

The Seabed Question in Context: One of Many Issues Massing for the 1973 Conference

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When the enlarged United Nations Seabed Committee succeeded in organizing itself in Geneva on March 12, 1971, a message was read from the United Nations Secretary General: "According to most scientists," he said, "life was born in the oceans. Perhaps our water masses will repeat this miracle and inspire new forms of political cooperation on earth: unscarred and undivided by the wars of the past, our seas and oceans provide an uninhibited view of what joint endeavors among nations, political systems and various forms of inventiveness and enterprise can be devised. By declaring the seas and oceans to be the common heritage of mankind, the General Assembly has taken, in my view, a great historical decision."

The fact that the enlarged Seabed Committee convening in Geneva on March 1 finally organized itself on March 12 is the result of the amazing evolution in the functions of this Committee assigned to it by the General Assembly.

It will be remembered that the permanent Seabed Committee met in Geneva in August, 1970 with a mandate from the 24th General

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Assembly to present to the 25th General Assembly a set of principles which can form the basis for the regime of the seabed and the machinery to accompany it. The Committee adjourned on August 27 having failed to agree. The hope was expressed that the chairman, Mr. Amerasinghe, would convene the Committee on the eve of the General Assembly to make one last effort to get an agreement on a set of principles.

The Committee met on the eve of the General Assembly and all members but two, the Soviet Union and Bulgaria, agreed on a set of principles. At this point the Chairman swept away the principle of consensus which had guided their meetings so far and reported the principles to the General Assembly as having been adopted by his Committee. This was a very important breakthrough.

Fifteen principles were adopted. They were reviewed elsewhere in this issue of the *Law Review*. The first principle, which will condition most of the deliberations of the next two years reads: The seabed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as the resources of the area, are the common heritage of mankind.

The General Assembly then surprised many people, including its own members, with the ease with which it turned to an expansion of the program for the sea. It decided to convene in 1973 a conference on the law of the sea.

One of the major issues before the General Assembly was the breadth of the agenda for the conference. The developing states felt that the maritime powers wished too limited a scope for the conference. The agenda, as finally adopted, includes the international regime and machinery for the seabed and the ocean floor. It includes such related issues as the width of the territorial sea, the connection of the international straits and waterways, the preservation and scientific research and the problem of fishing and the conservation of the living resources of the high seas. If the statesmen approach the 1973 conference with principles and ideals, the result could be that the vast area of the seabed and the high seas could be administered as the common heritage of mankind. It would extend the principles of world government over a great unclaimed area which is more than half of the earth.

The Assembly faced the problem as to what machinery should be used in preparation for 1973. It was decided that the permanent Seabed Committee should be expanded and continued even under the same name to undertake the enlarged task in preparation for

the 1973 conference. It was decided to enlarge the Committee from 42 to 86 members. Indeed, by this time everyone wanted to be in the act and there was danger that it would be necessary to appoint a committee of the whole. But finally there was agreement on 86 members.

Mr. Amerasinghe called the Committee to meet February 18 in the hope that some organization matters could be taken care of so the Committee could meet on March 1 and move to substantive issues quickly. However, many of the members of the Committee pointed out that since the body had more than doubled in size over half of the members had never participated in the organization. They insisted on electing the chairman of the over-all committee, and determining what would be the subcommittees. They assured Mr. Amerasinghe that they wanted to re-elect him as Chairman but they wanted to have an election. They were unable to agree on the number of subcommittees to be appointed. Consequently, the body moved to Geneva for a meeting on March 1 without having been organized. The time from March 1 to March 12 was consumed with informal sessions. Hence the reading of the Secretary-General's message when the Committee was finally organized.

Mr. Shirley Amerasinghe was elected Chairman, as expected, and Mr. Vella was Rapporteur. It was agreed that there would be three subcommittees.

Sub-Committee I really inherits the task of the original Committee on the Seabed. It is to prepare draft treaty articles including the international regime. It is to take into account the equitable sharing of the resources and the benefits to be derived and is to keep in mind the special interests and needs of the developing countries, whether coastal or land-locked. A problem that had been worrying some of the developing States, the possibility of competition between raw materials now being produced on land and similar raw materials from the seabed, will be dealt with by the First Committee. The Chairman pointed out that the question of recommendation concerning the precise definition of the area (beyond the limits of national jurisdiction) was to be regarded as a controversial issue on which the main Committee would pronounce.

Sub-Committee II is to draw up a comprehensive list of subjects and issues relating to the law of the sea for the conference. Its

list will include the question of the territorial seas, the question of international straits and contiguous zones, fishing and the conservation of the living resources of the sea, including preferential rights of coastal States. It might produce draft articles on some of these subjects.

It would seem that the load of Sub-Committee II is almost back breaking. One subject is the question of the living resources of the high seas. Many nations believe that such resources of the sea will contain more benefits for mankind for years to come than the mineral resources of the seabed. As the peoples of the world increase at a fantastic rate, the protein resources of the sea will be of increasing importance.

The protection of the harvesting of the living resources of the sea will challenge the imagination of scientists and statesmen to as great an extent as the harvesting of the mineral resources of the seabed. There are vast desert areas of the sea compared to the deserts on land. No fish are to be found in those areas. Scientists with imagination are pointing out that it would be possible to stimulate an upswelling of plankton so that fish could be raised there. This would be a highly imaginative approach to the harvesting of fish.

Because man has been fishing in the seas since the beginning of time, the problem of regulation and control would seem to be more serious and difficult than the regulating of the exploitation of the resources of the seabed.

Sub-Committee III will deal with the preservation of the marine environment, including the prevention of pollution and scientific research and will prepare draft treaty articles thereon.

The final eleven days of the sessions were devoted to a statement of governmental positions. Some of the older members of the Committee might well have used that old movie phrase, "This is where I came in," but the delegates in the statements of positions came closer to revealing exactly where they felt their interests might lie. Consequently, seasoned observers felt that the speeches were important.

The next three years will be very critical ones. Some nations will be blinded by what they consider their immediate self interests. But there seems to be an irresistible tide sweeping nations to a common concept that the seabed and its resources should be treated and harvested as a common heritage of mankind. The concept will spread to include the high seas and its resources as within the laws

of the world community. If the entire area of the sea, comprising 71 percent of the earth, can be treated as the common heritage of mankind, the participant nations have taken one of history's greatest steps toward world government.