Hall. We trust that this effort and this momentum will not be lost and that all will show the same spirit of compromise as those of us did when we gave our conditioned support to the draft before us.

25. I should like to say a few words of a very preliminary nature on the question of a conference on the law of the sea. First of all, the Chilean delegation believes that it is imperative that we make it very clear that this question has not just come out of the air: it was the subject of General Assembly resolution 2574 A (XXIV), and of the answers given by the States to the questionnaire of the Secretary-

General issued pursuant to the terms of that resolution. In other words, we are not starting from scratch. The General Assembly has a mandate given it not only by the last session of the General Assembly, but also by the will expressed by sovereign States in the most solemn fashion in the answers vouchsafed to the Secretary-General.

26. Another expression of will of the international community was added to these in the course of the present session of the General Assembly, namely, the agreement adopted by the majority of delegations that the items relating to the sea be dealt with jointly as a whole in the Political Committee. This was the result of an important debate that took place at the beginning of this session of the General Assembly, first in the General Committee and later in the plenary meetings of the General Assembly.

27. From resolution 2574 A (XXIV) adopted at the twenty-fourth session of the General Assembly, the replies transmitted to the Secretary-General, and the agreement adopted at the present session of the General Assembly, we can adduce clear-cut expressions of will by a large majority of States such as those expressed at the international meetings at Lusaka and Lima, and they might be summed up as follows.

28. First, there is almost a consensus that the future conference on the law of the sea should be comprehensive and cover all matters falling within the framework of the law of the sea, somewhat similar to the conferences of 1958 and 1960. In so doing, we would be following the lead given by the General Assembly a number of times, acting according to international usage and obeying the expression of the International Law Commission, as well as that of experts. Furthermore, it would be an omen of good political results for all mature Governments prefer to negotiate the questions of the sea as a whole.

29. Secondly, the conference must be adequately prepared so that there can be certainties of success. This aspect was echoed in many of the answers submitted to the Secretary-General and must be reconciled with the clear-cut view that the conference be held as soon as possible.

30. Thirdly, priority must be given to the definition of the régime of the sea-bed, because, as General Assembly resolution 2574 A (XXIV) states, only in the light of such a definition can the over-all pending questions of the law of the sea be tackled. These same expressions can be found in most of the answers from States to the Secretary-General, as well as in the agreements made at Lima and Lusaka.

31. Fourthly, there seems to be a certain consensus that a committee of the General Assembly should begin to prepare for such a conference.

32. It is in the light of these facts that we must gauge the value of the draft resolutions that have been presented *[A/C.1/L.536 and 539]* as well as the others that have been circulated among the delegations.

33. Naturally, a number of problems still exist, such as whether there should be two committees, the Committee on the sea-bed and another to be set up, or whether there should be only one, whether a target date should be set, and the terms of reference of the committee or committees defined.

34. Without wanting to give final answers, in the light of the premises defined, it is clear that whether there be one or two committees, priority should be given to the conclusion of the régime by the present Committee on the sea-bed, either separately as a committee or as a sub-committee of another body. It is also clear that there cannot be a committee with a splintered mandate to divide up the inseparable unity of the problems of the sea. Thus we cannot agree yet with those who contend that among the questions to be resolved some are more ripe for solution than others. Regarding the date, we think that the only way to reconcile the urgency felt for the holding of this conference with the need to prepare the agenda would be to set target dates, but these target dates must never be established definitively otherwise they may act as a straitjacket on the committees.

35. In the light of these preliminary comments, adoption of draft resolution A/C.1/L.536, submitted by the United States of America, would be unacceptable and also incompatible with the premises already established by a number of States. However, document A/C.1/L.539, submitted by Brazil and Trinidad and Tobago, seems to be in keeping with the same expressions of will that I have mentioned, although in certain aspects we feel that it might be changed to include other views that have been expressed.

36. I have made these preliminary comments on the need to hold a conference on the law of the sea in order to set forth the aspects of the question as they are indicated in the documents before us and in order to inform the Committee regarding the position we will adopt in the forthcoming negotiations.

37. The subject for a conference on the law of the sea is of significant importance, particularly at this moment when international law is evolving so dynamically. New countries that were unable to participate in previous conferences have acquired an independent life and quite justifiably want their voices heard. They know, as do we all, that law, and particularly the law of the sea, is the expression of a political and economic background and that what is discussed here today and later in the conference while apparently legal in nature is basically political and economic. It is the concrete interests of the peoples and particularly the developing peoples that are at stake.

38. Aware of that responsibility, we must prove with acts our desire to progress and work for constructive solutions without interruption but without haste; with a will to arrive at significant agreements but not to be pushed to paths that are not of our choice. Only thus and after the negotiations, which doubtless will be arduous, will we be able later, on the matters relating to the sea, to come to agreements on even more important subjects than the one that has now been made possible after three years of devoted work in the case of the sea-bed and that we trust will soon become a reality.

39. My delegation reserves its right to speak later in the debate.

40. Mr. JAMIESON (United Kingdom): Item 25 of the General Assembly's agenda, which we are now discussing, is a conglomerate item with no single title. I think it may help other delegations to know the position of my delegation if I say at the outset that we for our part would be quite content to have, and indeed would see some merit in having, the item entitled from now on "Question of a conference on the law of the sea".

41. The original preference of the United Kingdom delegation, as members all know, was for handling subitem *(d)*: "Question of the breadth of the territorial sea and related matters" separately from the others. We felt, frankly, that these questions were ripe for settlement on their own. But we considered closely the replies to the Secretary-General's memorandum *[A/7925 and Add.1-3]* and we listened attentively to the arguments in the General Committee at the beginning of this session, and we were impressed by them. We have always, of course, accepted that there is a link between territorial sea questions and those relating to the exploration and exploitation of the sea-bed underlying the high seas beyond the limits of national jurisdiction.

42. For instance, if the international community were to concede and accept claims to a very wide limit for the territorial sea, this would mean it is that limit and not the sea-bed limit which would determine the area of the sea-bed to which the international régime we are all working towards would apply. What impressed us in the debate in the General Committee was not only the strong expression of view that the two subjects—the territorial sea and related questions on the one hand and the sea-bed on the other—should not just be linked, but should be discussed together, but also the keen interest of the land-locked as well as to the coastal States that this should be so. That is perfectly natural and proper since land-locked as well as coastal States have to weigh the balance of advantage—and, after all, it is on our own assessment of the balance of advantage that we all decide our policy. In particular, we can appreciate the strong concern felt by land-locked States over questions of delimitation, both of the territorial sea and of the continental shelf.

43. My delegation has therefore come to the conclusion that it would be desirable "to convene at an early date a conference on the law of the sea"—to quote from subitem *(c)* of agenda item 25—at which we could discuss and reach agreement on the subject matter of the other subitems. But the corollary of this is that we should all work with a will to make sure that we can make real progress on all these matters and to pave the way for holding a conference, as suggested in subitem *(c)*, at an early—I repeat, early—date. And "early" does not mean at some vague date in the uncertain future, four or five years ahead. I believe that we have reached a stage where we can make real progress and, as I shall hope to prove, it is important that we should. I do not believe that in these matters time is on our side—and by "our side" I mean the international community as a whole. On the other hand, if we seize the opportunity now, we, the United Nations, can achieve something worth while.

44. Perhaps I could now comment briefly on the substance of the matters before us. Let me first take subitem *(d)*—"Question of the breadth of the territorial sea and related matters". There I suppose the vital question is the breadth of the territorial sea itself. The 1958 United Nations Conference on the Law of the Sea was a highly successful conference and on a wide range of matters it produced valuable agreements which can stand the test of time. Unfortunately, however, neither that conference nor the second conference in 1960 resulted in any agreement on the breadth of the territorial sea.

45. This is an important question for all of us—maritime Powers, other coastal States and land-locked States alike. It is important for us all because it raises in a major way the whole question of our attitude towards the rule of law. I do not want to be controversial on this. I would only say that whatever the intrinsic merits of a particular breadth for the territorial sea there are, broadly speaking, two ways of fixing national limits: one by unilateral action, the other in accordance with international agreement.

46. The very firm view of my delegation is that there can be no comparison between these two methods and that the latter is infinitely better from every point of view. It is a course which leads to stability and certainty so that we all know exactly where we stand. At present, claims to a territorial sea in excess of three miles are not universally recognized. A new international agreement specifying the maximum permissible breadth for the territorial sea would be to the advantage of all. That cannot be said of the first course which, since I am not being controversial, I would only describe as something giving rise to legal doubts and instability and as a slap in the face for international co-operation.

47. But I would like to put it a different way, getting away from the question of international law. If I may refer again to the debate in the General Committee at the beginning of this Assembly, I was struck by the remark of the representative of a land-locked African State, who said in discussion of these marine matters that the peoples of Africa had been the victims of the scramble for Africa; they did not want that to be repeated in matters relating to the sea. We would endorse that entirely. It points clearly to a solution of the question of the breadth of the territorial sea by international treaty.

48. There are two other related questions for conference decision. First, there is the question of international straits. For example, if as a result of decisions reached at the conference there is any expansion of the territorial sea beyond the previously recognized norm, a goodly number of straits, could become in their entirety part of the territorial sea of one or more coastal States. Second, we recognize that one of the motives that have been advanced for pushing out the limits of the territorial sea is to safeguard fishery interests, which in some cases can be of vital importance to the economy of coastal States. We do not believe that this is sufficient reason for extending the limits of sovereignty, but we do recognize that it is right and proper that in a conference on the law of the sea, as well as settling the limits for the territorial sea, we should also consider and take decisions on the legitimate interest of coastal States in fisheries on the high seas in an area contiguous to their territorial sea. These two matters also are therefore ripe for discussion, and it is because they are ripe for discussion that they must share the necessary priority in our future work.

49. I turn now to the question of the sea-bed–subitem *(a)* of our agenda, with which I would link subitem *(b)*, since in discussing a régime for the exploration and exploitation of the sea-bed, clearly we must also consider measures to prevent and control pollution arising from such activities. Here again I believe that it is in the interests of all of us that we make rapid progress. The developed countries–and it is they who at present have the only capability of developing the necessary technology–have an interest in ensuring that the exploration and exploitation of sea-bed resources is carried out in an orderly manner. They have no wish to see such activity becoming a new source of international controversy.

50. Perhaps it is rash and impertinent of me to suggest where the interest of developing countries lies, but it seems to me that they too, whether coastal or land-locked States, have an interest in reaching agreement on a régime which will not only prevent a repetition of the scramble for Africa–if I may re-quote that excellent phrase–and which will not only ensure that they enjoy an equitable share in the benefits, but will also enable them to play their own part as principals, not as recipients of a patronizing charity.

51. It is even more rash to try to interpret the interests of another group of countries, the Soviet Union amongst them, but they too, I venture to say, have an interest either as technologically advanced countries or as countries whose development is still not complete. They claim to see some difficulties over the concept of equitable sharing of benefits but, particularly in the sea-bed context, I wonder if their difficulty is not more apparent than real, even on the basis of their own philosophy.

52. In the sea-bed context we are not talking about aid: that would indeed be the approach of a patronizing charity. We are talking about opening up new sources of human wealth in such a way that there is no scramble for Africa, no assertions of sovereignty, but that all mankind may benefit. I very much hope that those countries will see things this way because in other respects I am certain that all our interests coincide.

53. But on this matter of the sea-bed, as on the other matters I have discussed, time is not on our side. Technology does not stand still. The incoming tide of the sea is inexorable, as King Canute taught his courtiers. The advancing tide of technology is equally inexorable and cannot be stayed by words. We must therefore get on with deeds to harness the power of the tide of technology in our best interests because if we do not, if for one reason or another we procrastinate, the one thing that is certain is that development of the resources of the sea-bed will go ahead and we shall have lost the opportunity to ensure that international law and co-operation stay ahead of the problem rather than lag lamely behind.

54. Fortunately I believe that we are able now to make real progress. We have before us in document A/C.1/L.542 a set of principles which we all know to be the result of months of patient, painstaking and tactful diplomacy on the part of the Chairman of the sea-bed Committee, to whom, on behalf of my delegation, I should like to pay warm and respectful tribute. I shall have more to say about these principles when we come to discuss their adoption. In our consultations with other delegations we shall explore the possibility of modifications. But I am confident that at this year's General Assembly, as part of our agreement on our future work, it will be possible to adopt a declaration of principles. That will provide a foundation for the next stage of drafting an agreement, or agreements, for the sea-bed régime.

55. We shall also have available to us in this next important stage a number of working papers on the sea-bed régime and the nature of the international machinery that will be needed. These are annexed to the report of the Committee on the Peaceful Uses of the Sea-Bed. I should like to take this opportunity to draw the attention of this Committee to certain aspects of the suggestions which my own delegation has put forward *[A/8021, annex VI]*. Incidentally, I notice that that working paper has been re-circulated: my delegation did not ask for that but we are very glad to see it circulated again.

56. The basic question in our view is what method to adopt in order to translate the concept that the area is the common heritage of mankind into practical terms, by ensuring that the benefits to be derived from the exploitation of the area are equitably distributed amongst all States parties to the agreement establishing the régime. The United Kingdom working paper supports the idea that royalties should be levied on operations within the area, to be distributed for the benefit of the States parties, taking account of the special needs and interests of the developing countries. But it also suggests that the international machinery to be set up, whose principal function would be to issue licences for the exploration and exploitation of the area, should issue those licences in such a way that all the States parties to the régime may have the opportunity to participate directly and as principals in the benefits of the exploitation of the area, as well as indirectly through the distribution of royalties for international community purposes. So that this opportunity may be a fair and genuine one, our idea is that each State party should have allocated to it, upon criteria to be agreed, a fixed quota of the blocks into which the sea-bed beyond the limits of national jurisdiction would be divided for the purpose of the issue of licences. That would be a guarantee against the possibility of a few States, for example those which happen at present to be the most technologically advanced, obtaining an unfair share of such blocks to the detriment of other States parties. As a further guarantee, we propose that the future international organization should not throw open all parts of the area to application for licences as soon as it begins work, but should hold a substantial proportion of blocks in reserve for allocation in later years. That would make it possible for States parties to defer taking up their quotas, if they so wished, without forfeiting any of their rights. Some developing countries might, for example, wish to create their own indigenous technological capacity before applying for licences. It would, however, equally be open to them to apply for licences from the beginning and to sub-license foreign operators to exploit their blocks on their behalf under their own national administration and regulations, though subject, of course, as in the case of all sub-licensing, to the internationally agreed rules. Here let me point out that the allocation of licences to States and not directly to operators, who, in the initial years of the new dispensation at least, will necessarily be from a few

advanced countries, is an important way of preventing an undue share of the benefits of the exploitation of the area from going to a few countries only.

57. I would like to make two further specific points about the sea-bed régime.

58. First, we cannot decide on a régime unless we know the area to which it is going to apply, and I suspect equally that it will not be possible to reach agreement on the area to be covered until we know what sort of a régime we are going to have. It therefore seems to us essential that as we now get down to the business of drafting, we should, as part of this process, arrive at a clear, precise and internationally accepted definition of the area of the sea-bed which lies beyond the limits of national jurisdiction and to which the régime is to apply.

59. Secondly, I think it is right to recall briefly the suggestion of my delegation that in setting up machinery to govern the orderly exploration and exploitation of the sea-bed we have to be a little bit careful not to be too ambitious or complicated. The machinery must, of course, be such as to meet our fundamental objectives; but there are four reasons for caution. The first is that we do not want anything which could discourage the development of the resources of the sea-bed for the benefit of all mankind. We have to bear in mind in this context that the investments required are of astronomical proportions. Then there is the time factor. Have we time to negotiate a highly complicated system? Then again, is there not a danger of a too elaborate system creaking and grinding and not working effectively? There is a saying–I think, Mr. Chairman, it is from your own country, a modern *refrán criollo*–which goes, *Carro grande, aunque no ande;* a rough translation of that would be: "I want a Cadillac even if it doesn't go". Provided it will meet our fundamental objectives, provided it will get us from point A to point B, I think there is everything to be said for a Model T Ford rather than a Cadillac which is large and gleaming but which has seized up. Finally, as my delegation has pointed out before, there is the question of expense. An over-elaborate system would voraciously devour the proceeds of the exploitation of the sea-bed. That would not be to the benefit of the international community, however much it might benefit a new international bureaucracy.

60. So much for the substance of the matters covered by item 25 of the agenda. With your permission, Mr. Chairman, I should like to leave it at that for the time being. There is also, of course, the question of procedure, the date of the conference, its scope and the preparation for it. One thing which is clear is that, whatever else we agree upon, we need to get down to detailed drafting work in 1971 on the matters I have discussed. For the rest, I think it is better to defer my comments until we discuss in more detail the draft resolutions before us and any other proposals which may be made. My delegation, for its part, suggests that we should adopt three criteria towards any procedural proposals: will they result in an early conference? Will they be conducive to satisfactory preparatory work? Will they facilitate the reaching of firm decisions at the conference? For that is the essence of it.

61. I hope it will be clear from what I have said that in these important matters time is not on our side. The time has come for reaching decisions. We need to reach multilateral agreement on the maximum breadth of the territorial sea and on the questions related to it, both for its own sake and because, as I suggested at the beginning, it is linked with the question of the sea-bed area. We need to reach multilateral agreement on the sea-bed régime so that the exploitation of the resources of the sea-bed can be conducted in an atmosphere of international co-operation and to the benefit of all. Our Organization stands for multilateral international co-operation: that must be our approach to the whole range of topics I have discussed. That is why we believe in the multilateral approach and why we are working towards an international conference. We must make progress and I believe we can. Our Organization does not lack critics, but, whatever the criticisms, it is widely recognized that in matters of this sort, affecting in a very practical way the well-being of mankind, the United Nations has a vital and constructive role to play. Let us not disappoint the hopes which are rightly placed in us. Let us take the tide at the flood and may it lead us to fortune.

62. Mr. RYDBECK (Sweden): It is now three years since the United Nations, thanks to the admirable initiative of Mr. Pardo of Malta, embarked on one of its grandest missions so far–to promote and create frameworks for international co-operation in the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, and to ensure the exploitation of the resources of that area for the benefit of mankind. We can still well remember the thrill and enthusiasm which this new item brought forth during our very first discussions and the grandiose vistas for new forms of international co-operation which it seemed to open up. We were once again, as earlier with the atom and more recently with outer space, on a new frontier where all possibilities for creative work stood open to us and where we might, if we wished, join in new endeavours for the enrichment and betterment of all, leaving behind the age-long quarrels of nationalism, out-moded doctrines and particular economic interests.

63. That goal certainly still remains very much alive with most of us. But it cannot be denied, I think, that our initial enthusiasm has faded somewhat in face of the difficulties and the lack of progress that have characterized our work in this field during the first three years. Obviously, this is due partly to the complexity of the questions involved, since both legally and technically we are grappling with new problems and uncharted fields of activity. Although our knowledge of the matter has increased considerably and many constructive proposals have seen daylight in the process, there are real and basic problems which we have not been able to solve and which have been very apparent for a long time now.

64. Another reason for the slow progress within the sea-bed Committee is no doubt related to the rule of consensus under which the Committee is working, which makes it possible for any member to delay decisions even in questions where the interests of the world community may be deeply involved.

65. On the crucial question of internationalization there is thus still a clear difference between those–the great

majority of countries–who would like to see an agreement soon to declare the sea-bed and the ocean floor, beyond a line still to be determined, the "common heritage of mankind", and those who, for traditional reasons of national sovereignty, have a certain hesitation about accepting this new concept because they still doubt that the idea of internationalization meets their own interests.

66. As the Swedish delegation has already stated, as early as last year, there will be no real progress on the sea-bed question until there is agreement on this basic issue. If these different positions are maintained, it will amount to a fundamental parting of ways, with ensuing differences on practically all other issues which have been in suspense for a long time. Sweden–itself a supporter of far-reaching internationalization of the sea-bed–wishes to appeal today to those who still have doubts to signal their readiness to go along with the vast majority of nations to meet the changing demands of the modern world. The sea-bed item is but one of those "futuristic" questions which, created by the rapid advance of science and technology, call for new dimensions and patterns in human thinking and in international co-operation. Not only would such co-operation be beneficial and promote international solidarity; it is, indeed, necessary if we wish to harvest the fruits of modern science and technology and to counteract the threats which they may entail. We are already in the midst of a tremendous process of change caused by modern science and technology. We have to meet its challenges today. Let us, therefore, join in constructive international co-operation and put aside partisan ideas which run counter to development and are therefore losing their meaning. Failure to act now will only make for a rude awakening in the not too distant future and will pave the way for instability and clashes between national interests. While the United Nations debates to no avail, the area of the sea-bed which might be used for international purposes is steadily shrinking because of excessive national claims. It may even be that the very principle of internationalization as such is thus slowly losing its initially self-evident character. We must stem this tragic and wholly irrational development now. Further delays in reaching an eminently political agreement will only make problems more intractable and perhaps insoluble.

67. In the lack of agreement on the pivotal question of internationalization, it is no wonder that the work of the sea-bed Committee has moved forward slowly during the past year on the question of principles, régime and machinery, although there have been some interesting proposals from States and excellent background reports from the Secretary-General. We are particularly grateful to the Secretary-General for having undertaken a new study in depth of international machinery having wide powers over the sea-bed *[A/8021, annex III]*. It has contributed considerably to our own understanding of this problem.

68. We should also like to register again in this debate our satisfaction that the First Committee has recently recommended almost unanimously to the General Assembly the acceptance of 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.

69. I should like to quote here from the Norwegian statement of 10 November 1970 on this matter. It said, *inter alia:*

> "The draft treaty would, if implemented, . . . constitute a first step towards the reservation of the sea-bed for peaceful purposes. International co-operation in the exploitation of the sea-bed should now not risk being obstructed by actual or planned deployments of weapons of mass destruction. Thus the treaty may contribute not only to arms control and disarmament but also to the project of creating an international régime for the exploitation of that part of the wealth of the sea-bed, the ocean floor and the subsoil which is in the process of being recognized as a common heritage of mankind." *[1755th meeting, para. 86.]*

The Norwegian statement went on:

> "The fact . . . that the draft treaty now also stipulates that verification may be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with its Charter gives some hope. At least this would be an acknowledgement of the principle that there ought to be an international procedure, and this acknowledgement might be of help in working out the rules and regulations for peaceful exploitation of the sea-bed and the ocean floor." *[Ibid., para. 91.]*

70. The Swedish delegation whole-heartedly subscribes to that interpretation of the draft treaty. Admittedly it is not easy to find language acceptable to all delegations on all the component parts of a declaration of principles for the peaceful uses of the sea-bed. And there is, as always in the United Nations, where so many different countries with differing approaches meet, the problem of finding a common denominator which has not become so watered down in the process of negotiation as to become almost pleonastic. My delegation still hopes that it will be possible to reach agreement on a meaningful set of principles on which we could proceed to construct a future régime and machinery.

71. We therefore very much welcome the draft principles contained in document A/C.1/L.542, now officially submitted by the Chairman of the sea-bed Committee *[1773rd meeting]*. This first child of the Committee has certainly been slow in coming, and no doubt has some warts, to use the expression of Mr. Amerasinghe. Still we hope that it will meet with wide support, so that on its ground–which, it is to be hoped, is not too shaky–we can proceed on the other complicated issues still confronting us. The Swedish delegation wishes to pay sincere tribute to Mr. Amerasinghe for his painstaking and patient efforts which have led to this result.

72. May I here, in passing, state our understanding of the complete United States draft convention on the international sea-bed area *[A/8021, annex V]*. Our first reaction was one of appreciation that the United States delegation had finally outlined, in considerable detail, its own preferences. On the Swedish side we welcome particularly the stipulation in the proposed text to the effect that the international sea-bed area begins at the 200-metre isobath.

Taken as it is by the most important State in off-shore drilling, this position must undoubtedly have a heavy impact on the further discussions regarding the borderline between national and international jurisdictions over the sea-bed. The United States proposal has since its publication met with criticism from many countries and experts, at, *inter alia,* the recent *Pacem in Maribus* Conference in Malta. If all this criticism is accurate, then obviously the United States proposal is defective. We would like to hope, however, that the United States delegation, in developing its proposal further, will take care to dispel many of the doubts that have been voiced. Among the issues which would have to be elucidated in detail, and probably amended, are those pertaining to the maximum breadth of the trusteeship area, which to us is the less acceptable the wider it is; the rights which would be guaranteed to exploiters not citizens of the coastal State—to whom we would hope no different treatment would be accorded except for very specific reasons; and the composition and powers to be allotted to the bodies of the proposed sea-bed authority. The present wording on those and other quite fundamental points does not seem satisfactory from the point of view of internationalization. We hope, however, that the United States proposal will, on these and other points, be further discussed and improved in the course of our debate.

73. In pondering the question of international machinery for the sea-bed my own delegation has begun to wonder whether in the long run we should not strive to create an international machinery which can take care of questions relating to the sea-bed and also to the high seas. The discussions here have repeatedly shown the interrelationship between the sea-bed and the superjacent waters. Biological, geological and ecological research already indicates this interdependence of the various parts of the marine ecosystem. Any boundary between those component parts will be felt increasingly artificial, fortuitous and counter-productive. The seas must be understood as a whole. That is already obvious in the case of marine pollution and the conservation of living marine resources which, in their turn, of course, depend on the uses for various purposes of the seas and the sea-bed. We hope that that interrelationship will gain increased attention as time goes by.

74. The report of the sea-bed Committee contains a useful discussion on marine pollution. It seems generally recognized that some statement should be made in the declaration of principles of the need to prevent and control pollution and that provision should be made in the international régime for adequate safeguards against pollution. It is also widely recognized that the international machinery would assume the necessary responsibilities for the prevention of pollution. While welcoming this high degree of unanimity on a most important aspect of our work we should like to ask that action in the field of marine pollution, especially in the organizational field, be taken with the 1972 United Nations Conference on the Human Environment in mind. As representatives are aware, it may well be that some of the more important action-oriented results of that Conference will be sought in the field of marine pollution. Efforts in the United Nations and elsewhere should therefore, in our opinion, be so co-ordinated as to serve as preparation for the world-wide conference.

75. One of the problems which have bedevilled our efforts since the outset is that of the boundary line to be drawn between national jurisdiction and the international area. This issue, which we have been debating endlessly without result, has now through General Assembly resolution 2574 A (XXIV) been coupled with a number of other problems on the law of the sea, such as the régime of the high seas, the breadth of the territorial sea, international straits, fisheries and conservation measures. In its reply to the Secretary-General *[see A/7925]* on the desirability of convening a general conference to review these problems, Sweden has indicated its feeling that only a carefully prepared conference dealing exclusively with some of the most urgent problems has possibilities of leading to multilateral regulations in the near future. Rapid progress is possible only if the issues are treated in manageable packages. The Swedish Government therefore considers it advisable and even necessary not to treat all the issues mentioned in the Secretary-General's note at one conference, although it is well aware that some problems are closely interrelated. We have expressed our wish to consider at an early occasion a reformulation of that part of the 1958 Geneva Convention on the Continental Shelf[2] which deals with the exploitability criterion and also questions relating to the breadth of the territorial sea.

76. We notice, however, that a great number of States have expressed themselves in favour of a more far-reaching conference, which should *inter alia* also finally adopt principles, régime and institutional arrangements for the sea-bed and ocean floor. If a decision is taken to call such a general conference, minute preparation will be necessary. It would in our view seem most appropriate to ask the sea-bed Committee to intensify its efforts to reach agreement on the general principles, the régime, international machinery and, possibly, the boundary question, whereas questions relating to the breadth of the territorial sea, international straits and fisheries should be left to a special preparatory committee. As far as pollution and conservation are concerned, we find it logical that a law of the sea conference, if it decides to take up the question of a régime and machinery for the sea-bed, should also consider pollution from sea-bed activities. The wider aspects of marine pollution, whether of land-based or sea-based origin, should be left to the 1972 Conference on the Human Environment, for the reasons I have indicated earlier. Further, if the Conference decides to take up the question of fisheries, it would likewise seem logical that it should deal with problems relating to the conservation of fish populations.

77. The Swedish delegation was among those which last year supported the draft resolution which became resolution 2574 D (XXIV) on a moratorium on national exploitation and claims in the area beyond national jurisdiction. We did so fully aware that the exact definition of the outer limit of national jurisdiction is unclear, but we were—and we remain—convinced that given the political will to abstain from unilateral action in the common interest, no great problem in adhering to this kind of

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

moratorium during the current United Nations debate would arise. A moratorium still remains desirable both in regard to claims on extended national territory–pending the outcome of a general conference on the law of the sea–and in regard to unilateral action through national exploitation in areas which are not undisputedly, with today's technology, within national jurisdiction over the continental shelf.

78. In spite of last year's resolution on a moratorium some States have made claims of jurisdiction over parts of the high seas which are obviously bound to have repercussions also in regard to claims over the sea-bed and the ocean floor. We regret those actions as contrary not only to the existing principles of international law in this field but also to the very spirit which should be at the basis of our deliberations. On that question, as on so many others which I have mentioned today, the choice is again between the anarchy of unilateral actions apt to breed rivalry and conflict and a sincere wish to exercise restraint and strive for a solution which would preserve maximum territory to the international community in the pursuance of common goals. It would, indeed, be tragic if in that choice we could not all without further delay agree on the latter course.

79. Mr. THACHER (United States of America): My delegation will study with great care the statements that have been made this morning. I wish to observe that reference has been made to the draft Convention on the international sea-bed area which the United States Government put before the sea-bed Committee on 3 August 1970 and which is contained in annex V of the Committee's report *[A/8021]* now before the General Assembly. It is not my delegation's intention to take the time of the First Committee for a detailed analysis and presentation of that draft Convention, largely because of the relatively short time which remains at the current session.

80. But I would wish, responding to the remarks made this morning by the representative of Sweden, to say that our delegation is prepared and indeed would welcome the opportunity to talk informally in any forum which is convenient to other delegations and in whatever detail is desired, with regard to the draft Convention.

81. I should also like to express briefly my delegation's surprise that at this very early stage in the Committee's general debate we have already heard one delegation express the view that the draft resolution, A/C.1/L.536, which the United States has put before this Committee is unacceptable–if I correctly understood the interpretation.

82. As we indicated in our statement yesterday *[1774th meeting]*, we are prepared at an appropriate stage in the debate of this Committee to present this draft resolution formally and to explain exactly what is intended by it. And I believe it was also made clear in our statement yesterday that the draft resolution remains open for further revision and modification in the light of comments which we hope to receive.

83. I believe that in finding this draft resolution, as I understood him to say, "unacceptable", the thought was expressed that what is unacceptable is for the international community to be put into a straitjacket–I think that that was the interpretation I heard–consisting of a specific time-table with specific dates by which time the international community should reach international agreement.

84. I think that one has to consider the alternative, namely, that if we fail to apply the pressures of a deadline upon ourselves, the situation will develop along the lines pointed out by the representative of the United Kingdom, with the unavoidable result that the area about which there should be international agreement–the geographic area–would have been reduced very considerably as a result of the unilateral claims of the coastal States.

85. Mr. ZEGERS (Chile) *(interpretation from Spanish)*: The representative of the United States referred to the statement of a delegation; since that delegation is the delegation of Chile, I feel it appropriate to take up what he has just said.

86. If in my statement I said that I felt that the proposal of the United States was unacceptable and if I passed judgement on it, it was because we are discussing the subject of a conference on the law of the sea and the delegation of the United States saw fit to submit a proposal on that subject.

87. My delegation understands that the reason for the general debate is to pass judgement on this subject and also on the draft resolutions that have been submitted. When voicing this view, my delegation was not moved by any animosity towards the delegation of the United States. The judgement I passed was based upon the replies from sovereign States which are seated around this table to the Secretary-General. I said that in the light of those answers, in the light of what was agreed to at the last session of the General Assembly *[resolution 2574 A (XXIV)]* and in the light of what had been agreed to at the international conferences of Lusaka and Lima, the method proposed by the delegation of the United States seemed unacceptable and I must stand by that view.

88. With regard to the reference to what I termed the "straitjacket"–exactly as it was interpreted–I gave my views regarding the dates of the conference. I said that from studying the replies to the Secretary-General we could gather that a number of delegations–I would mention the names of Australia and Mexico for the moment because their names are uppermost in my mind–spoke of the need, carefully and methodically to prepare the conference and to prepare it so realistically as to ensure good results and not repeat the failure of the second United Nations Conference on the Law of the Sea, held in 1960. Furthermore, many replies, including that of my own country, have pointed out that a conference should be held at some early date.

89. Then I asked myself how we could reconcile those two concepts and suggested that we set target dates for the holding of this conference on the law of the sea. I think that that would be an adequate and a compromise formula.

90. I have expressed these ideas in a very general fashion. I have referred to the subject of the conference on the law of the sea, and if I spoke specifically of the draft resolutions submitted by the United States and Brazil and Trinidad and

Tobago, it was because these are the only two draft resolutions that we have before us.

91. Mr. YANGO (Philippines): As our general debate on item 25 continues and as I listen to the interventions just made by the representatives of the United States and Chile, I should like to ask for a clarification from the Chair.

92. As I understand it, we are in the very early part of our debate. That being so, the representative of the United States has said that the draft resolution it presented should not have been commented upon. The reason for my intervention is this: as this is still the early part of the debate, are we to take it that we cannot comment on the draft resolutions presented and which are before us?

93. The CHAIRMAN *(interpretation from Spanish):* As I see it the situation is very clear. At the 1773rd meeting, if I recall correctly, the Committee decided to hold a joint general discussion on the four subitems of item 25, and I understand that in their statements in the general debate delegations can refer to all of these subjects and also to the draft resolutions that have been submitted or may be submitted, as well as any amendments to them. It is obvious that we gain much by this—and the general debate is intended for this—to hear the views of the delegations on the draft resolutions as well as on the subjects themselves. That is precisely the reason for the general debate and the interest it offers. So those delegations that refer to the draft resolutions already submitted are perfectly in order and the same applies to the draft resolutions that may be submitted in the future.

94. I wish to inform the Committee regarding its programme of work. Unfortunately, we have no speakers on the list to participate in the general debate this afternoon. Although I am sorry to do so, I shall have to cancel this afternoon's meeting. I do not know if everyone is as sorry as I am, but I have no alternative.

95. On Monday, 30 November, the Committee will hold two meetings. At the morning meeting, according to what was decided at our 1772nd meeting the Committee will consider and vote on the three draft resolutions on item 27, "Question of General and Complete Disarmament" which are still pending. When we have concluded consideration of the three draft resolutions and thereby item 27, the Committee will resume the general debate on item 25.

96. Finally, I should like to recall that we had planned on concluding the debate on item 25 by Friday of next week, 4 December. Therefore, perhaps we might be well advised to take an early decision, perhaps by Monday, on when to close the list of speakers in the general debate on this item. I am not going to make any formal proposal at the moment, but I wish to inform you that I intend to raise the question at one of the meetings on Monday.

The meeting rose at 12.40 p.m.

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