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COMMITTEE ON THE PEACEFUL USES OF
THE SEA-BED AND THE OCEAN FLOOR
BEYOND THE LIMITS OF NATIONAL
JURISDICTION

Economic and Technical Sub-Committee

Statement by the Chairman at the 35th meeting of
the Sub-Committee on 11 August 1970

When, three years ago, the United Nations turned its attention for the first time to the problem of the sea-bed, the delegations represented in the Ad Hoc Committee had scarcely any documents at their disposal. Their first act was to request the Secretariat to prepare a study on some particular aspect of the question, or a report on some particular problem.

At present the Committee appears to be somewhat overwhelmed by the number of its documents - which, be it said, are admirable documents, prepared by the Secretary-General and his services and by various delegations. It would not be surprising, therefore, if many delegations no longer had much time to study all the documents available to them, still less to assimilate the far-reaching questions dealt with in the documents.

Moreover, at this stage of the Committee's work all efforts are being concentrated on drafting a complete and balanced declaration of principles and on study of the international machinery, questions for which the General Assembly has ordered priority.

As Chairman of the Economic and Technical Sub-Committee, I am aware of these facts. However, they are not a sufficient reason why we should forget that, pursuant to operative paragraph 6 of General Assembly resolution 2574 B (XXIV), the Committee has been requested to formulate recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of "this area", i.e. the sea-bed and ocean floor and their sub-soil beyond the limits of national jurisdiction, in the context of the régime to be set up.

Our Sub-Committee has already made one attempt, at its March session, to fulfil this mandate. Several delegations helped to compile a list of economic and technical questions relating to the exploration of this area and the exploitation of its mineral resources. In its interim report, adopted unanimously, the Sub-Committee announced its intention to study further systematically and identify the most suitable alternative solutions to the issues raised. Paragraph 11 of the interim report goes on to state: "It was felt that this study should be made with a view to incorporating the most suitable alternative solutions in a draft resolution to be recommended by the Committee to the General Assembly. Such a draft resolution might, inter alia, request the Committee to pursue its consideration with a view to formulating acceptable draft provisions for the agreement establishing an international régime in the area".

1. Is it too early to formulate a few fundamental recommendations on the régime of exploitation? It is certain that so far no agreement has emerged on a declaration of principles, the essential legal substructure of the régime of exploitation which our Sub-Committee is instructed to study. However, the consultations which took place three years ago in the Committee and in the General Assembly seem to have led to a fairly broad area of common agreement on a large number of principles, even though their final drafting is still under study.

If, therefore, our study must necessarily apply principles on which the Committee is still seeking agreement, it does not follow that this Sub-Committee should refrain from pursuing its work until the declaration of principles has been drafted. This, in all likelihood, was the view taken by the General Assembly when it gave the Committee the explicit mandate to "formulate recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of this area".

2. These conditions and these rules must, under the terms of the aforementioned General Assembly resolution, be formulated "in the context of the régime to be set up". Presumably these rules will form part of the régime, since a régime is nothing more than a set of rules which, in the present case, will apply to the utilization of the international area of the sea-bed and ocean floor. We know, moreover, that the General Assembly has requested the Committee to submit to it a report on the international machinery - the organ that might have to be created to apply the régime. According to

one fairly widely held view, this international mechanism will in fact form an integral part of the régime. This is an additional reason why the Sub-Committee should proceed without delay to study the economic and technical conditions and the rules for exploitation, so as to arrive as early as possible at generally-acceptable recommendations on these questions.

3. Lastly, it is understood that the Sub-Committee will have to be satisfied with a somewhat superficial examination of the questions raised. The priorities established by the General Assembly itself, and the difficulties so far encountered in the drafting of a comprehensive and balanced declaration of principles, hardly leave any other choice; because it will be necessary at the present session to leave the plenary Committee, and especially the Legal Sub-Committee, all the time they need to carry out their instructions.

There can be no justification, however, for postponing from session to session a thorough consideration of the matters entrusted to the Sub-Committee and negotiation to reconcile differences in the approach to them. After two years of work this Committee can no longer reasonably invoke the novelty of the subject and the complexity of its problems as a pretext for eluding an attempt to solve them. It was precisely to make that attempt that the Committee was set up by the General Assembly. It was also for the purpose of instructing specialists to study technical and economic questions that the main Committee set up this Sub-Committee. The Sub-Committee cannot therefore repudiate its mandate or evade its responsibilities.

At all events, it should abstain from examining matters not within its competence.

1. The question arises with regard to two documents at present before the Committee: is it likely that the Committee's purpose will be served if we examine them? Will they enable it to fulfil the mandate given it when the Chairman of the Committee, Mr. Amerasingh, allocated the Sub-Committee their tasks? The first document is the Secretary-General's report on marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of what I should call the "international zone of the sea-bed" (A/7924). The Secretary-General mentions in paragraph 6 of the report the very little practical experience of pollution arising from such activities. "In view of this lack of practical experience" - he explains -

"the present paper can provide only a tentative outline of the problems which may arise from future exploration and exploitation of mineral resources beyond the limits of national jurisdiction as far as the economic, scientific and technical aspects are concerned. Accordingly, emphasis has been placed on the legal aspects which will have to be taken into consideration in the elaboration of the principles underlying possible future international agreements for the area concerned". While the prevention of marine pollution will certainly be one of the important functions of the future régime, and while some aspects of the subject undoubtedly come within the competence of the Economic and Technical Sub-Committee, it does not seem that the Secretary-General's report can usefully be studied in detail by our Sub-Committee. It would be better to await the additional report which the Secretary-General has said he will issue, pursuant to resolution 2566 (XXIV) and in which he intends to expand the present study.

2. There is a second document prepared by the Secretariat in accordance with a decision taken by the Sub-Committee. This is a "preliminary note" entitled "Possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction". This study deals with a number of purely economic questions. Some examples are an expansion of world mineral resources, the stability of raw-material markets, the multiplier effects on the land based supplying, processing and refining industries likely to be set up as a result of work on the sea-bed. The study also deals with technical aspects, and in particular the technological "spill-over" which might be expected from the development of methods for sea-bed mineral exploration and exploitation. The distribution of financial proceeds is certainly a complex question which will have to be decided at the political level after study by experts, and ought therefore perhaps to be referred to the main Committee.

3. The main Committee has already decided to undertake a preliminary study of the report on international machinery and to refer to the proper Sub-Committees any particular matters which may require more detailed examination. Subject to any decisions which the main Committee may take in this respect, I would suggest that we concentrate at any further meetings of our Sub-Committee during the present session on a systematic study of the most appropriate methods to solve the problems listed in March. Such a

study might be undertaken in the light especially of the excellent working papers submitted by a number of delegations both in March and at the present session. It might produce some recommendations which, while no doubt still very general, should nevertheless after adoption by the main Committee provide the General Assembly with adequate guide-lines. Allow me to repeat here the requirements which such recommendations ought to meet. In the statement I made on 9 March I specified that they should be within the competence of the Economic and Technical Sub-Committee, - in other words, that they should concern the tasks allocated to it by the Chairman of our Committee. I added that they should command the support of all delegations, or should at least not be disputed by any delegation, if they are not to be meaningless. Is it possible to devise recommendations which will meet these two requirements? The General Assembly, I must remind you, has asked us to do so. I am quite sure that the members of this Sub-Committee will wish to do their utmost not to disappoint the hopes that have been placed in them.