

United Nations  
**GENERAL  
ASSEMBLY**

**TWENTY-EIGHTH SESSION**

**Official Records**



**FIRST COMMITTEE, 1931st  
MEETING**

*Friday, 19 October 1973,  
at 3 p.m.*

**NEW YORK**

**CONTENTS**

**Agenda item 40 (continued):**

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 use of their resources in the interests of mankind, and convening of a conference on the law of the sea: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction . . . . .

*Page*

71

**Chairman: Mr. Otto R. BORCH (Denmark).**

**AGENDA ITEM 40 (continued)**

**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 use of their resources in the interests of mankind, and convening of a conference on the law of the sea: report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction (A/9021, A/C.1/1035, A/C.1/L.646)**

1. Mr. HARMON (Liberia): Mr. Chairman, since the Liberian delegation is speaking for the first time in this Committee and despite your observation last evening that some of us have not abided by your wishes with regard to offering congratulations to you and your colleagues, I must emphasize that we believe in giving deference to whom it is due. For that reason, please accept our sincere congratulations to you and your colleagues on your well-deserved election and our pledge to you and the other officers of the Committee of our fullest co-operation in helping to make this session a memorable one.

2. In mankind's history, three efforts have been made by the international community to codify international law in regard to the sea: the first was the Conference for the Codification of International Law, held at The Hague in 1930, and the second and third were the United Nations Conferences on the Law of the Sea, held at Geneva in 1958 and 1960. The sea being, therefore, the common highway of mankind, it is natural that the international community should continue to have an abiding interest in regulating its use. With that as a background, my delegation has followed and participated with deep interest in the report of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction [A/9021].

3. Some delegations have expressed misgivings that in the present circumstances there could possibly be serious

doubts about the success of the Third United Nations Conference on the Law of the Sea thereby delaying an early solution of this major problem. Even with no decision on major issues—such as the question of the breadth of the territorial sea, passage of vessels through the straits used for international navigation, fishery and so on—it is the strong conviction of my delegation that, with the preparatory work so commendably done by Mr. Amerasinghe and his Committee, a conference committed to beginning the substantive work and undertaking meaningful negotiations is highly recommended, and we therefore support this aim.

4. The informal draft resolution that has been circulated by Mr. Amerasinghe provides some basis for further study and revision. However, mere technicalities would unnecessarily delay settlement of this all-important question. What we should seek to do at this session is direct the General Committee to co-ordinate the various matters that have been presented and come up with some rules by which we could convene the Conference.

5. On behalf of my delegation, I fully endorse the statements of many of my colleagues who have spoken before me. I wish to conclude, however, by saying that a conference, in my delegation's opinion, is of the utmost importance and that a firm decision should be taken at this twenty-eighth session of the General Assembly authorizing the convening of such a conference; the details can be left to the General Committee.

6. The question of voting or achieving consensus seems rather secondary; but, in any case, since it is of great interest and importance to all States, a simple majority vote at least should be required.

7. On the question of procedure, my delegation also strongly urges that the Conference procedure should be such as to include all States to ensure unanimity or the widest support possible.

8. History and time compel us to move forward with speed, genuine understanding and co-operation. It is essential, therefore, that this Committee and the organizational session of the Conference on the Law of the Sea should take the required steps so that the Conference can reasonably and as speedily as possible initiate and complete its work.

9. Mr. VELLA (Malta): Mr. Chairman, my delegation congratulates you on your election to guide this Committee. We also congratulate the other officers of the Committee.

10. My delegation would like to make a few comments on the informal draft resolution that has been circulated on

the initiative of Mr. Amerasinghe, an initiative for which my delegation is very grateful, as well as on the Conference itself, which we fervently hope will be called before this session of the General Assembly is over

11. My delegation believes that the informal draft resolution before us provides us with a good, solid basis for immediate action by this Committee. It would seem to us that it expresses the view of a large majority in this Committee, in that it addresses itself directly to what should be the next stage of our work—a conference on the law of the sea that would secure, in the future, harmony, prosperity and stability in an area that is increasingly becoming an arena of dissent. It is now time to call this conference, without letting ourselves be hindered by any comparison between the preparatory results of the International Law Commission prior to the Conference in 1958 and those of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction before the next Conference on the Law of the Sea. To try to compare these results is to try to compare what is, in our view, not comparable. Considering the differences in the nature of the two preparatory bodies, as well as the nature of their work and the changes that have occurred in the world situation since 1958, it is not surprising that they did not arrive at the same results. Indeed, it would have been rather surprising had they done so. From my delegation's point of view, there are other aspects of the informal draft resolution to which we would lend our support. In this connexion, may I refer to the agenda of the Conference. My delegation has always held the view that the agenda should be as wide as possible, so as to give participants in the Conference a full opportunity for a review of the law of the sea. We consider that there is bond of genesis between paragraph 2 of General Assembly resolution 2750 C (XXV) and the list of subjects and issues relating to the law of the sea approved by the sea-bed Committee on 18 August 1972.<sup>1</sup> We therefore welcome the fact that this is adequately reflected in operative paragraph 3 of the informal draft dated 17 October 1973.

12. On the other hand, we are not sure that the dropping of the words "and any other instruments deemed appropriate" has been an improvement. I am no lawyer but I wonder would not the words "a convention or conventions" provide for the necessary legal instruments that we might need in the future? Can we, for example, describe a protocol as a convention? If not, are we covered by the wording of paragraph 3 to have a protocol if it is found to be necessary?

13. Regarding the dates and duration of the Conference, my delegation favours the holding of one session of from 8 to 10 weeks, preferably between June and August. We realize that the holding of only one session rather than two would necessarily have to be compensated for by a longer duration, since otherwise it would not be possible to cover all our work. But one must not overlook the fact that too long a period could stretch the capabilities of small delegations to a point where it would be impossible for them to follow, much less contribute to, the work of the Conference. We were grateful for the kind gesture of

Mr. Amerasinghe, the Chairman of the sea-bed Committee, when he decided to give a long weekend, intended as a rest for members of the Committee, last August, and we also appreciate his suggestion that the same could be done next year. But I think that small delegations should not be under any illusion on this matter. Last year such a break meant only that many of us simply did not have to go to the *Palais des Nations*, not that we could go sailing on the inviting lake.

14. In the past my delegation has not commented on the venue of our meetings, chosen by the General Assembly. I do not intend to do so now, except to say that for us it would make it relatively easier and less expensive if we met either in Geneva or in New York, for the simple reason that we have offices in both cities. But we shall follow the will of the majority in this matter.

15. My delegation is also in agreement with paragraph 10 of the informal draft—again I am referring to the draft of 17 October—which requests the Secretary-General to prepare and circulate draft rules of procedure in time for consideration and approval by the Conference. We think that this is essentially a technical task, at least in its drafting stages, and that only the Secretary-General has the means at his disposal to provide us with such a draft in the time available. In any case, the final review of and decisions on that draft will be made by the Conference and, therefore, we think it would be more appropriate to discuss the decision-making process at the time that the rules of procedure are being considered by the Conference.

16. We have heard many views here on how and when voting should take place, but it seems to us that many, in their eagerness to provide the solution to problems by cutting the Gordian Knot, have lost sight of the fact that we have been talking of package deals since the inception of our discussions three years ago. My delegation still believes that, while it might not be possible to avoid absolutely recourse to voting, we might help ourselves in our endeavours if we were to achieve a radical change of approach, not simply in our words but also in our minds. Many words have been spoken about the interconnexion of the law of the sea issues. Indeed, there is such an interconnexion and it is our belief that the more we realize it, the more the give-and-take process can be developed, with less and less necessity to proceed to voting. In that connexion, the necessity to provide a precisely worded gentlemen's agreement on the basis of the suggestion made by Mr. Amerasinghe assumes significant importance.

17. Other points in the informal draft resolution have been favourably commented upon by other speakers and I shall not, therefore, take up the time of the Committee by mentioning them.

18. I should like now to make some comments on the Conference itself. At the 1927th meeting, my delegation listened with great attention and interest to the words of the representative of Mexico, Mr. Castañeda, on the need for the Conference to establish effective negotiating functions. My delegation cannot but agree whole-heartedly with him on that matter, since we believe it is absolutely necessary for the Conference to develop those functions, unless we want to see it go the way of the sea-bed

<sup>1</sup> See *Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21*, para. 23.

Committee. However, my delegation has noted that while many are inclined to agree that there was a failure of negotiations in the sea-bed Committee, few, if any, have posed questions to probe the sources of that situation with a view to our helping ourselves from carrying forward to the Conference those very causes, the results of which we all ostensibly wish to avoid.

19. An assessment of the working methods of the sea-bed Committee might be viewed by some as a futile exercise. They would argue that, rather than dwelling on the past, what we need now is to turn a new page and look to the future with confidence. Others, among which my delegation would be numbered, might view it as a post-mortem; in other words, a fruitful exercise which, although incapable of giving back life to the object under examination, could very well prevent the death of others.

20. Unfortunately, we do not have the time to engage in such an exercise, though we do have some time left to ponder about it. With that in mind, I put the following questions. Did the sea-bed Committee fail in its negotiating function because of its very structure? Was it because representatives, leaning heavily on the preparatory nature of the Committee, considered it simply a pre-match practice session, knowing full well that scoring time would come at the Conference? Was there something intrinsically wrong in the division of the mandate among the three sub-committees? Was the cause any one of those questions at all, or could it be a combination of all three?

21. A categorical reply to any of those questions may not be possible. Indeed, it may not even exist. But my delegation has always believed that since it is already a foregone conclusion that whatever we agree upon will be in the nature of a package deal, we will not make much progress unless we put ourselves in a position mentally to grasp adequately the entire contents of the package, and therefore the division of our labours should be such as to put us in that position.

22. In that connexion, it might be interesting to consider the work of Sub-Committee I. It is the view of many that the sea-bed Committee made more progress on the international régime and machinery simply because more time was devoted to those issues—six years, to be exact. My delegation firmly believes that, while the time factor is not in any way to be played down, the reason for that progress lies mainly in the fact that representatives, because of the very organization of work, had that universality of grasp of the subject under discussion which made it possible for them to see not simply loose ends leading nowhere but an integrated idea, a rounded concept, where one could see—even if perhaps very vaguely—a point of departure and a point of arrival.

23. Unfortunately, that cannot be said of the organization of work of the other sub-committees. In the past, my delegation has had occasion to comment on the contradiction between the comprehensive approach that many representatives seem to favour and the practical means we devised for ourselves leading, in our opinion, in an opposite direction. What we consider rather sad at this point is the firm intent of members to carry forward to the Conference an arrangement which has proved itself bankrupt of results.

And why, may I ask? Not because it is logical, not because it holds any promise, but because it would be extremely painful to disturb an arrangement which was arrived at after great, laborious efforts. It is true that the arrangement was arrived at after laborious efforts, and having been a witness to those efforts I would be the last to deny that such are the facts. But we would have thought that while a revision of that arrangement would perhaps not have been advisable for the sea-bed Committee, it would have been perfectly legitimate for the General Assembly or the Conference itself to take up that revision now.

24. If, after proper examination, we felt—as I am sure we would—that changes of structure, outlook and division of labour were needed, now, before the Conference meets, was the moment in history when those changes should have been attempted. When the Conference convenes with an inherited organization such as that we have so far developed, it will be impossible to change our ways, just as it was impossible to change them in the sea-bed Committee once agreement on the original arrangement had been reached.

25. In conclusion, may I say that in spite of the prevailing attitude of “not rocking the boat”, my delegation will never abandon hope, and we look forward with optimism to the negotiating machinery the Conference will be creating, and also look forward to making good use of that machinery.

26. Mr. JAMAL (Qatar): Mr. Chairman, since this is the first time my delegation has spoken, allow me to extend to you and to the other officers of the Committee my sincere congratulations upon your election to your respective posts. I am confident that under your wise guidance and able leadership our Committee will achieve tangible success.

27. Our Committee is now concerned with a question to which my delegation attaches great importance. Although my delegation is not a member of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, it has been following closely and with great interest the progress and the pace with which the Committee has been advancing towards fulfilling its complex and difficult task. The significance of this issue emanates from the fact that it touches upon two aspects on which the world family focuses special attention—namely, peace and development.

28. My country, as a developing country, is convinced that no other issues are more worthy of priority consideration by the United Nations than issues relating to peace and development. The *Ad Hoc* Committee, which was established six years ago under resolution 2340 (XXII), was entrusted with the task of finding ways and means for the exploration, exploitation and use of the sea-bed and ocean floor beyond the limits of national jurisdiction for the benefit of mankind, taking into consideration the special needs of the developing countries.

29. My delegation cannot fail to express its sincere thanks and appreciation to Mr. Amerasinghe, Chairman of the sea-bed Committee, who demonstrated sagacity and skill in the manner in which he successfully steered the Committee's deliberations over the last six years. Our thanks go also to Mr. Vella, Rapporteur of the sea-bed Committee,

who ably introduced the report of that Committee in document A/9021 at the 1924th meeting.

30. It is not my intention at this stage to enter into the diverse issues relating to the item before us. However, with your permission I should like to voice my delegation's views regarding some basic aspects of the peaceful uses of the area for the benefit of mankind.

31. It is regrettable that the question of the law of the sea is a frontier which has not yet been tackled effectively by the Geneva Conventions of 1958. Those relating to the territorial sea and the continental shelf, particularly, have added complexities rather than helped to resolve conflicts or harmonize attitudes. Hence the need for a new international effort, and we are happy to note that the Maltese delegation took the initiative of bringing this question to the forum of the United Nations.

32. We sincerely hope that the forthcoming Conference on the Law of the Sea will help bridge some gaps in international law as well as remove difficult obstacles which stand in the path of international co-operation. We firmly believe that this is the only practical and useful approach and we urge that all nations, large and small, developed and developing, coastal and land-locked, work in a spirit of accommodation and compromise lest the world encounter frictions that could lead to a threat to world peace and development. We are all aware of the conflicts and frictions that have arisen in the last few years as a result of the uncertainties and obscurities in the international law of the sea.

33. We fully share the following views in this regard expressed by the Secretary-General in the introduction to his report:

"In another field of vital international concern, the oceans and the sea-bed, a large-scale effort is under way to combine such action with the safeguarding of a considerable diversity of national interests, an undertaking which involves adaptation of the law of the sea to meet new realities. The United Nations, as a centre for harmonizing the actions of nations, has an essential interest in this process and will no doubt continue to play a major part in bringing this undertaking to a successful conclusion. . . . However, the potential which this domain holds for new disputes and conflicts, if international agreement is not reached or is too long delayed, is a factor to be given equal weight in an Organization devoted to peaceful and friendly relations among States."<sup>2</sup>

34. My delegation, while unreservedly agreeing to the necessity of holding the Conference on the Law of the Sea, sincerely hopes that that Conference will move in a more positive and effective direction, exploring all avenues of agreement in such a manner as to live up to the aspirations of the peoples of the world, particularly those of developing nations.

35. Mr. UPADHYAY (Nepal): Mr. Chairman, in deference to your wishes, my delegation will refrain from expressing congratulations to you and the other officers of the Committee. I would, however, like to express the deep

appreciation of my delegation for the excellent leadership which you have been providing to this Committee.

36. My delegation has been associated with the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction since 1971 and we have taken an active interest in the work of the Committee for the reason, among others, that we represent in the Committee a special group of interests that have a great stake in the Third United Nations Conference on the Law of the Sea.

37. I have heard with great attention the views expressed by various delegations during the last four days. Those who have expressed the opinion that adequate preparation has not been made have put forward certain reasons which are not altogether baseless. Many vital questions were discussed. Some found expression in the form of a few draft articles and alternate articles ranging in number from two to many. Yet many vital questions could not be taken up for discussion.

38. My delegation wishes to point out that among the many important questions that could not be taken up for discussion, one was the rights and interests of the land-locked countries. However, this does not mean that my delegation does not appreciate the work done by the Committee. In our opinion, the Committee did as much as was possible within its mandate and under the rules of procedure it had to follow. We greatly appreciate the untiring leadership provided to the Committee by my colleague Mr. Amerasinghe and his able colleagues in the Bureau. Mr. Amerasinghe always proved a dynamic Chairman who applied his personal initiative and influence during many moments of deadlock. The Committee will also remember the efforts of Mr. Yango of the Philippines, who was the Chairman of the Group of 56. Without his relentless efforts, combined with those of the Chairman of the Committee, the list of issues and subjects could not have been finalized.

39. What I mean to emphasize is that many vital issues remain to be discussed while the discussion of many others has gone as far as it could go within the limitations of the Committee. So, while it does not make us so pessimistic as to demand the postponement of the Conference, we cannot overlook the necessity and importance of certain preparatory work to be undertaken by the Conference.

40. My delegation appreciates the suggestion made by the Ambassador of Pakistan at the 1928th meeting that the first few weeks should be devoted to preparatory meetings and the rest of it to substantive work.

41. Having those things in mind, my delegation has no strong feelings against holding two sessions, one of four weeks in New York and the other of eight weeks, with the first to be devoted to hearing the views of all the new participants who were not able to take part in the work of the sea-bed Committee, as well as to discussing other issues which could not be taken up in the Committee. Thus the eight-week session could become a meaningful substantive session. However, if there is a consensus on having only one session of 10 weeks, then the first three weeks could be devoted to preparatory work and the rest to substantive work.

<sup>2</sup> *Ibid.*, Twenty-eighth Session, Supplement No. 1A, sect. VIII.

42. My delegation welcomes the informal resolution submitted by the Chairman of the sea-bed Committee. We welcome the idea of convening the inaugural session this year, preferably starting from 26 November. We support the idea of a substantive session to start in 1974, bearing in mind what I urged a few moments ago so that some time could be devoted to preparatory work.

43. Having heard the representative of Chile [*1927th meeting*] concerning his country's inability to be host to the Conference, and taking into consideration General Assembly resolution 3029 A (XXVII), paragraph 4, which states:

“Decides to convene the second session of the Conference, for the purpose of dealing with substantive work, at Santiago, Chile, for a period of eight weeks in April and May 1974 and such subsequent sessions, if necessary, as may be decided by the Conference and approved by the General Assembly, bearing in mind that the Government of Austria has offered Vienna as a site for the Conference for the succeeding year;”

we do not, if the Government of Austria expresses its willingness to be host to the Conference in Vienna, have to look for any other site for the session in 1974. On the whole, we support the informal draft resolution of the Chairman of the sea-bed Committee.

44. Much has been said about the success of the Conference. All of us are interested not only in the convening of the Conference but also, and mainly, in its success. I agree with my friend, Mr. Njenga of Kenya, that the decision of the Conference should not be adopted in a way that gives rise to the “tyranny of the majority” or the “veto of a minority”. [*1929th meeting, para. 50.*]

45. Before concluding, I should like to quote from two statements which, taken properly into consideration, will have a great bearing on the success of the Conference.

46. First I shall quote the representative of Peru, Mr. Arias Schreiber, who said:

“... it is high time for the aspirations to development and welfare of the most needy peoples—and not only those of the most able or wealthy peoples—to be met and satisfied in order to put an end to the system of exploitation and injustice of which those with less economic resources are the victims. Their lack of economic resources makes them no less respectable or human than the citizens of the more materially developed countries, who in some cases it seems are spiritually underdeveloped because they think only of their own prosperity even at the expense of frustrating the rest.” [*1924th meeting, para. 69.*]

47. Secondly, the Chairman of the sea-bed Committee, speaking in the general debate in his capacity as the leader of his delegation, stated:

“Any law or custom governing the conduct of nations in relations with one another must be based on principles

of equity and international social justice. If a genuine and durable reform of the law of nations, whether it be in regard to the law of the sea, or other aspects of international law, is to be achieved, there has to be a willingness on the part of the powerful and affluent to accommodate the interests and aspirations of the less privileged nations of the world. A law which will ensure order as well as justice must be free from extravagance and must take into special consideration the interests of the land-locked countries, if they are to be treated as equal partners with an equal right to the common heritage of mankind.” [*2145th plenary meeting, para. 178.*]

48. The CHAIRMAN: There are no further speakers for this afternoon's meeting.

49. Before we adjourn, may I say that the items on disarmament will be taken up for discussion, as scheduled, on Tuesday morning at 10.30.

50. Mr. SPÁČIL (Czechoslovakia): Mr. Chairman, I should like to inquire about your plans concerning the winding up of the present item. Are we expected to complete our work on it on Monday afternoon, or will another day be allocated to it in the middle of next week?

51. The CHAIRMAN: I was, in fact, going on to deal with that point. It had, of course, been my hope that we could complete the discussion of item 40, concerning the sea-bed, by Monday afternoon or Monday night. But, since the draft resolution has not yet been introduced, we may have to prepare for the eventuality that it will not be possible to conclude our deliberations on the item on Monday. I would add that I have not completely given up hope since, after all, there remain both Saturday and Sunday, and also most of Monday, in which to come to agreement. If such agreement is reached I think that—as the main context of the draft resolution is so well known—if it were the general wish of the Committee we could bring the matter to a vote. If, however, that were not possible—and there, certainly, one would also have to look carefully at the views of a reasonable minority which might wish the vote to be postponed—I feel that it would be better to break off the debate on item 40 in order to introduce the disarmament subjects on Tuesday. We could continue working on them for a day or so until the consultative group had agreed on a text and was ready to meet with the Committee again, at which time we could break off the disarmament discussions for one or two meetings, or possibly three if necessary, and vote on the sea-bed item then.

52. That means that, while I hope that those who are dealing with item 40 will still have a sense of great urgency concerning their work, it is not, of course, the intention of the Chair to steamroll any member into having to take a position without due warning. I hope that that is a satisfactory explanation.

*The meeting rose at 4.00 p.m.*