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AD HOC COMMITTEE TO STUDY THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION

Second Session

LEGAL WORKING GROUP

SUMMARY RECORDS OF THE FIRST TO THIRD AND SIXTH TO FOURTEENTH MEETINGS*

Held at Headquarters, New York,
from 18 June to 8 July 1968

Chairman:	Mr. BENITES	Ecuador
Rapporteur:	Mr. ABDEL-HAMID	United Arab Republic

The list of representatives attending the session can be found in documents A/AC.135/INF.1 and Add.1-5.

* No summary records were prepared for the fourth and fifth meetings.

CONTENTS

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CONTENTS (continued)

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SUMMARY RECORD OF THE FIRST MEETING

Held on Tuesday, 18 June 1968, at 11 a.m.

Chairman: Mr. BENITES Ecuador

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OPENING OF THE SESSION

The CHAIRMAN declared open the session of the Legal Working Group of the Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

ADOPTION OF THE AGENDA (A/AC.135/WG.1/R.1)

The agenda was adopted.

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/WG.1/R.2)

The CHAIRMAN said that the Ad Hoc Committee's task under General Assembly resolution 2340 (XXII) had two essential and distinct aspects, corresponding to the two aspects of the item with which that resolution dealt. The first was the examination of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction; the second was the examination of the question of the use of their resources in the interests of mankind. The former entailed, mutatis mutandis, the prohibition of the use of the marine environment for military purposes; the second meant that the resources of that environment were to be used in the interests of mankind. From the legal standpoint, both aspects called for an initial definition of the juridical nature of the area with which resolution 2340 (XXII) was concerned. That resolution referred only to those parts of the sea-bed and the ocean floor, and the subsoil thereof, which underlay the high seas and were beyond the limits of present national jurisdiction. Juridically, "the high seas" meant the surface of the seas beyond the limits of national sovereignty, which was traditionally governed by the principle of freedom. The high seas also included what was called the contiguous zone which, however, lay beyond the waters of the territorial sea. The question of determining the juridical nature of the sea-bed and the ocean floor underlying the high seas was obviously different from that of determining the juridical nature of the high seas covering them. A preliminary problem was to determine whether the sea-bed and the ocean floor, and the subsoil thereof, were to be subject to

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(The Chairman)

the principles traditionally applied to the surface of the high seas. Furthermore, the fact that the resolution was concerned with the sea-bed and ocean floor beyond the limits of present national jurisdiction introduced a new factor: the question of jurisdiction over the sea-bed. It should be noted that, so far as the high seas were concerned, only the submarine area of States known as the "continental shelf" was under national jurisdiction - apart from some very restricted areas in which certain rights had historically been exercised.

To embark upon a discussion of the limits of the continental shelf could lead to controversy; so, too, could a discussion of such difficult matters as the definition of submarine areas "adjacent to the coast". In the search for areas of general agreement, therefore, it might be advisable to postpone such a debate by applying the provisions of the Geneva Convention on the Continental Shelf, by simply placing the item on the General Assembly's agenda, or by recommending that the Assembly should establish a standing ad hoc committee to consider it.

The determination of the legal principles governing the sea-bed and the ocean floor underlying the high seas beyond the limits of present national jurisdiction need not give rise to serious difficulties if an attempt was made to establish a generally acceptable juridical régime for a geographical area to which no clear legal principles yet applied. It would have to be determined, for example, whether the sea-bed and the ocean floor under the high seas were to be considered in the light of traditional principles of law or whether new concepts must be evolved to meet new circumstances. Far from being purely academic, a debate of that nature could be a basic reference point for future discussions. He did not, however, propose the immediate opening of such a debate; the subject was complex and time and documentation were lacking.

The specific study mentioned in operative paragraph 2 of resolution 2340 (XXII) involved, in its juridical aspect, a survey of existing international agreements concerning the sea-bed and the ocean floor (sub-paragraph (a)). The account of the legal aspects of the item called for in sub-paragraph (b) would be included in the broad survey he had already suggested.

Operative paragraph 2 (c) of the resolution required the Ad Hoc Committee to provide an indication regarding practical means to promote international

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(The Chairman)

co-operation. In his view, the major responsibility in that connexion lay with the plenary Ad Hoc Committee. The Legal Working Group might, however, be able to propose some of the principles established during its study of the legal aspects of the question as a basis for international agreements on the two aspects of the question, namely the utilization exclusively for peaceful purposes of the sea-bed and the ocean floor underlying the high seas beyond the limits of present national jurisdiction and the legal basis for technical and economic co-operation. It was not his purpose to invite premature discussion of controversial issues requiring careful and lengthy consideration, such as the military and political aspects of the question. For the present, and perhaps for some time to come, the approach to many of the points he had mentioned would have to be cautious and painstaking. It was however, impossible to separate the various aspects of the item - technical, political, economic, etc. - from the juridical relationship which must necessarily be established. One part of the work ahead would be the adaptation of existing legal norms, but a further major task would be the establishment of new norms to govern new relationships. That task might be lengthy, but the Working Group would have done its duty if agreement could be reached on some of the legal pinciples involved and if the Group's general study of the legal problems could serve as a point of departure for a serious approach to a question of vital interest to mankind.

With those provisos, he submitted the plan in document A/AC.135/WG.1/R.2 as a suggested basis for the Group's work. It was possible that, as the technical study progressed, fresh legal problems might arise. Paragraph 4 therefore allowed for the study of other legal aspects of the subject. The plan was not an exhaustive enumeration of topics but rather an attempt to set out methodically the scope and aspects of the question from the legal standpoint. By the same token, it did not exclude detailed consideration of those legal aspects in which the Working Group might take the greatest interest, nor did it imply that all the issues mentioned must be resolved. Furthermore, any suggestions regarding new legal aspects within the Ad Hoc Committee's terms of reference could be included in the plan. The Working Group realized, of course, that because of the novelty and complexity of the subject insufficient material was available for the study called for by operative paragraph 2 of resolution 2340 (XXII).

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Mr. ABDEL-HAMID (United Arab Republic) proposed that the Chairman's statement should be circulated as a separate working document.

It was so decided.*

The meeting rose at 11.25 a.m.

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* The complete text of the statement made by the Chairman was circulated as document A/AC.135/WG.1/R.3.

SUMMARY RECORD OF THE SECOND MEETING

Held on Thursday, 20 June 1968, at 11.15 a.m.

Chairman: Mr. BENITES Ecuador

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ORGANIZATION OF WORK

The CHAIRMAN announced that document A/AC.135/WG.1/R.3, which was to have served as a basis for discussion at the current meeting, would not be circulated in all languages until the following day. He emphasized that the document was merely an analysis of the Working Group's terms of reference and that the draft plan of work set out in it was intended only to assist the Working Group in preparing the report which it was to submit to the plenary Committee. In that connexion, he drew the attention of the members of the Working Group to document E/4449/Add.1, chapter V, section B, of which dealt with legal matters that the Working Group might discuss.

Mr. SLOAN (Director, General Legal Division, Office of Legal Affairs) informed the Working Group, in accordance with General Assembly resolution 2292 (XXII), that the financial implications of reproducing document A/AC.135/WG.1/R.3 amounted to $950.

Mr. MEEKER (United States of America) said that man, having explored the land surface of the earth, had in the twentieth century begun to explore space and had only recently turned to the exploration and exploitation of the sea-bed and the ocean floor. Opinions concerning the hidden treasure of that little-known environment were still divided, with some believing it to contain great treasure and others expressing doubts about the extractive potential of the ocean floor and the likelihood our technology will prove a match for the inhospitable environment for many years to come. More experience would make it possible to make a realistic appraisal. The Working Group had at its disposal very helpful documents bearing on technical and economic matters which had been prepared for the assistance of the Ad Hoc Committee, and it might expect to receive from the Economic and Technical Working Group additional advice about the resources of the deep ocean floor. More experience would also make it possible to determine how countries should co-operate to secure the benefits of those new resources, what legal rules should be applied to the exploration and exploitation of the ocean floor, and what steps should be taken to ensure that those activities would proceed in an orderly manner. The President of the United States had said in 1966 that exploitation of the resources of the sea must not create a new form of colonial competition among States and that

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(Mr. Meeker, United States)

the sea-bed and the ocean floor must remain the legacy of all human beings. When the subject had been brought before the General Assembly in 1967, the United States representative had proposed that the Assembly should begin immediately to develop general standards and principles to guide States and their nationals in the exploration of the deep ocean floor; that was the task which awaited the Working Group. In the time and with the information available to it, the Group would not be able to deal with the whole range of problems, but it could make a start. It could, for example, identify principal areas for further study, as a first step in working towards a legal régime for the deep ocean floor.

It would be constructive for the General Assembly, at an early stage, to adopt certain principles which would serve as a guide to States and also furnish lines of direction for the working out of more detailed international agreements that might be required later. The General Assembly had proceeded in that way in regard to the exploration of space.

The United Nations might adopt a statement of principles indicating that: (a) the exploration and use of the deep ocean floor were open to all States and their nationals without discrimination and in accordance with international law; (b) no State could claim to exercise sovereignty or sovereign rights over any part of the deep ocean floor; (c) States and their nationals shall conduct their activities on the deep ocean floor in accordance with international law, including the Charter of the United Nations, in the interest of maintaining international peace and security and promoting international co-operation, scientific knowledge and economic development; (d) international co-operation in scientific investigation of the deep ocean floor and dissemination of plans for and results of national scientific programmes should be encouraged, as should co-operative scientific activities by personnel of different States; (e) the exploration and use of the deep ocean floor should not infringe on the interests of other States and their nationals or unjustifiably interfere with the exercise of the freedoms of the high seas or interfere with the conservation of the living resources of the seas or with fundamental scientific research looking towards publication of findings, there should be a call for appropriate safeguards to minimize pollution and disturbance of existing natural processes and balances including a call for consultation when there is particular concern; (f) there is an obligation to render possible

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(Mr. Meeker, United States)

assistance in the event of accident, distress or emergencies arising out of activities on the deep ocean floor. Finally, the statement of principles might include some guidelines concerning the treatment of installations, equipment or other property taken to the deep ocean floor in connexion with activities there. The statement of principles should be sufficiently general in character to permit wide agreement. However, the question what constituted the deep ocean floor should be studied further, and it would be advisable, as soon as practicable, to establish an internationally agreed precise boundary, taking into account the 1958 Geneva Convention on the Continental Shelf. Any statement of principles on that matter should specify that exploitation of the natural resources of the ocean floor occurring prior to establishment of the boundary would not prejudice its location, regardless of whether the coastal State considered the exploitation to have occurred on its continental shelf. It would not be necessary to delineate that boundary before agreement could be reached on general principles applicable to the deep ocean floor.

A statement of principles like the one he had suggested would by no means constitute a comprehensive legal régime adequate to govern the exploitation of resources in the new environment, but a provision could be included stating that international agreements on the subject should be concluded as soon as possible. Such agreements should reflect the principles set forth in the statement and should contain the following provisions: the resources of the deep ocean floor should be exploited in an orderly manner reflecting the interest of the world community in their development; conditions conducive to the investments necessary for the exploration and exploitation of those resources should be created; a portion of the value of the resources, as feasible and practicable, should be dedicated to world or regional community purposes; there should be an accommodation among the commercial and other uses of the deep ocean floor and marine environment.

Mr. GOBBI (Argentina) stressed the importance of having a clear idea of the Working Group's terms of reference, in order to facilitate its proceedings. It was apparent from General Assembly resolution 2340 (XXII) that the Working Group had to deal only with the sea-bed and the ocean floor beyond the limits of national jurisdiction, thus excluding everything which lay below territorial waters and

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(Mr. Gobbi, Argentina)

also the submarine areas which formed part of the continental shelf, and the subsoil thereof. Argentine legislation concerning the continental shelf was based on the two criteria of the depth of the sea and the technical possibilities of exploitation. The Working Group should therefore not concern itself with the exploitation of the sea-bed within the limits of the continental shelf, since that was already governed by national rules. Its task was rather to expedite the use of the marine resources of the high seas in the interests of mankind. It was on that understanding that his delegation supported the provisional plan of work issued as document A/AC.135/WG.1/R.2.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his delegation had given careful consideration to the plan of work suggested by the Chairman (A/AC.135/WG.1/R.3). That plan, which covered a very wide area, should not be regarded as more than an outline of the task before the Working Group; during its first session, which was relatively short, the Group was hardly in a position to achieve substantial results. At the present opening stage of its work, it should confine itself to performing the two legal tasks specified in resolution 2340 (XXII), operative paragraph 2, by making a survey of existing international agreements (sub-paragraph (a)) and preparing an account of the legal aspects of the item (sub-paragraph (b)).

His delegation nevertheless felt that it would be useful to have an essentially preliminary exchange of views on the substance of the legal questions involved. It might even be that practical results would be achieved on one or two points. In the statement which he had just made, the representative of the United States had not mentioned the principle of "reservation exclusively for peaceful purposes" of the sea-bed and the ocean floor, and the subsoil thereof, although it formed part of the title of resolution 2340 (XXII); in the view of his delegation, that principle was of great importance, and one of the purposes of the Working Group should be precisely to engage in an exchange of views on it.

Mr. PARDO (Malta) complimented the Chairman on having suggested an especially clear plan of work; he agreed with the conclusions on page 5 of document A/AC.135/WG.1/R.3, which were fully in conformity with resolution 2340 (XXII). The Group had already disposed of the first part of its task, which

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(Mr. Pardo, Malta)

was to make a survey of existing international agreements, since document A/AC.135/10 was now available. The second part (an account of the legal aspects of the item) was the subject of paragraph 1 (a) of the conclusions on page 5 of document A/AC.135/WG.1/R.3, and he suggested that the Secretariat should be requested to prepare a survey of the relevant national legislation. In his view, the Committee should unanimously affirm that there was an area not subject to any national jurisdiction; that, of course, was accepted by his delegation, but the principle must be reaffirmed, since some refused to agree to it. As the Group had so little time, the next step should be, not to delimitate that area precisely, but to try to define the legal principles applicable to it. He was grateful to the Chairman for not using in his statement the expression "deep ocean floor", which seemed inappropriate in view of the varying contours of the ocean floor. His delegation hoped that the plan of work suggested by the Chairman would be adopted.

The CHAIRMAN pointed out that the document on national legislation, the importance of which had been stressed by the representative of Malta, would be circulated on the following day.

Mr. ZEGERS (Chile) said that the Working Group should adopt the plan of work suggested by the Chairman because, firstly, it was in conformity with resolution 2340 (XXII) and expanded upon its text, and, secondly, it provided the Group with a method of work whereby it could hear the views of the countries represented in the Committee, take note of various legal arguments and study the comments submitted by countries which were not members of the Committee, by experts and by organizations concerned with international law. Thus, if the Working Group undertook a preliminary study of questions which had not yet been tackled, the suggested plan would enable it to examine all the theories - for example, those of res nullius and res communes, or the modern theory formulated by the Law of the Sea Institute in the United States with regard to the jurisdiction of coastal States. The provisional nature of the plan, as envisaged by the Chairman, meant that it could be modified in the light of the discussions. Lastly, the close relationship between the work of the Legal Working Group and that of the Economic and Technical Working Group should be borne in mind.

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Mr. ARORA (India) said that he was in general agreement with the plan of work suggested by the Chairman, which he considered constructive.

Mr. DARWIN (United Kingdom) said that it would be helpful if the Working Group had a general discussion before taking any decision on the suggested plan of work. Delegations should not be called upon to present their ideas in too narrow a framework; in addition, the members of the Group were not yet in possession of all the documents, so that it was difficult for them to take a decision. It would therefore be preferable for the Group to defer its decision on the plan of work, as the Chairman had wisely suggested at the end of his statement.

The CHAIRMAN suggested that the decision on the work programme should be deferred until the following meeting, in order that the members of the Group might have time to give it thorough consideration.

It was so decided.

The meeting rose at 12.30 p.m.

SUMMARY RECORD OF THE THIRD MEETING

Held on Friday, 21 June 1968, at 11 a.m.

Chairman: Mr. BENITES Ecuador

ORGANIZATION OF WORK

The CHAIRMAN drew attention to the third paragraph on page 6 of document A/AC.135/WG.1/R.3, which clearly explained his intentions regarding the programme of work and which, he hoped, would dispel the doubts that delegations might still entertain. Some delegations had suggested that the text should be amended by substituting the word "Consideration" for the word "Determination" in paragraph 1. He explained that in using the word "determinación" in the Spanish text, he had intended to convey the idea of defining and establishing the legal principles referred to in that paragraph. If the proposed amendment had that meaning in the other languages, he would have no objection to its adoption.

It was perhaps unnecessary to retain sub-paragraphs (a), (b) and (c) of paragraph 1 which were really just an enumeration intended to amplify the item. If those three sub-paragraphs were deleted, the Working Group would not be restricted as to the number and kind of topics which it should include in its study, in accordance with its terms of reference.

Mr. DARWIN (United Kingdom) supported the proposal that the word "Consideration" should be substituted for the word "Determination" and that sub-paragraphs (a), (b) and (c) of paragraph 1 should be deleted. If that proposal was adopted, he would be able to support the programme.

Mr. ODA (Japan) said that the goal of the United Nations effort was to encourage the orderly development of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of present national jurisdiction. For that purpose, it needed, firstly, an investigation of the scientific, technical and economic aspects of the question - that effort was being undertaken by the Economic and Technical Working Group - and, secondly, a careful study of all the legal aspects, which was the task of the Legal Working Group. While in factual research there was objective truth to be found, in the field of law, on the contrary, what existed were simply reasonable and acceptable interpretations. What was a reasonable and acceptable interpretation was a matter of judgement, however, which varied from one person to another. The Working Group must therefore proceed very cautiously, particularly in view of the fact that there had been hardly any study of the international law on the subject. The Working Group should

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(Mr. Oda, Japan)

therefore attempt first to establish the existing principles of the lex lata and, if it found that they were not reasonable, should not hesitate to alter them in order to arrive at the most reasonable lex ferenda. Any new rules should be proposed, however, only after sufficient study of the content of the lex lata and a precise determination of how inappropriate it was.

In making those comments, his delegation did not intend to oppose the work programme suggested by the Chairman; its comments, on the contrary, were consistent with that programme, which, as the Chairman had said, would be flexible.

He would comment at a later stage on the proposals submitted by the USSR and Indian representatives.

Mr. BEAULIEU (Canada) said that, while he considered the programme suggested by the Chairman a most useful tool which, far from limiting the discussions, would stimulate them with its suggested classification, he had some difficulty in endorsing all of it. Sub-paragraphs (a), (b) and (c) of paragraph 1 implied that all delegations had approved the principles set out in General Assembly resolution 2340 (XXII), including the existence of an area beyond the limits of any national jurisdiction. Delegations should be permitted greater latitude, and it should be made clear that the programme was meant to be tentative.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) thanked the Chairman for his clarifications, which applied also to the Russian text of the work programme. The word "Determination", in Russian as in other languages, implied that the Working Group should give a final definition of the legal principles in question, something it was not competent to do. The word "Consideration" was more appropriate in the present case.

It would have been desirable for the Working Group to begin with paragraph 2 of the programme outlined by the Chairman, namely, "Conclusions of a legal nature emerging from the reports on the subject submitted by the Secretary-General, the specialized agencies, the International Atomic Energy Agency and other inter-governmental bodies", a subject which came directly under the Ad Hoc Committee's terms of reference as laid down in operative paragraph 2, sub-paragraphs (a), (b) and (c), of resolution 2340 (XXII). However, the Working Group did not as yet

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(Mr. Mendelevich, USSR)

have all the necessary information. Although it had received a summary of existing agreements, it was not yet in possession of the documents relating to the survey of national legislation and to the legal aspects of the use of the sea-bed and the ocean floor exclusively for peaceful purposes. Hence, he did not think it feasible to begin the consideration of paragraph 2.

He agreed with the Canadian representative that the programme should be regarded as a set of guidelines making for an orderly discussion. In view of the delay in the circulation of documents, his delegation was prepared to agree that the Working Group should consider the different points of the programme in the order in which they appeared in document A/AC.135/WG.1/R.3.

Mr. NABWERA (Kenya) found the programme entirely acceptable. It was based directly on General Assembly resolution 2340 (XXII), and he failed to see what objections there could be to it. Some delegations apparently tended to be preoccupied with their national interests; he urged them to let themselves be guided by the spirit of the General Assembly resolution, i.e., by the interests of mankind as a whole.

He approved of the amendments suggested by the Chairman, and agreed with the representative of Canada that the programme should not be rigidly adhered to. He thought, moreover, that the programme should be adopted forthwith.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that the word "Determination" raised no legal or semantic difficulties. The reservations expressed by certain delegations were probably motivated by a desire to avoid getting to the root of the matter because of narrow national interests. For that reason they proposed replacement of the word "Determination" by the word "Consideration", which might mean merely an academic discussion of all the legal principles relating to the sea-bed and the ocean floor, a discussion which might go on indefinitely and which would make it possible to avoid any serious debate.

If, however, the majority of the Working Group wished to use the word "Consideration", his delegation would urge that a number of principles should be defined for submission to the General Assembly. Furthermore, the three

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(Mr. Waldron-Ramsey, Tanzania)

sub-paragraphs of paragraph 1 should be retained, as they fixed the number of legal principles to be examined.

As to the order in which the various points of the work programme should be discussed, his delegation felt that it would be better to begin with paragraph 1 rather than with paragraph 2.

He agreed with the representative of Kenya that the wording of the work programme did not go beyond the terms of reference defined in General Assembly resolution 2340 (XXII). The work programme should therefore be adopted immediately, and if necessary he was prepared to move formally that it be put to the vote.

Mr. HARDERS (Australia) said that the technical difficulties which his delegation had seen in the provisional work programme submitted to the Working Group had fortunately been eliminated by the amendments which had just been proposed and which the Chairman had accepted. The Working Group could not have broader terms of reference than did the Ad Hoc Committee itself, and resolution 2340 (XXII) expressly requested the Committee to study the scope of the various aspects of the matter and to draw up a study; it was therefore fully appropriate to replace the word "Determination" by "Consideration" in paragraph 1 of the programme and to delete sub-paragraphs (a), (b) and (c).

Mr. EVENSEN (Norway) urged the representative of Tanzania to accept, in a spirit of compromise, the replacement of the word "Determination" by "Consideration"; the amendment was particularly justified in that it was a moot point whether, under its terms of reference, the Working Group was entitled to define legal principles. His delegation supported the work programme as amended, and appealed to the representative of Tanzania not to press for a vote.

Mr. KIKHIA (Libya) supported the work programme as amended and agreed that, as the Chairman had said in his analysis of the Working Group's terms of reference (A/AC.135/WG.1/R.3), the two basic aspects of the question were the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor and the use of their resources in the interest of mankind. It was also worth pointing out that resolution 2340 (XXII) referred explicitly to the sea-bed and the ocean floor underlying the high seas beyond the limits of present national jurisdiction. Thus the resolution recognized that there was a region not subject to national jurisdiction.

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Mr. PARDO (Malta) agreed that, as the representative of Japan had said, the principles of the lex lata should be studied before new legal principles were drawn up; however, the Working Group could not confine itself to doing that, but must at least draw conclusions from its study. He therefore proposed that the work programme as amended should have, after point 1, a new point 2 entitled "Conclusions to be drawn from the study of the legal principles relating to the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction". Without conclusions, the study to be made by the Working Group would be incomplete.

The CHAIRMAN said that he had accepted replacement of the word "Determination" by "Consideration" because in his opinion a consideration supposed a complete study which was the first stage in the determination of generally recognized principles. The question was therefore purely one of method. On the other hand, he had accepted the deletion of sub-paragraphs (a), (b) and (c) of paragraph 1 of the programme on the understanding that they were implicitly included in the introductory sentence. The statements of some speakers, however, led him to wonder whether that was the general interpretation. The representative of Australia had said that the Working Group's terms of reference could not go beyond those of the Ad Hoc Committee, which were defined solely by operative paragraph 2 of resolution 2340 (XXII). The deletion of sub-paragraphs (a), (b) and (c) was acceptable only if operative paragraph 1 of the resolution was regarded as constituting terms of reference and as covering sub-paragraphs (a), (b) and (c). If it took into account only operative paragraph 2 of the resolution, the Working Group would be limiting itself to making a kind of inventory of the principles in force and a simple survey of the legal aspects of the question; however, it should also, in accordance with sub-paragraph (c) of paragraph 2 of the resolution, indicate to the General Assembly the practical means of promoting international co-operation on the subject, which it could only do on the basis of the conclusions it would reach under other parts of its terms of reference.

He appealed to the spirit of compromise of the members and proposed on the one hand that the word "Consideration" should be maintained in place of "Determination" in paragraph 1 of the work programme, it being understood that it

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(The Chairman)

did not exclude the possibility of a subsequent determination, and on the other hand that sub-paragraphs (a), (b) and (c) of paragraph 1 of the work programme should be deleted on the understanding that they would be implicitly taken into account in the discussions.

Mr. HARDERS (Australia) supported the Chairman's proposal.

Mr. GOBBI (Argentina) also supported the proposal. He emphasized that the Working Group should not confine itself to taking note of what already existed, but should seek to go forward.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) thought that the word "consideration" was too restrictive, while the word "determination" implied both an examination and description of existing legislation, and the subsequent elaboration of new regulations on that basis. To remove any doubts about the task assigned to the Working Group, he proposed either that both terms be used if sub-paragraphs (a), (b) and (c), were deleted, or that only the word "consideration" be used, provided that sub-paragraphs (a), (b) and (c) were retained, or that only the word "consideration" be used and that sub-paragraphs (a), (b) and (c) be retained in parentheses.

Mr. YANKOV (Bulgaria) agreed with those who thought that the word "consideration" implied not only classification, but also analysis, assessment and some conclusions. The use of that term was fully in accordance with the terms of reference given to the Ad Hoc Committee by General Assembly resolution 2340 (XXII), i.e. a study of the legal aspects of the item and an indication regarding practical means of promoting international co-operation in that field. He therefore hoped that the Working Group would accept the Chairman's interpretation of those terms of reference.

The CHAIRMAN proposed that the expression "taking into account" should be added to the introductory sentence of paragraph 1 of the programme.

Mr. GALINDO POHL (El Salvador) said that his delegation attached great importance to the programme of work, which was an interpretation of the terms of reference given in resolution 2340 (XXII) and also indicated the way in which

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(Mr. Galindo Pohl, El Salvador)

the Working Group would approach its task. The original programme suggested by the Chairman was a happy medium between two dangerous extremes which should be avoided, i.e. on the one hand, over-abstraction, as represented by the suggestion to delete sub-paragraphs (a), (b) and (c) of paragraph 1, and on the other hand, over-detailed classification. The task of the Working Group was not merely to study existing regulations; it should above all bring to light new elements for future use. Sub-paragraphs (a), (b) and (c) should therefore be retained since they gave paragraph 1 a positive character from the very beginning and provided a clear indication of the way in which the Group should approach its work.

He was not opposed to the proposal to replace the word "determination" by the word "consideration" provided that some mention was made of conclusions in item 1 of the programme so that the Working Group was not limited to a study of legal principles.

Mr. TILAKARATNA (Ceylon) thought that such discussions about terminology were unfortunate. The task of the Working Group was to provide the General Assembly with positive guidelines and progress in that direction should be made without further delay. In his opinion, paragraph 1 of the programme of work should refer neither to "consideration" nor to "determination" but to "examination" of principles, and sub-paragraphs (a), (b) and (c) should be retained.

The CHAIRMAN observed that the discussion involved issues not only of terminology but also of substance; it was essential to decide whether the Committee's work should deal with lex ferenda as well as lex lata. Both fields were included in the solution proposed by the representative of Ceylon. He withdrew his suggestion to delete sub-paragraphs (a); (b) and (c) in view of the objections raised, and proposed that the expression "taking into account" should be added to the introductory sentence of the programme. Secondly, to take into account the observations made by the representative of Malta, supported by the representative of El Salvador, he proposed that paragraph 3 of the programme should be amended to read "Consideration of practical legal means...".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said he would prefer to substitute the term "including" for the term "taking into account" in paragraph 1.

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Mr. ARORA (India) supported that suggestion.

The CHAIRMAN emphasized that the use of the term "including" would permit the consideration of questions other than those listed in sub-paragraphs (a), (b) and (c), it being understood that the Working Group would be obliged to study those three questions.

The programme of work, as amended, was adopted.

Mr. PARDO (Malta) asked whether the Secretariat intended to complete document A/AC.135/10, entitled "Survey of Existing International Agreements concerning the Sea-bed and the Ocean Floor, and the Subsoil thereof, underlying the High Seas and beyond the Limits of Present National Jurisdiction", in which he had noted the omission of certain international agreements.

Mr. SLOAN (Secretariat) observed that as far as bilateral agreements were concerned, the survey contained only the texts communicated to the Secretariat in reply to the questionnaire sent to Member States; the document would be completed by any bilateral agreements communicated subsequently. With regard to general multilateral agreements, while the Secretariat had not intended to add to the list, it was open to suggestions by members of the Group.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that since an agreement had been reached on the programme of work, the Group should begin to deal with the substance of the problems without delay. In that connexion, he observed that the survey relating to the technical and legal aspects of the peaceful uses of the ocean floor - a document of extreme importance for the work of the Group, was not yet available, and asked the representative of the Secretary-General when it would be distributed.

Mr. SLOAN (Secretariat) noted that the survey mentioned by the representative of the Soviet Union had been divided into three parts. The first part, which constituted document A/AC.135/17, would probably be distributed the following Tuesday. The two other parts, which would deal with the legal aspects, and would appear as documents A/AC.135/19 and A/AC.135/19/Add.1, would be distributed as soon as possible, bearing in mind the technical difficulties involved in their translation.

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Mr. WALDRON-RAMSEY (United Republic of Tanzania) asked the representative either of the United Kingdom or of the Secretary-General to explain the omission from document A/AC.135/10 of an agreement concluded between the United Kingdom, as the administering Power of Trinidad and Tobago, and Venezuela relating to the right to exploit, with special reference to oil, the continental shelf and the contiguous zone.

Mr. SLOAN (Secretariat) reserved the right to reply to that question at the following meeting. He pointed out, however, that members of the Group could consult not only the agreements appearing in document A/AC.135/10, but also the documents published at the time of the Conferences on the Law of the Sea in 1958 and 1960.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE SIXTH MEETING*

Held on Wednesday, 26 June 1968, at 3.45 p.m.

Chairman: Mr. BENITES Ecuador

* No summary records were prepared for the fourth and fifth meetings.

ORGANIZATION OF WORK (concluded)

The CHAIRMAN said that, in order to dispel any misapprehensions which might have arisen, he wished to point out that although no official record had been made of the proceedings of some of the Working Groups' meetings, those meetings had been public meetings within the meaning of rule 62 of the rules of procedure. All meetings of the Working Group would, in fact, be held in public unless the members decided otherwise. Moreover, an official summary record would be made of the current meeting and future meetings.

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/10, 11, 12, 19/Add.1, 23; A/AC.135/R.1-4; E/4449/Add.1) (continued)

The CHAIRMAN invited the Working Group to continue its discussion of the item with particular reference to the matters included in part 1 of its agreed programme of work (A/AC.135/WG.1/R.4).

Mr. DARWIN (United Kingdom) said that the excellent surveys, prepared by the Secretariat, of international agreements and national legislation concerning the tracts of the sea-bed and the ocean floor with which the Group was concerned (A/AC.135/10 and 11) would be of especial value in connexion with the survey requested in operative paragraph 2 (a) of resolution 2340 (XXII). To examine the existing fixed points and the precedents relevant to the situation was the logical first step in any systematic study of the legal aspects of a question. It might therefore be useful to cite some examples.

The right to use the sea-bed to anchor vessels had been universally recognized from time immemorial. More recently, the use of the sea-bed to carry cables had been recognized and protected by the Convention for the Protection of Submarine Cables, 1884, and its use to carry pipelines had similarly been recognized and protected by article 26 of the Convention on the High Seas, 1958, and article 4 of the Convention on the Continental Shelf, 1958.

The right of submarine vessels not only to navigate at any depth but to settle on the bottom was an accepted application of freedom of navigation, which

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(Mr. Darwin, United Kingdom)

was part of the law of the seas. Freedom of navigation was not, of course, within the Ad Hoc Committee's terms of reference, but the relationship between the freedom of the seas and activities on the sea-bed was so close in such instances that it obviously had to be kept in mind.

The legal position concerning the exploitation of mineral resources on the deep ocean floor had not been thoroughly considered so far in practice, largely because such exploitation as there had been had thus far been confined to areas which were considered to be part of the continental shelf. Again, although the content of the internationally recognized status for the continental shelf was not within the competence of the Committee, it would have to be borne in mind, especially as it might provide guidance in the conduct of the survey and in the conclusions to be reached concerning the deep ocean floor. In any event, the Convention on the Continental Shelf, even though it had not been ratified by all countries, was in force and had been widely applied; it should therefore be included with other agreements in the legal material for the study which was to be prepared for the General Assembly by the Ad Hoc Committee.

Among other items of factual information which the Working Group would need to consider before coming to conclusions on the legal aspects of the proposed study were those relating to practical arrangements among States on the division of the continental shelf. In the case of the continental shelf of the North Sea, for example, the States concerned had earlier concluded agreements to divide the shelf according to the median-line principle, but it had been found necessary to take special measures to deal with the case of a single geological feature - for example, an oil-bearing stratum - which might lie across the median line.

His delegation felt that, as matters stood, the Working Group was in a position to draw a number of preliminary conclusions. It appeared to be generally accepted that there was an area of the outer ocean floor which was not yet subject to national sovereignty, although no clear definition of its legal status as yet existed. In his delegation's opinion, the question of where that area lay or what its limits were was not one which could usefully be tackled at the present stage. Just as the régime which applied or should apply to the continental shelf involved complex practical, economic and legal issues, so it was unlikely that such

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(Mr. Darwin, United Kingdom)

simple categories as the concept of res communis could be made applicable to the deep sea floor. Proposals for an interim régime might require as much consideration as definitive proposals. All arrangements must accord with the common interests of the world as well as those of specific nations. He said that his delegation wished to withhold comment on the reservation of the sea-bed for peaceful uses until it had had an opportunity to study the important statement on that subject made by the USSR delegation at a recent meeting of the Ad Hoc Committee.

In conclusion, his delegation believed that the first step should be to prepare the survey of established precedents and principles and then, on the basis of that survey and other available material, to consider the salient problems and possible solutions to them.

Mr. ANDRASSY (Yugoslavia) thanked the Secretariat for its very useful compilation of the views of jurists on the appropriation and occupation of the sea-bed and the ocean floor (A/AC.135/19/Add.1, section A). It should be noted, however, that the authorities cited in paragraphs 15-18 of the document had not, in the judgements attributed to them, been concerned with the sea-bed and the ocean floor in general, or even with the appropriation or occupation of any part of the high seas, but rather with specific and well-known instances of rights of ownership or sovereignty acquired by usage or custom in certain coastal areas which were not beyond the limits of national jurisdiction.

The cases mentioned in the foot-notes to those paragraphs were, in fact, all special cases, that were recognized as such by the distinguished jurists who were quoted. The limited nature of the exclusive title acquired in such cases was indicated by the types of exploitation of natural resources involved: oyster fishing, sponge fishing (off the coast of Tunisia), pearl fishing off the coasts of Ceylon, and work in connexion with the construction of a tunnel under the English Channel. Moreover, one of the authorities cited, viz. H.A. Smith, had in a later work, The Law and Custom of the Sea, said that the land lying on the bottom of the high seas was no man's land - a res nullius, rather than a res-communis - and that the principle that the sea as a whole was not susceptible

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(Mr. Andrassy, Yugoslavia)

to ownership was not vitiated by the acquisition, through usage, of an exclusive title to small portions of the sea-bed in which certain biological resources were found.

Similarly, the potential rights of occupation considered by Fauchille and the other writers had in all cases related to areas within the limits of national jurisdiction and were accordingly not relevant to the subject of the Ad Hoc Committee's study. One of the writers, Sir Cecil Hurst, had in fact stated, in a more recent work than that mentioned in the foot-notes, that recent developments in petroleum technology and engineering were likely to create a demand for a realistic international system of regulating the use of areas of the sea-bed outside the existing limits of national jurisdiction. His delegation agreed with that view and believed that the Working Group should endeavour to define new and broader principles to meet the new situation.

Mr. MEEKER (United States of America) said that his delegation had spoken at an earlier meeting of the Working Group of the desirability of considering the adoption of certain legal principles for the sea-bed and ocean floor. Such principles might serve as a guide to States in the conduct of their activities in that environment and also as general lines of direction to be observed in working out detailed internationally agreed arrangements.

Noting that his delegation had not at that time discussed arms control and disarmament, he affirmed his delegation's view that it constituted a major concern and pressing task of the world community. For its part, the United States was dedicated to workable arms limitation measures which would enhance the peace and security of all nations and bring the world nearer to general and complete disarmament. Together with other countries, it had laboured over a long period to bring into being a treaty to prevent the spread of nuclear weapons, to which the General Assembly recently gave its overwhelming endorsement.

At the historic meeting of the General Assembly at which the Non-Proliferation Treaty had been approved, the President of the United States had been privileged to address the Assembly and had on that occasion said:

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(Mr. Meeker, United States)

"Finally, in keeping with our obligations under the Treaty, we shall, as a major nuclear-weapon Power, promptly and vigorously pursue negotiations on effective measures to halt the nuclear arms race and to reduce existing nuclear arsenals.

"It is right that we should be so obligated. The non-nuclear States which undertake by this Treaty to forgo nuclear weapons are entitled to the assurance that Powers possessing them, particularly the United States and the Soviet Union, will lose no time in finding the way to scale down the nuclear arms race."

In approaching the question of a new environment to which the nuclear arms race has not yet spread, the world community had an opportunity to consider whether intelligent self-restraint could prevent the spread and escalation of that race. His delegation believed that to be an issue of importance and complexity which called for urgent and thorough study.

The United States therefore proposed that the Eighteen-Nation Disarmament Committee should be asked to take up the question of arms limitation on the sea-bed and ocean floor with a view to defining those factors vital to a workable, verifiable and effective international agreement which would prevent the use of that new environment for the emplacement of weapons of mass destruction. His Government believed that the current discussions in the Working Group and in the Ad Hoc Committee should lead to the prompt referral of that problem to the Disarmament Committee.

It was his Government's hope that the Disarmament Committee in Geneva could undertake fruitful work on that subject and that the referral of the matter to that Committee would assist its vital work on the problem of mass-destruction weapons - the real threat in the new environment of the sea-bed and ocean floor.

Mr. ODA (Japan) said that the Legal Working Group was about to tackle one of the most important tasks entrusted to the Ad Hoc Committee by the General Assembly: that of considering future policy for the use of the deep ocean floor on the basis of facts made available by the scientists and technicians. Since

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(Mr. Oda, Japan)

the future of that new frontier of mankind might well be dependent for some centuries upon what was achieved by the Group, its deliberations should be most cautious and prudent and should start with a proper understanding of existing rules and principles applicable to the deep ocean floor.

Until recent times when submarine areas had been made exploitable with the progress of technology, little attention had been paid to the legal problems involved in the exploitation of submarine areas, although some eminent scholars of the past had found it necessary to justify the use of submarine areas for some specific purpose or other. Their doctrines had seemed to imply that the use of submarine areas was permissible for those who might actually derive benefit from such use and that only in some cases might a kind of prescriptive right be justified by the repeated use of submarine areas over a prolonged period. Prior to the Second World War, there had been few scholars who had advocated either that the use of submarine areas beyond the limit of territorial waters should be prohibited or that the State could claim exclusive title, i.e., sovereignty over submarine areas beyond the limit of territorial waters.

The situation had since changed. Some States had, by unilateral action, claimed title to the sea-bed and subsoil of the continental shelf, a term which had previously been unknown in legal circles. In the light of a number of such unilateral claims, the 1958 Geneva Conference on the Law of the Sea had adopted the Convention on the Continental Shelf, which provided that "the coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources".

Thirty-seven States had already ratified or acceded to the Convention on the Continental Shelf, but whether or not the concept of the continental shelf had become a rule of customary international law was still an open question. If, however, the concept of the continental shelf were accepted, the effect would be to create two separate submarine regions under the high seas, the one being the continental shelf, which would be subject to the exclusive and sovereign title

(Mr. Oda, Japan)

of the coastal State, and the other comprising the areas beyond the continental shelf. Thus, whereas the submarine areas of the continental shelf would come under the monopolistic control of the coastal States, the possibility would still remain of placing the submarine areas beyond the continental shelf under a different régime for the benefit of all mankind.

The first task of the Ad Hoc Committee must be to halt the flow of national claims to exclusive title to submarine areas, which tended to expand ever farther into the deep ocean, thus reducing the areas which might otherwise be used for the benefit of all mankind. It was his delegation's conviction that States should be prevented from extending, on the basis of an ambiguous interpretation of exploitability under article 1 of the Convention on the Continental Shelf, their exclusive title to submarine areas. Future negotiations would be of little value if the States concerned had in the meantime hastened to establish sovereign rights so as to hold a favourable bargaining position in advance. His delegation had in that respect taken great interest in the suggestions for establishing a moratorium or "freeze" on claims of national sovereignty regarding the ocean floor as well as on extensions of the continental shelf. The Convention itself provided that, five years from its effective date, viz., in 1969, a request for revision might be made by any Contracting Party through notice given to the Secretary-General.

The prohibition of national claims to exclusive title or sovereign rights over submarine areas beyond the continental shelf did not, however, mean suspension of the use or exploitation of those areas. No existing legal norm or concept prohibited anyone from making use of submarine areas under the high seas. A clear distinction had to be made between the sovereign or exclusive title of a State to submarine areas and the use or exploitation of those areas. The former involved the title of a State, while the latter was concerned with the utilization of resources. The fact that the utilization of submarine areas beyond the limit of the continental shelf was, as matters stood, free to all implied no justification for the exclusive title of a State to such areas. He did not, however, advocate

(Mr. Oda, Japan)

that the principle of laissez-faire or free-for-all should be maintained in future in so far as the exploration and exploitation of the deep ocean floor was concerned. General Assembly resolution 2340 (XXII) had, in fact, been adopted in the hope that those areas would be used for the benefit of all mankind, and proposals to that end would have to be given the most careful study and consideration. The study of policy matters, of the legal effects and impact of any new régime for the use of the submarine areas beyond the continental shelf, and of the many exceedingly complex legal questions involved would necessarily require a great deal of time.

In his view, the Legal Working Group should propose the suspension of national claims to exclusive or sovereign title to submarine areas beyond the currently recognized limits, without, however, seeking to discourage the continued exploration and exploitation of areas which did not involve any national claim to exclusive title. In the meantime, efforts to convert the idea contained in resolution 2340 (XXII) into practical legal form should be diligently pursued.

In conclusion, he wished to emphasize that title to the continental shelf did not include the jurisdiction of a coastal State over the superjacent waters of the continental shelf. The Convention on the Continental Shelf itself provided that "the rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas...". In the same spirit, any future régime for the submarine areas beyond the continental shelf should not have any adverse impact on the status of the high seas. He believed that the Group agreed that the seas, with the exception of the narrow coastal sea belt called the territorial waters, should be kept free from any national title, as the 1958 Convention on the High Seas required.

Mr. EVENSEN (Norway) said that the vacuum in international law and politics resulting from the pace of the technological developments which affected the deep ocean floor represented a serious danger to world peace and stability. Potential tensions and conflicts should be avoided by replacing that vacuum with sensible principles of international law.

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(Mr. Evensen, Norway)

The generally accepted principle that the deep ocean floor started where the national continental shelf ended was not particularly helpful to the Legal Working Group. Of the alternative definitions of the continental shelf given in the 1958 Convention, the one, the 200-metre criterion, was unequivocal but somewhat too inelastic to serve current needs, whereas the other, the exploitation criterion, although permitting the geographical peculiarities of coastal areas to be taken into account, had inherent weaknesses owing to the very fact of its flexibility. It was not, for instance, beyond the bounds of possibility, that coastal States might interpret the latter criterion as entitling them to claim sovereign rights over the deep floors of all oceans, irrespective of their depth and their distance from land. The obvious result of such claims would be to give coastal States enormous and unreasonable advantages with regard to access to the mineral, food and strategic resources of the deep ocean. Such interpretations were, however, untenable in the light of the general principles of international law. The words "continental shelf" and the definition given in article 1 of the Convention on the subject themselves pointed to the conclusion that coastal States could not appropriate for their own use the deep ocean floors of world oceans, and his Government believed that that conclusion was a prevailing principle of international law.

Both of the Norwegian enactments on the continental shelf mentioned in document A/AC.135/11 had reference to the exploitation criterion. Their purpose was not, however, to enable his country to claim sovereignty over large areas of the Atlantic and Arctic Oceans but rather to apply a more elastic rule than the 200-metre criterion, which was obviously unsuited to the geographical peculiarities of Norway's continental shelf. On the understanding that reasonable rules were to be evolved reserving the deep ocean floors for the use and benefit of all mankind, his Government would not in any circumstances advocate a coastal-State theory.

It was doubtful, however, whether the existing exploitation criterion was sufficiently accurate to enable the boundaries between the national continental shelf and the deep ocean floor to be clearly defined. One suggested alternative was that the national continental shelf should be defined as extending to the

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(Mr. Evensen, Norway)

continental slope up to a specific depth, say, 500 or 600 metres, or to a distance of 200 miles from the shore or base lines. The definition contained in the draft convention prepared by the World Peace Through Law Centre was, in his Government's opinion, unduly restrictive.

His Government had recently concluded bilateral agreements with the United Kingdom, Sweden and Denmark on the delimitation of the national continental shelf in the North Sea, the Skagerrak and the Kattegat. All three agreements were based on the principle of the median dividing line and on the equal division of the continental shelves concerned - which, in fact, formed a single continuous continental shelf - between the parties. A special feature of the agreements was the provision in them for dealing with a petroleum structure or field extending across the agreed boundary lines. The manner in which that difficulty had been dealt with might well be imitated in any international system of rules for the exploitation of the deep ocean floor.

His Government considered that there were great dangers inherent in the occupation theory, whereby the ocean floor was to be treated as res nullius. The prospect that both coastal and land-locked States might become embroiled in a race to occupy the best strategic areas and those with the greatest economic potential was intolerable, particularly since it would give the developed countries an unreasonable advantage over the poorer nations. Moreover, as an earlier speaker had pointed out, the deep ocean floor, as distinct from coastal areas, had never in history been regarded as subject to occupation. In his Government's view, the deep ocean floor was a res communis, a property of the community of men.

An international system of regulation, preferably under the auspices of the United Nations, should eventually be established to arrange and supervise the orderly exploitation of the riches of the deep ocean floor. Only such a system could induce public and private enterprise to undertake investment of the required magnitude, protect world peace and stability, and create the necessary spirit of co-operation between developed and developing countries in the undertaking. It would, moreover, strengthen the United Nations. The 1965 White House Conference on International Co-operation had, in fact, made a recommendation to that effect.

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(Mr. Evensen, Norway)

Although detailed discussion of such matters was inappropriate at such an early stage of the Ad Hoc Committee's work, the attention of the General Assembly should be drawn to them as well as to the need for detailed discussion at a later stage. Discussion of possible systems for the granting of rights for the exploration and exploitation of deep-ocean mineral resources was likewise premature, but the fact that his country and a number of others had in recent years promulgated legislation concerning such exploitation on their continental shelves should be taken into account in the Committee's future work. The system of allocating rights by blocks of approximately 500 sq.km. or less, which had been adopted by his country and the United Kingdom, might well prove unsuitable for the deep ocean floor. Nevertheless, some features of Norwegian legislation - such as the absence of competitive bidding, strict working programmes and detailed safety codes - could perhaps be recommended for use at the international level. The Ad Hoc Committee would also have to consider the possibility that a conflict of interest might in future develop between shipping and fishing, on the one hand, and activities relating to the exploration and exploitation of the resources of the deep ocean floor, on the other.

His Government believed that the ocean floor and sea-bed should be reserved exclusively for peaceful purposes and that measures should accordingly be taken to prevent their use for strategic or military purposes. The principles laid down in the Outer Space Treaty and in the Antarctic Treaty should provide guidance for the Committee's work in that connexion. The proposal made at the current meeting by the representative of the United States and the statement made at a plenary meeting by the representative of the Soviet Union indicated a welcome readiness to seek constructive solutions to such problems. However, before commenting on those statements in detail, his delegation would like to have some information on the extent to which the subject had already been discussed by the Eighteen-Nation Disarmament Committee.

Mr. KIKHIA (Libya) said that his delegation believed that the legal aspect of the item under discussion was the most important element of the Group's work at the current session. It was, indeed, the fundamental aspect of the subject because the exploration and use of the sea-bed and the subsoil thereof

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(Mr. Kikhia, Libya)

beyond the limits of national jurisdiction could not be carried out peacefully without an appropriate juridical framework to safeguard the interests of mankind and to establish efficient machinery to deal with the orderly management of the ocean's resources.

The direct and manifest interest displayed by the General Assembly in the question was founded on the need to achieve two fundamental aims: (a) the reservation for peaceful uses of the sea-bed and the subsoil thereof beyond the limits of national jurisdiction, and (b) the use of the sea-bed and the subsoil thereof for the benefit of the international community as the common heritage of mankind. Accordingly, the task of the Working Group was a law-making task and one which involved many new aspects in the field of international law. The development of general principles which States would follow in exploring and exploiting the sea-bed could well give rise to serious difficulties should those principles seek to embody a generally acceptable juridical régime governing the marine environment.

Moreover, the legal aspect of the problem was highly complex because it concerned not only the definition and delimitation of the geographical areas in question but also political and juridical issues which were the very foundation of existing international law - such, for example, as the national sovereignty of States and the direct economic and political interests of States, or groups of States, and their security. A gradual and circumspect approach was therefore essential. Any new legal régime should develop friendly and peaceful relations among States by taking into account the international legal principles laid down by the present law of nations. The work of the Group would require it to study, and try to find applicable elements among, the existing legal systems and criteria, thus contributing to the progressive development of international law and its codification in the light of technological progress and contemporary economic and political realities.

The Working Group was, however, probably in a position to agree on some general and non-controversial principles. It could, in his delegation's opinion, submit to the General Assembly a draft declaration analogous to the 1963 Declaration on Outer Space. He agreed with previous speakers that such a

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(Mr. Kikhia, Libya)

declaration would provide an appropriate framework for the future work of the United Nations on the subject of the peaceful uses of the sea-bed beyond the limits of national jurisdiction. There appeared, in fact, to be general agreement on the fundamental idea that the sea-bed beyond national jurisdiction should be preserved from national appropriation and that there could be no peaceful or national exploitation of the abundant resources of the sea-bed and ocean floor unless the international community decided to seek and exploit those resources in the interest of all mankind.

Such a declaration would be the first legislative step taken by the General Assembly towards establishing the status of the sea-bed beyond national jurisdiction, and it should stress the following principles: (1) that there existed an area of the sea-bed beyond the continental shelf, outside national jurisdiction, which should be considered separately from the superjacent waters of the high seas and be preserved from any national or private appropriation; (2) that the resources of the sea-bed should be exploited for the common benefit of mankind in the interests of world peace and with a view to efficient exploitation and the granting of equitable opportunities for the development and use of those resources by all nations and peoples; (3) that the sea-bed and its resources should be administered and controlled by a competent world body; (4) that the sea-bed should be used exclusively for peaceful purposes and should not be available for military use by any State or group of States; (5) that the exploration and use of the sea-bed and the ocean floor should be carried out in accordance with international law, including the Charter of the United Nations; (6) that the principle of the freedom and right of all States to carry out scientific research and exploration involving the sea-bed and ocean floor should be unquestionably valid, the results of such scientific activities should be made available to all countries without discrimination, and international scientific co-operation with regard to the sea-bed should be promoted; (7) that all activities in connexion with the exploration and use of the sea-bed should be carried out in accordance with relevant rules and regulations concerning the prevention of marine pollution and the conservation of the living resources of the sea; (8) that the exploration and use of the sea-bed and ocean floor beyond national jurisdiction

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(Mr. Kikhia, Libya)

should not affect the legal status of the superjacent waters as high seas or that of the air space above those waters; and (9) that the exploration and use of the sea-bed and ocean floor beyond national jurisdiction should be effected with reasonable regard to the interests of other States in their exercise of freedom of the high seas, as recognized by the provisions and practice of the law of the sea.

If, however, the Ad Hoc Committee should decide to concentrate at the current session on completing certain other aspects of its work, it should not altogether overlook the more difficult and highly controversial problems. Naturally, neither the time available nor the general spirit of the debate would permit of any detailed discussion of certain topics of international law which were virtually taboo, such, for example, as the definition and limitation of the sovereignty of States in the marine environment, or the question of the continental shelf. The only positive action that was possible in such instances was to draw attention to the problems and recommend further studies and consideration as part of a comprehensive review of the traditional law of the sea. In that connexion, a new United Nations Conference on the Law of the Sea might be the most relevant idea. Such a conference might very well be arranged within the framework of the "Ocean Decade" proposed by the United States Government.

The meeting rose at 5.40 p.m.

SUMMARY RECORD OF THE SEVENTH MEETING

Held on Thursday, 27 June 1968, at 3.40 p.m.

Chairman: Mr. BENITES Ecuador

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/10-12, 19/Add.1, 23; E/4449/Add.1) (continued):

EXAMINATION OF LEGAL PRINCIPLES RELATING TO THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, INCLUDING:

(a) EXISTING REGULATIONS IN THIS FIELD;

(b) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION WITH A VIEW TO THE PREPARATION OF AN AGREEMENT ON THE USE OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, EXCLUSIVELY FOR PEACEFUL PURPOSES;

(c) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION IN THE USE, IN THE INTERESTS OF MANKIND, OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION

Mr. MLADEK (Czechoslovakia) said that Czechoslovakia wished to raise two questions of interest to landlocked countries like itself. The first was the definition of the subject under study: i.e. the "sea-bed and ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction". While he realized that that was an extremely difficult legal problem which the Ad Hoc Committee was not expected to solve, he believed that the Committee should deal with the matter under operative paragraph 2 (b) of General Assembly resolution 2340 (XXII) for methodological, practical and juridical reasons. The purpose of the Committee's study of the sea-bed and the ocean floor, and the subsoil thereof, was to reserve those areas exclusively for peaceful purposes and to ensure that their resources were used in the interests of mankind. So far, the debate had concerned that purpose and related problems, while the subject itself had for the most part been left aside. That was an unusual procedure.

Moreover, in view of man's limited knowledge of the sea-bed, much research would be necessary before scientific and technological development would make it possible to start exploiting its mineral resources; such research would undoubtedly require considerable funds, particularly in order to develop techniques. Even to discuss such scientific and technical questions in international organizations would entail costs to be reimbursed by all their members, including the landlocked States. However, in view of the present flexible legal regulations, there were no guarantees that all States would be able to share adequately in the

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(Mr. Mladek, Czechoslovakia)

future exploitation of the sea-bed. At the same time, the advanced maritime countries might, because of their research, start exploiting other areas of the sea-bed and, in accordance with the definition of the continental shelf contained in the 1958 Geneva Convention, expand the limits of their national jurisdiction. If they did so, other coastal States not having a continental shelf might seek compensation by demanding a further enlargement of their own territorial waters. In that way landlocked countries and possibly others would be prevented from participating in the exploitation of the sea-bed and would be limited to the economically and technically unexploitable deep ocean. All States, including the landlocked States, would be willing to participate in common efforts and costs only if they were guaranteed a reasonable future share in their practical results. The work of the Ad Hoc Committee should contribute to that end.

The Convention on the Continental Shelf was due for revision in 1969. Plainly, the Legal Working Group should draw attention to that legal problem and recommend that the Ad Hoc Committee deal briefly with it in its report to the General Assembly at its twenty-third session and propose that a separate sub-item entitled "Elaboration of the definition of the sea-bed beyond the limits of national jurisdiction" should be included in the agenda for the next year. The debate on that sub-item should also cover the present definition of the continental shelf and the possible revision of article 1 of the Geneva Convention.

The second question he wished to raise concerned international co-operation in research on and the preservation and exploitation of the sea-bed. The Ad Hoc Committee should indicate practical ways and means of promoting such co-operation. At the same time, his delegation, representing a landlocked State, wished to stress the need for organized international co-operation which would guarantee to all States the possibility of participating in further activities concerning the sea-bed, including the exploitation of its resources. The Sub-Committee should, however, limit itself at present to considering that subject from the legal and organizational standpoints. From the point of view of securing the interests of all States, it might be desirable to have one central body, e.g. UNESCO, co-ordinate all scientific and research activities, and to pool the results of those activities in the Intergovernmental Oceanographic Commission, which should be duly equipped to serve that purpose.

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Mr. PARDO (Malta) said that the item under discussion had two main aspects: the first was the examination of present international law applicable to the sea-bed and ocean floor and the subsoil thereof, including the high seas beyond the limits of present national jurisdiction, i.e. the lex lata; the second was the consideration of the legal principles that should be established to govern the peaceful uses of the sea-bed and ocean floor beyond present national jurisdiction, i.e., the lex ferenda.

The present state of national and international law on the subject was well summarized in the useful documentation prepared by the Secretariat, which he commended. While he would not attempt to analyse the national legislation or international agreements described in those documents, he would try to draw a few non-controversial conclusions from his study of them.

National laws and international agreements concerning the sea-bed could be divided into two categories: those intended to delimit national jurisdiction over the sea-bed, and those which dealt with other matters. National laws of the latter type, where they existed, were generally confined to questions of submarine cables and pipelines, pollution by oil, and sedentary fisheries, pearl banks and similar economic activities. There was very little legislation on pollutants other than oil or on the undersea exploration and exploitation of materials other than petroleum, and no State had any legislation regulating the competing and sometimes contradictory uses of the sea-bed. The existing national legislation was widely divergent in its content, while legislation on the subsoil of the sea was non-existent except in a few cases concerning submarine tunnels dug from the mainland.

Multilateral agreements, which dealt with the same subjects, were even more fragmentary, and sometimes referred to standards and regulations which had not yet been formulated. Machinery for arbitration was often lacking, while means of enforcement were almost totally absent. Bilateral agreements concerning the sea-bed, although sometimes rather detailed, generally dealt with very specific and often rather minor problems, such as sedentary fisheries, pearling rights and submarine cables.

(Mr. Pardo, Malta)

A considerable body of national legislation and many multilateral agreements were concerned with the delimitation of national jurisdiction over the sea-bed and the ocean floor underlying the high seas. There was wide divergence both in the existing national legislation and in the practice of States in that field. Some States applied only the criterion of depth, while others referred exclusively to distance or to exploitability. Certain States laid claim to the continental shelf without actually defining it, some referred to median lines and still others claimed all the area to which they were entitled by international law - which in general did not exist. The 1958 Geneva Convention on the Continental Shelf was sometimes referred to or followed in form. The rights claimed by States varied from limited rights through exclusive rights of exploration and exploitation to full sovereignty. Thus, the picture presented by national legislation on jurisdiction over the sea-bed was one of utter confusion.

The existing international conventions of 1958 had done little to clarify the situation. The terms of articles 1 and 2 of the Convention on the Continental Shelf, in particular, were open to various interpretations. One school of thought claimed that, by virtue of the exploitability clause, the boundary of the continental shelf subject to the sovereign rights of the coastal State for the purpose of exploration and exploitation of natural resources could be extended seaward more or less indefinitely with the progress of technology until the sea-bed was divided in accordance with the median-line criteria of article 6 of the Convention. One theory on the consequences of that situation had been formulated at Geneva in 1958 by the representative of Guatemala; according to that "bath-tub theory", which favoured the less advanced States, the extension by a State of its jurisdiction over the sea-bed as a result of technological progress would entitle other States to claim an equivalent extension. The existence of islands and rocks throughout the oceans would impose relatively narrow limits on the claims of the major Powers. On the basis of that theory, some less developed countries might believe that it was in their interests to base a claim to the ocean floor on the test of exploitability alone.

However, the theory propounded by the representative of Guatemala in 1958 was not only open to question on legal grounds, but did not correspond to political realities. It was claimed in some quarters that the development of technology should

(Mr. Pardo, Malta)

benefit only the State in which it occurred; that principle would lead to the conclusion that any State able to do so was entitled to exploit submarine areas anywhere in the world outside the continental shelf of another State as defined by the 1958 Convention. Such an interpretation would clearly be detrimental to the interests of smaller countries.

The question was likely to be resolved not by legal argument but by political considerations involving the security concerns of major Powers. The division of the sea-bed on the median-line principle of article 6 of the Convention on the Continental Shelf and on the basis of the test of exploitability alone would leave major strategic submarine areas in the hands of States unable to exploit them; such a situation would be unacceptable to major Powers whose main objective was security. Therefore, any attempt at excessive extension of national jurisdiction over the sea-bed by less developed countries would create a condition of international legal anarchy which could only be detrimental to them.

The general conclusions which could be drawn with respect to existing international law on the sea-bed were that it was fragmentary and vague, that it might give rise to serious conflicts between States, that it was potentially highly inequitable with respect to landlocked countries, that it did not provide for the orderly development of sea-bed resources, and that it could not effectively cope with problems of universal concern such as pollution of the seas and the preservation of the marine environment as a whole.

The current state of the law could not be considered satisfactory. The doctrines of res nullius and res communis, which had been rejected by the International Law Commission, were equally unacceptable. Both would permit the use of, and national jurisdiction over, areas of the sea-bed on an exclusive basis. The former would permit occupation by the first comer, while the latter would permit use by all participants, but would reserve certain areas for particular nations or individuals. Both doctrines were dangerous in that, if implemented, they would be inequitable to landlocked countries and would be likely to lead to waste of natural resources, pollution of the marine environment, impairment of the living resources of the seas and conflicts between States.

Despite the flaws in existing international legislation, some held the view that no decision should be taken until the entire area had been explored or until

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(Mr. Pardo, Malta)

important developments forced the enactment of legislation. That approach, however, would leave the legal future of the ocean floor to chance, while the current lack of legislation would continue to inhibit the orderly exploitation of resources, since security of tenure was lacking. Moreover, that approach ignored the mounting military and economic pressures and the increasing danger of pollution of the seas.

Others maintained that a flag-nation approach could deal with any problems for some time to come. However, such an approach was not likely to achieve wide acceptance because it would largely limit sovereign rights over the sea-bed to a few advanced nations. Such a system might be enforced by the exercise of power, but only at a certain cost, which the developed nations might be unwilling to bear. Those costs would increase as the rescurces of the sea were developed, and it was clear that serious political problems would result.

Other ingenious solutions had been proposed, such as the immediate extension of national jurisdiction to comprise the continental margin up to a depth of 2,500 metres. That proposal was based on the idea that the real geological distinction between continental rocks and those of the ocean floor was to be found at the end of the continental margin and that that fundamental natural boundary between the continents and the ocean basin should be given legal status. However, such an extension of jurisdiction would give rise to disputes. It was known, for example, that the edge of the continental margin sometimes ran through oil deposits so that further extension would be necessary if those deposits were to be exploited. Moreover, the geological boundary was sometimes vague or covered with overburden, and therefore difficult to identify in practice. Such an approach would be dangerous and would be accepted by the international community only under protest.

The only possibility which appeared to have no serious drawbacks was an international solution to the problem. Such a solution would have to be equitable, feasible and acceptable to the overwhelming majority of States and would have to promote the orderly, peaceful and efficient exploitation of the resources of the sea-bed. In order to satisfy current and future needs, it must be constructed on a comprehensive concept of the sea-bed and ocean floor, taking into account the close relationship between the sea-bed and the superjacent waters. For instance, the use of the sea-bed for military purposes would have an adverse effect on the

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(Mr. Pardo, Malta)

freedom of the seas, and the exploitation of the mineral resources of the ocean floor would be detrimental to the living and plant resources of the superjacent waters. Any international régime would have to take account of the competing uses of the ocean floor and provide for impartial and efficient regulatory machinery.

Much time would be needed to establish such a régime but it was not too early to consider the principles on which it should be based. Those principles could not be sought in the traditional doctrines of international law; they must be new, equitable and moral. His delegation therefore suggested the principle that the sea-bed and ocean floor should be recognized as having a special legal status as the common heritage of mankind. The concept that any area was to be administered in common for the common good was somewhat alien to existing international law. Nevertheless, its introduction as the basis of international law on the sea-bed and ocean floor was essential, not only for the development of that environment but also for the peaceful development of the world.

The principle of a "common heritage" went beyond that of res communis and the internationally accepted test of "reasonable use". It implied something to be administered in common and thus contained the notion of a trust and of trustees, although not necessarily that of property; it was similar to the Latin "proprietas", namely, property to be used "properly". Furthermore, the concept of indivisibility was inherent in the notion of a "common heritage", and thus also that of peaceful use, since it was clear that military use of the marine environment would endanger the common property. A common heritage also implied the principles of freedom of access and use, as well as the regulation of the use made of that heritage and the equitable distribution of benefits among those with an interest in the common property though not participating directly in its exploitation.

His delegation considered that the Legal Working Group should recommend to the General Assembly, through the Ad Hoc Committee, the adoption of a declaration to the effect that there were limits to the area of national jurisdiction and exclusive rights with regard to the sea-bed and ocean floor and that national jurisdiction could not be extended to the entire sea-bed and ocean floor; that it was in the

(Mr. Pardo, Malta)

interests of the international community to define the area beyond national jurisdiction; and that that area was the common heritage of mankind and, as such, should be used exclusively for peaceful purposes and for the benefit of all.

Certain principles concerning use could be recommended. Those suggested by the delegation of India in document A/AC.135/21 were highly relevant and the Working Group, which did not have time to discuss them fully, could suggest that the Ad Hoc Committee should give them careful consideration and perhaps make an appropriate recommendation to the General Assembly. The whole question of legal principles to govern the sea-bed and ocean floor was so vast and far-reaching that the Working Group could not hope to propose definitive solutions. Yet it could recognize the existence and urgency of the problem and recommend the establishment by the General Assembly of a permanent committee to ensure that any principles relating to that environment adopted by the Assembly were given legal force in treaty form.

His delegation welcomed the expressed willingness of the United States and the USSR to discuss the military use of the sea-bed and the ocean floor in order to evolve a practical and verifiable régime to prevent the emplacement thereon of weapons of mass destruction.

Mr. GOBBI (Argentina) said that his delegation had been greatly impressed by the high level of the debate. There could be no doubt that the present age offered a real challenge to jurists as new technology opened up new environments calling for proper juridical regulation. In the exploitation of the sea-bed, law must anticipate history so that development did not proceed without guidance from a previously established juridical régime. It was indisputable that appropriate legislation would offer greater security for those developing the resources of the marine environment and would serve as an incentive to such activities. At the present stage of its work, the Group must avoid undue haste and allow time for the mature consideration by more specialized bodies of certain practical problems. It could, however, define the general principles which should guide future work. The Group must not lose sight of its main purpose as laid down in resolution 2340 (XXII). He had been somewhat concerned by the overhasty suggestion of criteria, such as the 500 metre isobath, for the delimitation of the continental shelf - as he had been by references to systems for the exploitation of oil resources on that shelf.

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(Mr. Gobbi, Argentina)

He had likewise been struck by reservations expressed with regard to the epi-continental sea and waters overlying the shelf, which were in no way related to the exploitation of the sea-bed. Nor had he been encouraged to note that document E/4449/Add.1 suggested the revision of the Geneva Convention on the Continental Shelf; it was not for the Secretariat to pass judgement on agreements drafted by, and harmonizing the interests of, sovereign States. The Secretariat should confine itself to providing information. Happily, the Office of Legal Affairs had not fallen into the same serious error, although document A/AC.135/19 had several defects. First, instead of defining the sea-bed and ocean floor, it was wholly devoted to an attempt to define the continental shelf. Secondly, it stated that the shelf was "under some form of national jurisdiction for particular purposes" thereby qualifying the concept of "national jurisdiction" as though it were equivocal. In that connexion, he shared the views of the Yugoslav representative. Moreover, many studies of the shelf had been made within the United Nations system and its legal status had been defined. He saw no reason why the Working Group should attempt the revision of the Geneva Convention on the Continental Shelf. He agreed with the United Kingdom delegation that the Group was not competent to undertake a study of that shelf. Once it was established that the Group was concerned with the sea-bed beyond the continental shelf, its work could proceed without confusion.

Before elaborating a body of principles to govern the marine environment, the Group must survey the political, economic, social and legal factors involved. Principles such as that of non-discrimination and equal opportunity in exploitation could become mere empty concepts if they did not take account of the very considerable technological and economic differences existing in the contemporary world. The fact of those differences indicated the need to find rules to prevent the sea-bed from becoming a new source of riches to the detriment of developing countries exporting the same raw materials extracted on land.

His delegation, taking particular account of the need to harmonize any new international régime with existing juridical structures, proposed the following as principles to govern the sea-bed and ocean floor: (a) the exploitation

(Mr. Gobbi, Argentina)

and use of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction - in other words, beyond the continental shelf - should be carried out exclusively for peaceful purposes; (b) such exploitation should be for the benefit of mankind; (c) activities related to the exploration and use of the sea-bed should be conducted in accordance with the United Nations Charter and the international régime to be established with the maintenance of international peace and security as the paramount objective together with respect for the territorial integrity of States and the promotion of international co-operation; (d) such activities should be conducted in accordance with the following guidelines: (i) they should not obstruct navigation and fishing on the high seas or the laying of submarine cables; (ii) they should not damage marine flora and fauna; (iii) pollution of the waters, especially radioactive contamination, must be avoided; (iv) coastal States nearest to the areas of activity must be consulted to avoid harmful repercussions within their national spheres of jurisdiction; (v) work safety regulations must be respected and assistance given in case of disaster; (vi) a code of international responsibility in case of damage must be defined; (vii) the exploitation of the sea-bed and its subsoil must take account of the economic interests of the developing countries, particularly with regard to the exploitation of similar resources within their national jurisdiction. Provision might also be made for safeguarding the freedom of scientific investigation on the lines suggested by the delegation of Libya.

His delegation felt that it would be exceedingly difficult to go further at the present stage and agreed with the Japanese delegation on the need for a cautious approach. Argentina laid no claim to any other rights deriving from its status as a coastal State than those provided by existing legislation. It would therefore collaborate to the utmost in the preparation of a new international juridical régime governing the exploitation of the sea-bed. It considered that national claims, whose lack of moral and legal justification had been pointed out by several delegations, had no place in such a régime.

Regarding the United States and Soviet proposals to refer the question of disarmament in the marine environment to the Eighteen-Nation Committee on Disarmament at Geneva, he felt, in view of what he had said, that a decision would be premature. To refer to another forum a problem for which resolution 2340 (XXII)

(Mr. Gobbi, Argentina)

had made the Ad Hoc Committee responsible involved an important policy decision affecting the Committee's competence which should not be taken until a later stage in its work. The remainder of the Soviet proposals were entirely reasonable and he agreed that the sea-bed should be used exclusively for peaceful purposes. However, the demilitarization of the continental shelf, though an important problem, was not one for the Committee to discuss. His delegation also felt that it would be premature to take up the question of an international agency such as that described by the United Nations Committee of the World Peace Through Law Centre.

His delegation had no objection to the proposal that claims to the sea-bed should be frozen, provided that its adoption was based on respect for existing legislation on the continental shelf. Furthermore, there must be wide agreement before before it was adopted and the question of the security of coastal States must not be overlooked. Such a freeze became less important if the principle of non-appropriation was accepted.

Mr. CHAYET (France) said that he had welcomed the flexibility of the work programme proposed by the Chairman because the Group's terms of reference under resolution 2340 (XXII) required a broad exchange of views. His delegation had already, in November 1967 and March 1968, expressed its views with regard to the need to define the limits of the continental shelf, although it recognized that it would be most difficult to reach agreement in that connexion because of the wide divergence of views. Debate in the Working Group would, however, be advantageous in that it would help to determine the direction of current thinking. France was at an initial stage in assessing the value of geological criteria, such as defining the foot of the continental slope as the point at which sedimentary accumulation began. In many cases, that point was readily identifiable from bathymetric maps but, in areas where it was not, the 1,200 metre isobath might be used. There were, however, a variety of possible solutions and discussion of them in the Working Group could only be valuable.

The legal definition of the area of the sea-bed to be considered as beyond national jurisdiction implied a preliminary question, namely, the identification of a general concept to underlie any attempt to codify activities on the sea-bed.

(Mr. Chayet, France)

The application of the principle of res communis, as it exists for the high seas, precluded appropriation and, in that connexion, existing agreements on outer space could be applied to the sea-bed and ocean floors beyond the limits of present national jurisdiction. If the principle of the exclusion of appropriation could be accepted, so, too, could certain concepts of the existing international régime governing the high seas in relation to activities such as fishing. In the case of research, a distinction must be made between purely scientific research and that connected with the exploitation of resources. If limits were to be set on economic exploitation, a possible method of doing so might be the introduction of a system of permits. French mining legislation, for example, provided for permits which conferred no rights of ownership but only the exclusive right to engage in prospecting within a defined perimeter. If an international régime governing the sea-bed and ocean floor was adopted, it would also be necessary to consider some system for regulating and controlling its application. Any attempt to define such a system would be premature, but consideration might be given to the following general concepts as a basis for a future régime: (a) the exploitation of the sea-bed should be in the interests of mankind and exclusively for peaceful purposes; (b) the principle of non-discrimination in the use of marine resources should be recognized; (c) there should be equal opportunity for all countries to utilize those resources; (d) the prevention of abuses should be international and there should be provision for the protection of national interests in regard to such matters as fishing, pollution, submarine cables, fixed installations and so forth.

In stating those principles, his delegation was not thinking in terms of recommendations to be made by the Working Group because, first, formally to adopt them would imply a time-limit for the delimitation of the continental shelf and, secondly, it was not for the Working Group to make specific recommendations. At most, its task was to indicate practical means of promoting international co-operation.

Mr. ANDRASSY (Yugoslavia) noted with satisfaction that the USSR delegation had submitted a proposal for the prohibition of armaments on the sea-bed

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(Mr. Andrassy, Yugoslavia)

and that the United States had proposed that the Eighteen-Nation Committee on Disarmament should take up the question of prohibiting the utilization of the sea-bed and ocean floor for the positioning of weapons of mass destruction. The adoption of both proposals or of a proposal derived from them would be in keeping with his delegation's desire that the General Assembly, on the Ad Hoc Committee's proposal, should adopt a resolution concerning the reservation of such undersea regions exclusively for peaceful purposes. A declaration by the Assembly on those lines would facilitate the work of the Eighteen-Nation Committee.

Pending a definition of the sea areas subject to national jurisdiction and those constituting the common heritage of mankind, his delegation supported the Japanese proposal to declare a moratorium on the extension of the limits of the continental shelf on the basis of the criterion of exploitability. It considered entirely logical the view that jurisdiction over the continental shelf did not include the surface and waters of the sea. His delegation also shared the Norwegian view that the definition in article 1 of the Convention on the Continental Shelf did not allow of an undue extension of the continental shelf. Regarding the proposal to define the outer limit of the continental shelf at the 500-metre isobath, and the distance of 200 miles from the coast, his delegation proposed that the Secretariat should be asked to submit a map indicating approximately the area which under that definition would fall within the jurisdiction of individual States, thus unduly shrinking "the common heritage of mankind". Such a map would undoubtedly support his delegation's position in favour of narrower limits to the continental shelf.

His delegation supported the Libyan suggestion that the Indian proposal (A/AC.135/21) should be taken as a point of departure for the discussion of a possible declaration of legal principles.

Mr. BUSHA (Inter-Governmental Maritime Consultative Organization) said that his organization, the maritime specialized agency of the United Nations, and its member Governments took a keen interest in the Committee's work and expressed its gratitude for being invited to participate in it.

Whereas the seas had been a highway for ships throughout the history of man, now the mariner was but one of a host of users of an increasingly vital resource

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(Mr. Busha, IMCO)

which, by the forethought and adroitness of human invention, had acquired new dimensions unthought of a mere decade ago.

Two essential legal principles appeared to apply to the area under consideration: the first was the ancient and established law of freedom of the high seas, which the drafters of the 1958 Convention had codified. The principle was simple, namely, that rights were enjoyed in common by all States. For all its simplicity, it had not been won without travail and political dispute, for it negated sovereignty, occupation and title. The other essential principle, concerning sovereign rights vested in the adjacent State, was the principle governing the exploration and exploitation of the continental shelf geologically appurtenant to the land mass over which a coastal State exercised territorial sovereignty and differing from it, in geological terms, only by the fact of being submerged. The interaction between the two régimes must be confronted in law as in science and technology. At present, a régime of sovereignty or occupancy of the continental shelf was considered compatible with the traditional uses of the seas by mariners and fishermen and by the newer field of research. The legal question was whether this compatibility could continue and could be extended to the areas presently under consideration.

While there was little national legislation with regard to competing uses of the high seas, more efforts had been made in that direction with respect to the continental shelf, as for example the decree adopted by the Presidium of the Supreme Soviet of the USSR on 6 February 1968 which made provision for non-interference with navigation and contained other prescriptions concerning the safety of the devices of exploitation.

His organization, on the international plane, was concerned with the safety and efficiency of navigation and had at least four treaty or regulatory régimes under constant review in that area alone. It was also concerned with the better knowledge of the ocean environment and with pollution of the sea, which was becoming an increasing problem as usage of the sea increased. It was pursuing urgent programmes and activities in all three fields.

From the juridical standpoint, he wished to emphasize that the freedom of the high seas as well as the right of innocent passage should be exercised within the framework of law and regulation long established for the safe and efficient use of

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(Mr. Busha, IMCO)

the seas and oceans. At present, the devices of exploration were either ships or devices subject to the same hazards as ships, as, for example, drilling rigs. With regard to the detrimental use of ocean space, specifically pollution, whether by oil or by other deleterious substances, other regulatory arrangements were or would be in force under the aegis of IMCO. If the Ad Hoc Committee seemed to be called upon to create ex nihilo a régime for the deep ocean floor, IMCO was confident that the existing régimes and their interaction - taking into account the many shared uses of ocean space - would not be ignored. He then cited information on his organization's activities given in documents E/4487 and its annex XI, and in A/AC.135/23.

The meeting rose at 5.20 p.m.

SUMMARY RECORD OF THE EIGHTH MEETING

Held on Friday, 29 June 1968, at 3.30 p.m.

Chairman: Mr. YANKOV Bulgaria

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/10-12, 19 and Add.1, 22, 23; E/4449 and Add.1) (continued)

EXAMINATION OF LEGAL PRINCIPLES RELATING TO THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, INCLUDING:

(a) EXISTING REGULATIONS IN THIS FIELD

(b) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION WITH A VIEW TO THE PREPARATION OF AN AGREEMENT ON THE USE OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, EXCLUSIVELY FOR PEACEFUL PURPOSE

(c) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION IN THE USE, IN THE INTERESTS OF MANKIND, OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION

Mr. HARDERS (Australia) said that the process of giving new forms to the law of the sea, which had accelerated following the end of the Second World War, was still not completed. The four conventions adopted by the United Nations Conference on the Law of the Sea in 1958 had codified, developed and stabilized the law of the sea in many important respects. However, further progress would undoubtedly be made in developing techniques permitting of the exploitation of the resources of the ocean floor at greater depths than had hitherto been thought possible. Prudence therefore required that the United Nations should take stock of the situation, including its legal aspects, and consider, among other things, whether the existing international law of the sea was adequate to meet the new circumstances that might emerge and, if not, consider the evolving of new international arrangements.

General Assembly resolution 2340 (XXII) was based on the premise that there were areas of the sea-bed and ocean floor lying beyond the limits of national jurisdiction. In his delegation's view, that assumption was correct. His country, which was a party to the Convention on the Continental Shelf, did not subscribe to the assertion that the definition of the term "continental shelf" in article 1 of that Convention was designed to enable coastal States to divide up the sea-bed of the oceans of the world among themselves. That definition contained several elements, one of which was adjacency.

(Mr. Harders, Australia)

His delegation considered that the traditional rules of international law did not lend themselves to the economic and orderly exploitation of the resources of the ocean floor in the interests of mankind. National appropriation of the ocean floor, even if legally possible under international law, was not acceptable. On the other hand, if the exploitation of the resources of the ocean floor were open to all comers under a free-for-all system, the long-term result would be conflict and confusion.

Consideration should be given to such matters as high-seas fishing, preservation of the freedom of the high seas and the problem of common oil pools. In working out international arrangements, many questions would arise such as whether or not the usual system of arrangements and control relating to mining, including the setting-up of safety standards, would be applied and, if so, how they would be applied and enforced, and whether, by analogy, the law of the flag as it applied to ships should be applied to drilling rigs and similar installations. The problem was not limited to mining rules but could cover virtually the whole range of legal relationships, rights and obligations. In the case of the exploitation of the natural resources of the continental shelf, those matters caused no difficulty because they were an integral part of the sovereign rights conferred by international law on coastal States for the purpose of exploring the continental shelf and exploiting its natural resources. What was generally done, and what Australia had done, was to apply the general body of law in force in the adjacent land territory of the coastal State itself. Some delegations had drawn attention to their national mining procedures and had suggested them for consideration. Further suggestions would no doubt be made regarding the content of the rules and the kind of system through which they might be applied. Consideration might also have to be given to the need for arrangements to provide access to facilities on the land territory of the nearest coastal State. The examination of the legal aspects seemed only to be beginning.

Clearly, the area of the sea-bed and ocean floor beyond the limits of national jurisdiction would have to be delimited. However, it was not the task of the Legal Working Group or of the Ad Hoc Committee to decide that matter. It also affected the question of the outer limits of the area of national jurisdiction

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(Mr. Harders, Australia)

which, for many States, was governed by the provisions of the Convention on the Continental Shelf - a multilateral treaty that had been worked out in accordance with the law-codifying and law-making processes of the United Nations itself and had been subscribed to by a considerable number of States.

The definition of the term "continental shelf" had been criticized on the grounds that it was imprecise and uncertain, but both in the International Law Commission and at the Conference on the Law of the Sea in 1958 various formulas providing for greater precision had been proposed but had been rejected. In the end, the general consensus of the Conference had been in favour of the double concept of depth and exploitability that the Commission had finally proposed.

Thirty-seven States had become parties to the Convention and for them it was a binding treaty in which they recognized certain rights and accepted certain obligations. In addition to the parties, an additional twenty-eight States had signed the Convention but for one reason or another had not as yet ratified it. The material collected in document A/AC.135/11 reflected a quite striking adoption of the provisions of article I not only by the parties but by other States.

Moreover, various States, including Australia, had proceeded in good faith and in conformity with the Convention to enact legislation relating to the exploitation of the continental shelf and of its resources, and mining operations on the continental shelf were taking place under that legislation.

He had addressed himself to the second - the mining part - of the item under consideration because it was that part that appeared to call principally for consideration of strictly legal aspects, but he was also keenly interested in the first part of the item and had given careful consideration to the statements that had been made, particularly by the USSR and the United States.

Mr. ODA (Japan) said the suggestion that a coastal State's jurisdiction should be extended beyond the 200 metre limit on the grounds that exploitation beyond that limit was technically feasible was untenable. The terms "exclusive control of the subsoil" and "the use of the subsoil" should not be confused. The effect of an extension of the jurisdictional limits of the coastal State would not be to extend the area of exploration and exploitation but rather the area under its exclusive control. From that point of view, he felt that the adoption of the

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(Mr. Oda, Japan)

concept of exploitability in the Convention on the Continental Shelf had been unfortunate and would lead to the division of the sea-bed among contending States. It was for that reason that he had drawn attention to the possibility of the Convention being reviewed in 1969.

A distinction should also be made between the need for international regulations for the exploration and exploitation of the deep ocean floor and the internationalization of that floor. There was no rule in existing international law prohibiting anyone from exploiting the deep ocean floor, subject only to the principles and rules governing the high seas. As, however, the existing regulations governing the high seas - which covered only such matters as navigational interference, safety at sea and pollution - were fragmentary and unsatisfactory, further clarification in that regard would be very useful.

In his view, the argument about whether the ocean floor was a res nullius or a res communis was unproductive. The Working Group should rather concern itself with such matters as whether the ocean floor should be free for all or internationalized, the possibility of deriving international revenue therefrom and the extent to which, if it was internationalized, that should be done as a tangible manifestation of the interest of all mankind in the deep ocean floor. The Working Group's discussion could not be fruitful unless a distinction was made between international regulations governing the exploration and exploitation of the deep ocean floor and the internationalization of that area.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that, as he saw it, the Ad Hoc Committee's terms of reference in General Assembly resolution 2340 (XXII) gave it three main tasks. The first was to make a survey of past and present activities of inter-governmental bodies concerning the sea-bed and the ocean floor and the existing international agreements and to report to the General Assembly on what legal questions were already covered by legal agreements or were being developed. Secondly, the Committee should prepare a list of legal problems concerning the sea-bed and the ocean floor in order to identify the problems for which new legal standards must be devised. The third task was to survey the practical ways and means of promoting international co-operation in the exploration and exploitation of the sea-bed and the ocean floor and their resources, taking account of the views expressed by Member States at the twenty-second session

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(Mr. Mendelevich, USSR)

of the General Assembly. All three of those broad and necessary tasks were preparatory and exploratory.

The Committee should bear in mind that it was not starting from scratch. It would be incorrect and unwise to regard the sea-bed and the ocean floor as a legal vacuum. The solution of any international legal problem could be effective only if it was based on existing international law and principles. That idea was correctly stressed in the Indian draft declaration (A/AC.135/21).

The Committee's prospects for success were bright. The ample documentation provided by the Secretariat put the Committee in a good position to carry out its first task. Despite the high quality of that documentation, however, there were places where it was incomplete. In document A/AC.135/10, for instance, no reference was made to Antarctica. Section I of that document omitted mention of article 3 of the Convention on the High Seas, which referred to free access to the sea by land-locked States; section II failed to mention article 24 of the Convention on the Territorial Sea and the Contiguous Zone; and the list of States which had ratified the Moscow Treaty of 1963 omitted the German Democratic Republic.

With regard to the second task, the Working Group already had a very good idea of many of the legal aspects involved in the question of the sea-bed: there seemed to be no doubt concerning the need to prohibit the use of the sea-bed and the ocean floor for military purposes. Many States had drawn attention to the need to clarify article 1 of the Convention on the Continental Shelf. While he realized the need for more accurate boundaries, he felt that, since the Convention on the Continental Shelf recognized the sovereign right of coastal States to exploit the resources of the continental shelf within the area of their jurisdiction, any changes leading to a further clarification of those boundaries must be undertaken by the parties to the Convention in accordance with the procedures laid down in it. There was also broad agreement that the Committee should consider freedom of scientific research on the ocean floor, the prevention of territorial claims to the sea bottom, freedom of the high seas, and prohibition of pollution among other questions. He accordingly felt that the Committee should be able to present the General Assembly with a list of the legal problems regarding the sea-bed which required progressive development.

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(Mr. Mendelevich, USSR)

His delegation could not yet foresee what machinery should be set up to carry out the Working Group's third task. It would like, however, to stress that various problems concerning the law of the ocean floor were at different stages of readiness for solution. Among the problems ripe for solution he would include prohibition of the use for military purposes of the sea-bed and the ocean floor beyond the limits of the territorial waters of coastal States. His delegation felt that it was imperative to come to an early international agreement on that question, first, because the need to prevent the extension of the arms race to a new sphere was acknowledged by all States, and the need to preserve the sea-bed for peaceful purposes exclusively and to use its resources for the benefit of mankind had been stressed by General Assembly resolution 2340 (XXII); secondly, because prohibiting the extension of the arms race to the ocean floor would be in the interests of all States, especially since the sea constituted 71 per cent of the area of the planet; and, thirdly, because there was a real possibility of the sea-bed soon being used - if that was not already being done - for military purposes. Unless the Committee acted forcefully and promptly, the time might be too late.

He accordingly proposed that the Ad Hoc Committee should recommend that the General Assembly should solemnly call upon all States to refrain from using the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of the territorial waters of coastal States for anything except purely peaceful purposes and should ask the Eighteen-Nation Committee on Disarmament to consider as an urgent measure the question of prohibiting the use for military purposes of the sea-bed and ocean floor beyond the limits of the territorial waters of coastal States. In acting thus, the General Assembly should provide the Eighteen-Nation Committee with guidance on the points of principle that should be included in an international agreement. In that regard, he endorsed the view expressed in paragraph 41 of document A/AC.135/19/Add.2.

The proposal on the same subject which had been submitted by the United States delegation in document A/AC.134/24 had the defect of merely transferring the matter to the Eighteen-Nation Committee on Disarmament without offering it any guidance. The history of that Committee showed that it was more apt to make progress when it had guidance than when it had not. A wide expression of support by States Members of the General Assembly would be indicative of the importance they attached to a solution of that important question.

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The United States proposal did not provide for a complete prohibition of the use of the sea-bed for military purposes, for it mentioned only weapons of mass destruction. He hoped the United States representative would explain why the proposal provided only for a partial prohibition of such uses of the sea-bed. The USSR proposal, on the other hand, would request a decision in principle from the General Assembly and would make provision for a practical solution through the complete prohibition by the Eighteen-Nation Committee on Disarmament of military activities on the sea-bed.

There was a great need for additional efforts to explore the ocean floor and thus also for expanded co-ordination among the members of the United Nations family and other organizations. The Intergovernmental Oceanographic Commission established under the auspices of UNESCO might serve as a focus for the co-ordination of such efforts, as had been suggested by the Secretary-General in his report (E/4487).

It was clear from the proceedings in the Working Group that many delegations were concerned with the question of preparing a declaration of legal principles governing the activities of States on the sea-bed and ocean floor. We did not exclude that a statement of legal principles to be applied to the sea-bed and ocean floor could be transmitted to the General Assembly for consideration. In that connexion, the principles which came to mind were the reservation of the sea-bed for peaceful purposes, freedom of the high seas, prevention of the arrogation of the ocean floor by individual States, freedom of scientific research and the security of navigation against activities on the sea-bed. Among the specific proposals made by delegations was the draft declaration of legal principles submitted by the delegation of India, which his delegation had studied with great interest. Any draft declaration on the subject should be given careful scrutiny in order to ensure certain fundamental principles were included. The provisions of operative paragraphs 2, 3 and 4 of the Indian draft declaration were particularly deserving of attention.

A United States draft declaration had just been circulated which seemed to reflect the statements made by the United States representative at the first meeting. Although containing a number of provisions which deserved consideration,

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it was significantly weakened by the lack of any provision for the use of the sea-bed exclusively for peaceful purposes. It was difficult to speak of the legal principles relating to the use of the sea-bed without mentioning the most important, the prohibition of military activities on the sea-bed and ocean floor. The lack of provisions concerning such military activities was perhaps not unrelated to the fact that the United States draft resolution would provide for placing the question before the Eighteen-Nation Committee on Disarmament without consideration by the General Assembly. The real intentions of the United States were likely to shelve the problem in the Committee on Disarmament.

His delegation's view of the Ad Hoc Committee's work was on the whole an optimistic one, and he hoped the Committee's report would mark a turning point in the consideration of this highly complex problem.

Mr. DIACONESCU (Romania) said that his delegation attached special importance to the use of the sea-bed and the ocean floor exclusively for peaceful purposes and in the interests of mankind. As scientific and technological progress were making it possible to utilize the resources of the sea-bed, it was necessary to ensure free and equitable access to those resources by all States. Conflicts of interest among nations must be prevented, and steps must be taken to ensure that the freedom of the high seas and the traditional uses of the sea under that principle were not impaired by the exploration and exploitation of the resources of the sea-bed. Better co-ordination of activities by States would in turn be necessary, and in that connexion, the question arose of the legal principles to be applied. If, moreover, the sea-bed was to be used to further human progress, it must be protected from the harmful effects of military competition; international peace and security made it imperative to prevent the use of the sea-bed for military purposes.

Any answer to the legal and other questions raised would require a clear delimitation of the sea-bed beyond national jurisdiction, and that was equivalent to a more precise definition of the continental shelf. A number of delegations had drawn attention to the shortcomings of existing international law in regard to

(Mr. Diaconescu, Romania)

the delimitation of the national jurisdiction of coastal states over their territorial waters and continental shelf and had made various suggestions about how those difficulties might be eliminated. His delegation attached special significance to what the representative of Yugoslavia had called the fourth criterion of the definition of the continental shelf according to the Geneva Convention of 1958. By virtue of that criterion, the Romanian delegation considered that the continental shelf was limited by a sharp inclination at its outer margin. In terms of the Geneva Convention, the foot of the continental shelf was generally located at a depth of 200 metres. However, further study would be necessary in order to resolve the problem of national jurisdiction in cases where such a clear demarcation did not exist, where volcanic cones rose from the ocean floor to a depth of less than 200 metres or where islands rose directly from the continental shelf itself and therefore had no insular shelf of their own.

The task of the United Nations with respect to the sea-bed was a difficult one; it would require careful study and investigation with due regard for all points of view. The General Assembly's decision to establish an ad hoc committee had therefore been a wise one.

The study which the Committee was entrusted with preparing under General Assembly resolution 2340 (XXII) presupposed a broad exchange of views on the various proposals which were intended for consideration by the General Assembly at its twenty-third session. In that connexion, his delegation greatly appreciated the Soviet proposal which would have the Committee recommend that the General Assembly should consider the question of prohibiting the use of the sea-bed and ocean floor for military purposes. His delegation supported the suggestion that the matter should be studied by the Eighteen-Nation Committee on Disarmament, and it considered that a definitive solution of the problem was necessary in order to ensure, in the terms of resolution 2340 (XXII), "the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor".

Any juridical régime for activities on the sea-bed should be based on the universally recognized principles of international law, including the United Nations Charter. Special provisions should be included concerning measures to prevent the pollution of superjacent waters or interference with other uses of the sea. The proper and effective use of the resources of the sea-bed would

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require an intensification of international co-operation in the field of research and exploration as well as of science and technology. His delegation therefore supported, as a means of helping to achieve that co-operation, the proposal made by the United States representative to proclaim the period from 1970 to 1980 an International Decade for Ocean Exploration. If the majority of the General Assembly shared that view, his delegation was prepared to support the proposal in that organ.

Mr. MEEKER (United States of America) introduced draft resolutions A/AC.135/24 and A/AC.135/25, which embodied proposals made earlier by his delegation. He hoped that the draft resolutions would serve to identify some important subjects which ought to be treated in the development of an international régime for the ocean floor and that they would suggest guidelines for future United Nations work in that field.

The USSR representative had suggested that the failure of draft resolution A/AC.135/25 to refer to arms limitation implied that the United States delegation did not attach sufficient importance to that subject. The fact was, however, that the United States delegation considered the subject so vital that it had dealt with it separately in draft resolution A/AC.135/24.

The USSR representative had also said that the latter draft resolution referred the question of arms limitation to the Eighteen-Nation Committee on Disarmament without expressing an opinion, whereas in fact the draft resolution clearly stressed the importance of taking effective steps to prevent the spread of weapons of mass destruction to a new environment. The United States delegation believed that proposals which concentrated on arms limitation would be more expeditious and effective than a broad general statement - which would probably lead to protracted debate - on the need to use the sea-bed and ocean floor exclusively for peaceful purposes.

Mr. SCIOLLA (Italy) said that the first step to be taken by the Committee in the study entrusted to it was to determine whether there actually existed an area beyond the limits of national jurisdiction. Some jurists held that the flexibility of the exploitability criterion in the Geneva Convention on the Continental Shelf would allow the extension of national jurisdiction over the entire sea-bed. His delegation did not share that view, for the concept of a

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continental shelf presupposed the existence of some limit. Geophysically, the earth was divided into continents and oceans, while the extension of the continents beneath the seas was termed the continental shelf. That extension must not be confused with the ocean floor; national jurisdiction could not be extended to the middle of the ocean floor even if that area could be economically exploited.

While the Geneva Convention left some uncertainty about the extent of the continental shelf, it did establish the principle of a geographical limit, and his delegation shared the opinions expressed in that connexion by the representatives of the United Kingdom, Norway, Malta and Australia.

Some delegations had raised the question of appropriability, discussing it from the point of view of existing international law. While it did not seem very important to have a wide discussion about what the scholars think of the abstract concept of appropriability, it was important to try and find some concrete ideas which could be useful for the work that other bodies would be asked to do. It was therefore appropriate to explore the meaning of the term "appropriability". If appropriability meant that a State could declare itself absolute master of a portion of the sea-bed by establishing a frontier within which it would exclude all interference by other States, such a concept would be untenable under existing international law. It would be contrary to the basic principles which applied in that regard and particularly to the general principles of freedom of the seas.

There was, however, another notion of appropriability, and it appeared that that was the one to which the Secretariat referred in its remarkable study. It can be spoken of in the sense of the effective appropriation of resources. In such a sense it was difficult to say that appropriability was prohibited by international law. On the contrary, the freedom of the seas - including the freedom to appropriate existing resources and the principle that States could exercise that freedom by taking reasonable account of the interests of other States in the freedom of the seas, as laid down in article 2 of the Geneva Convention on the high seas - led practically to the recognition of the right of States to engage in the exploitation of resources beyond the limits of national jurisdiction and of the right to do so without being hindered by other States.

This being the situation de lege lata, it had to be seen if and what evolution was possible de lege ferenda.

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It would be desirable for the laws governing the sea-bed to evolve in a way similar to the evolution of the laws governing fishing rights. The principle of freedom of fishing had originally been based by Grotius on the assumption that fisheries were an inexhaustible resource. But when the international community became aware that the situation was in fact otherwise, new regulations were introduced with a view to preserving the interests both of States and of mankind as a whole.

The regulations laid down in the framework of international law in this field, had of course the effect of imposing obligations for the subjects of international law, but they also safeguarded the fundamental principle of freedom which had constituted the basis of the right of fishing. This same processus of evolution should govern the rights of exploitation of other resources of the sea.

The future juridical régime of the sea-bed should be based on two principles to which his delegation attached great importance, namely, the freedom of the seas and the positive concept of human solidarity which formed the basis of existing international law. His delegation was prepared to work actively for equitable and reasonable solutions within the framework of those principles.

Mr. BEAULIEU (Canada) said that the documentation provided by the Secretariat, particularly documents A/AC.135/10, 11, 12 and 19/Add.1, had provided a very useful analysis of the current legal situation. A study of existing law would be necessary if the work of the Committee in preparing new and realistic standards was to be successful.

The lack of precision in article 1 of the Geneva Convention on the Continental Shelf was such that the coastal States could engage in the exploration and exploitation of the natural resources of the sea-bed at ever-increasing distances and depths. Moreover, the criterion of 200 metres, which had seemed meaningful in 1958, was currently only of historical value, the criterion of exploitability being the only one having practical significance.

The only legal principles limiting the criterion of exploitability were the median line dealt with in article 6 of the Convention and those provisions of article 1 of the Convention which limited the continental shelf, in the legal sense, to the regions adjacent to coastal States. As, however, the word "adjacent" was

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itself undefined, it was difficult to establish any practical standards. The 200-metre-depth criterion, which, from the outset, had been of only relative value in view of the geological nature of the continental terrace, could not be retained. Until new rules were formulated, it had to be recognized that any State was free, within the few limitations imposed by the four Geneva Conventions, to engage in the exploration and exploitation of the natural resources of the sea-bed in the regions adjacent to its coast.

His delegation was well aware that such a situation, if it were to continue, could result only in complete anarchy. The only way of preventing the current policy of laissez-faire from leading inevitably to chaos was to decide in principle, as soon as possible, that beyond a certain clearly defined limit, a new juridical régime should be established to ensure that activities on the sea-bed would serve the interests of all mankind. His country was ready, as other countries had been, to accept that principle and the limitations it would impose on its national jurisdiction, and he expressed the hope that the international community would take a decision to that effect in the near future.

Such a decision would, however, be only a first step. Some countries desired to proceed immediately to the elaboration of new standards, but the suggestions made thus far merely gave a preliminary indication of what might one day be possible. What was needed was a legal definition which took account of the geological, geographical and technical realities of the continental margin and the ocean floor.

Although the preparation of a juridical régime for the sea-bed was a task which would demand considerable time and effort, the Working Group could make a positive contribution by specifying the general principles which should govern the legal status of the sea-bed until a better and more detailed juridical régime was established. His delegation had taken note of the suggestions made by the United States representative at the meeting of 20 June, and it regarded their adoption as essential in order to ensure that the sea-bed would not be subject to the national sovereignty of any country, that the exploration and exploitation of the resources of the sea-bed would remain accessible to all States, without discrimination, and that all activities would be subject to the relevant rules

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of international law, and particularly to the principles of the United Nations Charter concerning the maintenance of peace and the progress of mankind. His delegation was prepared to consider any practical measures which might be necessary until a new definition and a new régime were established.

As his delegation had said in the First Committee of the General Assembly, it was convinced that the exploration and exploitation of the resources of the sea-bed must be undertaken in accordance with the Charter of the United Nations in the interests of the maintenance of international peace and security and for the benefit of all mankind. It therefore favoured the adoption and implementation of any measures which would ensure the maintenance of peace in that sphere. While his delegation was prepared in principle to consider measures which would reserve the sea-bed exclusively for peaceful purposes, such measures must be realistic, viable and flexible. They must not impair the balance of existing strategic forces, and they must be supported by the majority of the maritime States. In addition, there should be some means of inspection that would be satisfactory to all participating States. The task of reserving the sea-bed for peaceful purposes should be approached with a realization of the complexity of the problem and of the prospects for a solution. To attempt too much too fast would be to repeat the errors which had held back international negotiations on disarmament for years. Efforts should be concentrated on the most urgent practical problems which offered real possibilities for solution.

The USSR and United States delegations had proposed that the Eighteen-Nation Committee on Disarmament should be requested to consider the question of armaments limitation on the sea-bed and ocean floor. His delegation was in agreement with that procedure and was prepared to give its support to any proposal under which that Eighteen-Nation Committee would consider the elements that might form the basis for an effective international agreement to prevent the arms race from being extended to the sea-bed. That Committee's position on that complex question would have considerable bearing on the result of the work which remained to be done. Experience suggested that an approach based on such a general principle as the prohibition of all military activities on the sea-bed and ocean floor would merely create difficulties. The objective should be rather to prevent the

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utilization of the sea-bed for aggressive purposes and to ensure that it would be developed in accordance with the aims of the United Nations. His delegation would prefer an approach like that adopted in regard to space, namely, an agreement prohibiting certain specific types of weapons and military installations, such as nuclear weapons and other arms of mass destruction, as well as the construction of military bases and fortifications.

Mr. PANYARACHUN (Thailand) said he welcomed the initiative of the USSR representative in introducing draft resolution A/AC.135/20 for he shared the view that the sea-bed and the ocean floor be used solely for peaceful purposes. He agreed with the USSR representative that the question should be considered with a sense of urgency. The submission of draft resolution A/AC.135/24 by the United States representative also has the same procedural approach as the Soviet Union draft in requesting decision to refer the question to the Eighteen-Nation Committee on Disarmament. He recalled that some of the developed countries had stated that decisions regarding the creation of an international régime for the sea-bed and ocean floor should not be taken on the basis of limited information regarding scientific, technical and other matters. That argument has some validity, but it should also be remembered that some riparian countries had already granted leases covering areas beyond the continental shelf, so that the greater the delay in taking effective action, the more complex the issues would become.

His delegation felt that the same caution should be equally applied to the consideration of the USSR and United States draft resolution. He would like to know how far the Secretariat had progressed in preparing the document on the possible military uses of the sea-bed and ocean floor which the representative of Malta had requested at the eleventh meeting of the Ad Hoc Committee. He believed that such a document, giving more precise information on the subject, would help delegations to determine their positions vis-à-vis the draft resolutions.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) observed that there was some inconsistency in the positions of both the United States and the Soviet Union, which while reluctant to take speedy action regarding an international régime for the sea-bed and the ocean floor, yet were vehemently urging that the question of preventing military action in that sphere should be transferred immediately

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(Mr. Waldron-Ramsey, Tanzania)

to the Eighteen-Nation Committee on Disarmament. In his view, the question should first be discussed fully by the Legal Working Group and the Ad Hoc Committee, which were more representative than the Eighteen-Nation Committee, and then by the General Assembly. It should be generally agreed that any declaration prohibiting the use of the sea-bed and ocean floor for military purposes would be respected by all States, whether or not they were Members of the United Nations. If the Legal Working Group and the Ad Hoc Committee felt that there were compelling reasons for transferring the question to the Eighteen-Nation Committee on Disarmament, he would like to propose a number of amendments to draft resolution A/AC.135/24.

First, some introductory wording should be inserted stating that the Ad Hoc Committee recommended the draft resolution for adoption by the General Assembly.

A new preambular paragraph should be inserted, as follows:

"Recalling the preamble of its resolution 2340 (XXII) on the question of the preservation exclusively for peaceful purposes of the sea-bed and the ocean floor beyond the limits of present national jurisdiction, in which it was especially mindful of the importance of preserving the sea-bed and the ocean floor, and the subsoil thereof, as contemplated in the title of the item, from actions and uses which might be detrimental to the common interests of mankind,".

The present first preambular paragraph would thus become the second preambular paragraph and should be amended to read:

"Desiring that measures be achieved that will enhance the peace and security of all nations and bring the world nearer to general and complete disarmament, and that nothing should be done by States which would further intensify the arms race,".

A new operative paragraph 1 should be inserted, worded along the following lines:

"Declares that the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, should not be used by any State or States for any military purposes whatsoever;".

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(Mr. Waldron-Ramsey, Tanzania)

The existing operative paragraph 1 would become operative paragraph 2 and would be amended to read as follows:

"Requests the Eighteen-Nation Committee on Disarmament to take up the question of the banishment of arms and all military bases, emplacements and exercises from the sea-bed and ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction".

The CHAIRMAN invited the Tanzanian representative to submit his amendments in writing, in accordance with rule 121 of the rules of procedure.

Mr. PARDO (Malta) inquired whether the Rapporteur could provide any information on the format of the Working Group's report and the date on which it would be discussed. While he welcomed the submission of draft resolutions A/AC.135/20 and A/AC.135/24, he wondered whether the Working Group was competent to discuss them; the question of prohibiting the use of the sea-bed and the ocean floor for military purposes should perhaps be dealt with by the Ad Hoc Committee. Furthermore, the submission of two rival draft resolutions would undoubtedly give rise to lengthy discussion, and in view of the limited time available to both the Working Group and the Ad Hoc Committee, it might be wiser for such drafts to be considered by the General Assembly.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that at the present stage it was difficult for him to answer fully the Maltese representative's question concerning the report, but he hoped to submit a report that would be acceptable to all members of the Working Group and would facilitate the work both for the Group and of the Ad Hoc Committee.

The CHAIRMAN said that in his view the Legal Working Group could consider the two draft resolutions mentioned by the Maltese representative, for although the Chairman of the Ad Hoc Committee had stated at the tenth meeting that the Committee reserved to itself the consideration of the political and military aspects of the item, he had also said that the Working Group would be free to consider any aspects of the item, irrespective of whether they had been referred to them or not, if those aspects impinged on or had a bearing on any aspect of their own work (A/AC.135/18, p. 2).

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Mr. TILAKARATNA (Ceylon) recalled that some members of the Economic and Technical Working Group had objected to that Group's discussing certain subjects to which, according to the criterion mentioned by the Chairman, it would be entitled to refer. The same criterion should be applied to both Working Groups. In any case, from a purely practical point of view it might be advisable for the two draft resolutions to be considered by the Ad Hoc Committee.

Mr. NABWERA (Kenya) and Mr. ARORA (India) expressed agreement with the representative of Ceylon.

Mr. STACHEVSKI (Union of Soviet Socialist Republics) said that although the Ad Hoc Committee had reserved to itself the discussion of the political aspect of the item, there was no reason why members of the Legal Working Group should not discuss political questions which were closely related to the legal aspect of the item.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, proposed that the Chairman should discuss the question of the scope of the Working Group's competence with the Chairman of the Ad Hoc Committee and the Economic and Technical Working Group, and should report to the Legal Working Group at the beginning of the next meeting.

It was so decided.

The meeting rose at 6.50 p.m.

SUMMARY RECORD OF THE NINTH MEETING

Held on Monday, 1 July 1968, at 10.55 a.m.

Chairman: Mr. BENITES Ecuador

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/10-12, 19 and Add.1, 22, 23; E/4449 and Add.1) (continued)

EXAMINATION OF LEGAL PRINCIPLES RELATING TO THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION, INCLUDING:

(a) EXISTING REGULATIONS IN THIS FIELD

(b) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION WITH A VIEW TO THE PREPARATION OF AN AGREEMENT ON THE USE OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, EXCLUSIVELY FOR PEACEFUL PURPOSES

(c) CONSIDERATION OF LEGAL PRINCIPLES WHICH SHOULD GOVERN INTERNATIONAL CO-OPERATION IN THE USE, IN THE INTERESTS OF MANKIND, OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, UNDERLYING THE HIGH SEAS BEYOND THE LIMITS OF PRESENT NATIONAL JURISDICTION

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, replying to a question asked by the representative of Malta at the meeting on the previous Friday, described the format of the draft report, which would be entitled "Report of the first session of the Legal Working Group". After an introduction dealing with the organization of work, it would enumerate the questions raised and summarize the opinions expressed on each item, without giving the names of delegations. It would also note the problems to be considered at a later date. Finally, any practical proposals which had been submitted would appear in an annex.

Mr. GALINDO POHL (El Salvador) recalled that the task of the Ad Hoc Committee and its two Working Groups was to implement the provisions of resolution 2340 (XXII), which stated that the ocean floor, beyond the limits of national jurisdiction, should be used exclusively for peaceful purposes and for the benefit of mankind as a whole. There were very few or no established legal norms in that field, in which man had only very recently shown interest. Admittedly, attempts had been made to apply to the sea an old legal principle whereby the rights exercised over a piece of land might be extended to the subsoil below and the air space above it. Prudence was necessary, however, and it should not be forgotten that any existing legal system had developed as the result of certain natural conditions and in a specific social and political context. It would therefore be preferable to formulate a body of co-ordinated principles, which would take account of the aims in view and of existing socio-economic conditions, rather than to attempt to apply to

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(Mr. Galindo Pohl, El Salvador)

the ocean floor a system which corresponded to traditional legal concepts. In the first place, agreement should be reached on the ultimate objectives regarding the sea-bed and the ocean floor and the subsoil thereof. From the statements made in the First Committee, and by many other leading figures, the international community apparently considered the sea-bed and the ocean floor and the subsoil thereof as the heritage of mankind as a whole, and rejected any military utilization of those areas. It was, moreover, essential to define such areas precisely, since, of course, they could not include the continental shelf or territorial waters, which were governed by the Geneva conventions.

It was therefore the responsibility of jurists to work out principles and draw up a coherent legal system which would meet the requirements laid down by the international community and govern their fulfilment. It would not be sufficient to proclaim the principle of equality and give the developing countries illusory rights from which they could not benefit. The principles laid down should have a tangible, practical meaning for all countries so that the resources of the sea-bed and the ocean floor and the subsoil thereof could be exploited for the benefit of mankind as a whole. It was therefore important to be realistic and to be aware of the gap between the opportunities open to advanced nations on the one hand and the developing countries on the other. The elaboration of an international system would enable the poorer countries to benefit from the development of the new resources and ensure that such development conformed to the principles of the United Nations Charter and to the legal norms accepted by the international community. Under the supervision of bodies empowered to implement such a system, profits would be shared among all States, both coastal and land-locked, and the share of the poorer developing countries would be relatively larger. Every State would be assured of free access to information and technical knowledge and participation in research activities. No rights over the area beyond the limits of national jurisdiction could be acquired without the consent of the international community. In that way the developing countries would have a real part to play in the development of the resources of the sea-bed and the ocean floor and the subsoil thereof.

He emphasized that the above proposals and observations were merely tentative and that, whatever procedures were followed, the essential task was to work out a

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(Mr. Galindo Pohl, El Salvador)

coherent legal system which would ensure that the sea-bed and the ocean floor and the subsoil thereof would be used exclusively for peaceful purposes for the benefit of mankind as a whole.

Mr. HOLDER (Liberia) said he wished to discuss the legal principles relating to the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction. The wording of subsection (a) of the item implied a recognition that some regulations existed in that field, although they were inadequate and limited. It was clear from subsection (b) that there were no regulations governing the use - exclusively for peaceful purposes - of the sea-bed and the ocean floor and the subsoil thereof. In other words, other uses, dangerous to mankind, might be made of the submarine areas of the high seas beyond the limits of national jurisdiction. Finally, subsection (c) recognized that the resources of the sea-bed might not necessarily be exploited in the interests of mankind as a whole. There was a further implication that unless the lacunae in international law were removed, the gap between the "haves" and the "have nots" might widen, and also that confusion might arise even among the technologically more advanced nations. An international agreement should therefore be drawn up to ensure that the unoccupied areas of the ocean were exploited exclusively for peaceful purposes and for the benefit of mankind.

The world community had apparently rejected the thesis of the "closed sea" and accepted the principle of the "open and free sea", but the freedom of the high seas could in no way be regarded as absolute, since the right of others to use the high seas could not be impeded. Human progress had created new interests which in turn had imposed more and more restrictions on the use of the sea and its environs. The evolution of international law in that area had depended on the interplay of competing interests, although in general the interests of the international community had prevailed. There had been an increasing tendency for coastal States to enlarge the limit of territorial waters under their jurisdiction; restrictions had been imposed on fishing and other living resources; measures had been taken to protect submarine cables; and the authority of coastal States had been extended to the continental shelf. The appropriation of unoccupied land areas had been based on

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the concept of effective jurisdiction or occupation. On the other hand, the principles governing the high seas and the subjacent area tended to exclude the concept of exclusive dominion, although the concept of "effective control" seemed to have assisted in limiting the freedom of sea areas. It was that concept which had helped to give the coastal States control of the adjacent portion of the high seas known as the "territorial sea", and had perhaps led to the desire to extend that control to the continental shelf.

It was now clear that substantial mineral resources existed in the areas subjacent to the high seas; that methods had been developed for extracting certain resources from the sea which could compete with low-grade terrestrial minerals; that a few submarine resources, in spite of their low-grade content, had attracted the attention of the mineral industry; that certain techniques used in the off-shore exploration of oil deposits could also be used in considerable depths of water; and that technological breakthroughs might make the exploitation of the mineral resources of the ocean conceivable in a relatively short time. The gradual depletion of high-grade land deposits might also stimulate the exploitation of ocean mineral resources. Although at present little was known about those resources, it might be assumed that, as research was intensified, more information about their distribution and characteristics would become available. Furthermore, it was obvious that only the largest organizations of a few industrialized countries were at present capable of exploiting those deposits. International law could not ignore that situation. In the words of the International Law Commission, established rules must often be modified by reference to new interests or needs. The interests at stake in the submarine areas beyond the limits of present national jurisdiction were those of the world community. It therefore needed a system which would safeguard those interests, having due regard to the existing rights of users of the high seas. Although some had proposed a "wait and see" approach, his delegation thought that too much time had elapsed already. It attached considerable importance to the need for regulations to protect the interests of the international community on the high seas. Those regulations would deprive at once all nations of any exclusive rights to the ocean floor, or portions thereof, beyond the limits of national jurisdiction; permit and encourage the orderly

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exploration and exploitation of the resources of the abyssal ocean area for the benefit of mankind as a whole; impose responsibility for any damage to existing rights over the high seas; and conform to the principles of the United Nations Charter.

The CHAIRMAN noted that the drafting of the report outlined by the Rapporteur would take some time. The general debate should therefore finish the following day so that the report could be drawn up and discussed on Friday, 5 July.

Mr. SLOAN (Secretariat) thanked representatives for their comments and suggestions on documentation. Document A/AC.135/10, which contained a survey of existing international agreements, included all information available to the Secretariat and dealt with four conventions on the law of the sea for which the Secretary-General was the depositary, and the treaty banning nuclear weapon tests in and under the sea. Any additional information subsequently communicated to the Secretariat would be inserted in an annex to that document. He asked the representatives of Governments which had deposited their instruments of ratification to communicate to the Secretariat any information regarding changes of status.

The meeting rose at 11.45 a.m.

SUMMARY RECORD OF THE TENTH MEETING

Held on Tuesday, 2 July 1968, at 10.25 a.m.

Chairman: Mr. BENITES Ecuador

CONSIDERATION OF THE LEGAL ASPECTS OF THE STUDY WHICH THE AD HOC COMMITTEE HAS BEEN REQUESTED TO PREPARE FOR THE GENERAL ASSEMBLY ACCORDING TO RESOLUTION 2340 (XXII) (A/AC.135/10, 11, 12, 19 and Add.1 and 2, 22 and 23; E/4449 and Add.1; IOC/INS/108; A/AC.135/WG.1/R.4) (concluded)

Mr. YANKOV (Bulgaria) expressed his delegation's satisfaction at the high level of the debate and the importance attached to the item under discussion. That item concerned a new field of human endeavour, opened by technological progress and containing resources which could be used for the betterment of mankind. First, however, the law relating to that field required development and codification. The most valuable information supplied by the Secretariat had enabled the members to have a clearer understanding of the problems. The study undertaken in accordance with resolution 2340 (XXII) and the survey of existing international agreements and of the legal aspects had revealed the status of contemporary international law in that field.

The existing rules of customary and conventional law were not sufficient to provide States with valid international tenets. The lex lata contained only some general principles of contemporary international law which could not be applied without amendment and interpretation. The Working Group's main task should be to identify the advantages and inadequacies of existing laws. The law of the sea was one of the oldest branches of international law and its recent codification had been no more than the consolidation of the norms of existing customary law. The 1958 Geneva Conventions were merely a manifestation of that trend towards the transformation of customary rules into conventional law through multilateral treaties. The development and codification of the international law of the sea had lagged behind the technological revolution and a number of questions remained to be settled; among them was the definition and delimitation of the continental shelf and its legal régime. The technical criterion of exploitability, mentioned in article 1 of the Geneva Convention on the Continental Shelf, had become a source of difficulties because it was so vague.

There was no doubt regarding the importance of the problem. It would be natural for the United Nations to become the focal point for international co-operation in the law-making process, as it had been in other areas. Subsidiary

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(Mr. Yankov, Bulgaria)

bodies had very often worked out general guidelines for the approval of the Assembly. The United Nations had exerted its influence to secure the adoption of the Universal Declaration of Human Rights, the Declaration on the Elimination of All Forms of Racial Discrimination and the Treaty on Legal Principles Governing the Activities of States in the Exploration and Peaceful Uses of Outer Space.

The United Nations should consider drafting a declaration of legal principles governing the activities of States which would ensure that the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction were used exclusively for peaceful purposes and that their resources would be used in the interests of mankind. The use of the sea-bed for military purposes should, of course, be prohibited. His delegation had already made a proposal to that end at the Geneva Conference on the Law of the Sea in 1958. The Working Group now had before it a Soviet proposal (A/AC.135/20) which recognized the need to take steps to prevent the arms race from spreading to the sea-bed and the ocean floor and called upon States to use that area exclusively for peaceful purposes. His delegation fully appreciated the initiative of the Soviet Government and considered that the Assembly, on the recommendation of the Ad Hoc Committee, should adopt that principle as a matter of priority. It supported the suggestion that the problem should be submitted to the Eighteen-Nation Committee on Disarmament which was competent to deal with it.

There was another basic legal principle, namely, the exploration and use of the sea-bed in the interests of all peoples. That area and its resources could not be subject to national appropriation by claims of sovereignty, by use, occupation or by any other means. Nevertheless, such problems required further study.

The exploration and exploitation of the sea-bed and ocean floor should be conducted with due respect for the freedom of the high seas and the interests of States and should not infringe on traditional uses of the sea such as fishing, navigation and communication. Freedom of scientific research and exploration should be respected, in accordance with article 2 of the Geneva Convention on the High Seas, to promote the speedy accumulation of knowledge.

Furthermore, any declaration of principles should provide for co-operation and mutual assistance among States in activities relating to the exploration and use of the sea-bed and ocean floor beyond the limits of national jurisdiction. It should also stipulate that such activities should be carried on in accordance with

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(Mr. Yankov, Bulgaria)

international law and the United Nations Charter. In that connexion, the principle of international responsibility and liability for damages caused by harmful interference in the lawful activities of States should be established, as should general standards of security and safety regulations. Mention might also be made of the principle of the preservation of resources, the role and status of inter-governmental organizations and so forth. In any event, the principles should be formulated with care for they could have significant political and practical implications.

His delegation congratulated the delegation of India upon its proposal (A/AC.135/21), which could serve as a starting point for the Group's work. It did, however, require some additions and redrafting. For example, a separate paragraph should be devoted to each principle and the principle of non-appropriation should be spelled out in greater detail. Several points had been omitted from the United States proposal (A/AC.135/25), in particular, a reference to the peaceful uses of the sea-bed. As the elaboration of a draft declaration of legal principles had considerable political importance, the matter should be studied further during the Ad Hoc Committee's third session and thereafter at the General Assembly's twenty-third session. His delegation reserved the right to express its views on certain other legal aspects of the question at a later stage.

Mr. SCHRAM (Iceland) said that, from the outset, his Government had been of the opinion that the sea-bed and ocean floor should be used exclusively for peaceful purposes. Given the requirements of national defence, a prime objective should be the prohibition of armaments in the vast area of the world comprised by the sea-bed and the ocean floor as a step towards general and complete disarmament. The declared willingness of the Soviet Union and the United States to have that important issue discussed by the Eighteen-Nation Committee on Disarmament was a welcome development. The present rules of international law were not adequate for solving the problems involved in establishing legal principles applicable to the sea-bed and ocean floor beyond the limits of present national jurisdiction and legal rules evolved for other purposes could not be applied per analogium. The Ad Hoc Committee should endeavour to fill the gap by establishing a system of legal rules as had been done in the case of the Treaties relating to outer space and Antarctica.

(Mr. Schram, Iceland)

Neither the theory of res nullius nor that of res communis could be taken as a basis; the former could encourage disputes over claims and the latter would not permit the regulation of the areas concerned in the interests of the international community. The areas and their resources should be considered as the common patrimony of all nations and should be brought under a new legal régime.

Bilateral or multilateral co-operation would not preclude discrimination; there was a need for regulation under United Nations auspices. His Government considered it imperative that there should be a new definition of the continental shelf granting coastal States sovereign rights in accordance with their geographical configuration. It was opposed to an international régime for the exploitation of the resources of the shelf which took no account of the resources of the superjacent waters and, for that reason had not ratified the Geneva Convention. It would be anomalous to give a State sovereign rights over the shelf without simultaneously giving it special rights enabling it to protect the living resources of the epicontinental sea, especially where its population was overwhelmingly dependent on those resources. Such special rights could be recognized in certain situations without any general infringement of the freedom of fishing upon the high seas. His Government had not adopted any legislation or concluded any international treaties concerning the continental shelf surrounding Iceland. Its fisheries were its sole source of exports and it was primarily concerned with the conservation of the living resources in the surrounding sea.

With regard to the legal principles underlying international co-operation in the use of the sea-bed and subsoil thereof, care should be taken to ensure that the régime which was to be established did not encroach on the established rights of States referred to in document A/AC.135/19/Add.1. Oil drilling, submarine mining and the dumping of wastes presented a real danger of pollution and were a threat to fisheries which were already exploiting existing reserves to the utmost. Legal principles should be drawn up to provide the required protection in that field. For some countries, fishing was such an important resource that an accident causing pollution would threaten their economic survival. Even if the future legal régime provided for liability for damages, that provision would not in itself compensate the harm done to those countries. His Government had already suggested that coastal States should, in certain cases, be provided with special rights for the conservation and regulation of fisheries.

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(Mr. Schram, Iceland)

Such special rights did not entail any curtailment of freedom of the high seas, since international law acknowledged no absolute right which could be exercised to the detriment of the lawful interests of others, and no exception could be made for scientific and technological progress. It had been seen that the law of the sea could be altered in accordance with States' new needs and interests. The prospect of exploiting the wealth of the ocean floor called for the establishment of new legal principles enabling coastal States to protect their resources from pollution.

At the present stage of the discussion, only the main legal aspects of the problem could be outlined. There was insufficient data on which to base proposals for new regulations. It must be hoped that a treaty would be concluded embodying new principles which would assist the countries of the world in exploiting the ocean floor for the benefit of mankind as a whole. Furthermore, a comprehensive review of the law of the sea in all its aspects was in order, and it might be wise to consider convening a new United Nations conference on the law of the sea, as the Soviet representative had suggested.

Mr. KOZLEK (Poland), while acknowledging the importance of the work already carried out in connexion with the marine environment thought that the knowledge accumulated on the ocean was still insufficient. More precise and exact data were required in many fields. A similar situation was to be observed in the legal field.

Few provisions of present international law applied to the sea-bed and the ocean floor. The participants at the 1958 Conference on the Law of the Sea had considered it premature to formulate comprehensive and detailed regulations in that field (A/AC.135/19/Add.1). Mention could be made, however, of the 1884 Convention on the laying of submarine cables, and the four 1958 Geneva Conventions. In addition, the right to anchor vessels was universally recognized. His delegation shared the view that there were valid principles of international law which prevented coastal States from claiming sovereignty over the deep ocean floor. The Convention on the Continental Shelf made a distinction between that shelf and the rest of the ocean floor. Neither the principle of freedom of the high seas nor the more general principles of international law permitted coastal States to appropriate or divide among themselves the deep ocean floor. Therefore, it could not be said that there was a legal vacuum on the subject.

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(Mr. Kozlek, Poland)

His delegation was equally reluctant to accept an occupation theory under which the ocean floor was regarded as res nullius. It agreed with the Norwegian delegation that that theory was irreconcilable with the principle of freedom of the high seas. The deep ocean floor should be regarded as res communis; the exploration and use of those regions should be carried out for the benefit of mankind, in the interest of maintaining international peace and security, in accordance with international law and the United Nations Charter. It was imperative and urgent to prohibit the use of the sea-bed and ocean floor for military purposes. It would be the first step towards peaceful international co-operation in that new field.

In March, his delegation had drawn attention to the threats to biological resources from pollution as a result of excavatory operations. At the present stage it was still impossible to define what measures should be taken, but certain aspects of safety and pollution should be covered by regulations when the deep ocean floor was opened up for exploration and especially for exploitation.

His delegation supported a declaration of legal principles applicable to the sea-bed and ocean floor beyond the limits of national jurisdiction, and felt that work in that field should be continued.

Mr. BAL (Belgium) stressed the timeliness and importance of the Ad Hoc Committee's work and expressed the view that the Legal Working Group should endeavour first of all, as a matter of logic and efficiency, to delimit the parts of the sea-bed and ocean floor which were not subject to national jurisdiction.

Several delegations had acknowledged the existence of a zone which was not subject to national jurisdiction, and had ruled out any idea of dividing that zone. In order to avoid disputes between States which might arise from the existing gap between legal rules, on the one hand, and the increasing technological means available, on the other, it was particularly important to define the continental shelf in greater detail than article 1 of the 1958 Convention had done. The problems should then be inventoried, in accordance with paragraph 2 (b) of General Assembly resolution 2340 (XXII). In that respect, the first step should be a critical study of the international regulations which had been drawn up by some

(Mr. Bal, Belgium)

members of the international community and an analysis of the positions of the various States. The importance of the 1958 Convention on the Continental Shelf should also be evaluated by taking into account, as the Australian and Canadian representatives had suggested, not only the number of States which were parties thereto but also the number of States which had been guided by the principles which it embodied in other international or national instruments. Thus, the 1958 Convention should not be set aside; it should be improved in the light of experience gained during recent years.

Following that study of the lex lata, it should be the Working Group's task to study the lex ferenda, in other words, to proceed without delay to formulate new rules, as it was requested to do in operative paragraph 2 (c) of General Assembly resolution 2340 (XXII). It was important that the legal régime that would thus be established should ensure the participation, on an equal footing and without discrimination, of all States who so desired, whatever their geographical situation, in the exploration and exploitation of the ocean floor. Specialized working sub-groups might be asked to define the ways in which those legal rules would be applied and enforced. An ad hoc working group could likewise begin the task of studying the establishment of an international body responsible for the granting of concessions for exploitation purposes.

Study of the draft resolutions and declarations submitted to the Ad Hoc Committee showed that the international community ruled out the idea of national appropriation of the ocean floor and wanted the area used in accordance with the provisions of the United Nations Charter. After such a detailed study, it might be decided to proclaim a number of principles in the form of a declaration and to assess carefully the legal force of that document. It would also be necessary to determine which problems could be settled by such a declaration or a multilateral instrument, and which problems would have to be resolved in separate or special conventions.

His delegation fully shared the concern of those who stressed that the ocean floor should be used exclusively for peaceful purposes. In that connexion, however, more was needed than a mere appeal for the voluntary co-operation of States; rules of positive law must be drawn up and backed by an efficient system of inspection.

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(Mr. Bal, Belgium)

He thanked the Secretariat for the extremely useful documentation which had been made available to the Ad Hoc Committee.

Mr. ILLSINGER (Austria) said that Austria, which was a land-locked country, took an especially keen interest in the work of the Ad Hoc Committee and its Working Groups.

He noted with satisfaction that the members of the Legal Working Group were in agreement on a number of basic points. Firstly, there was a part of the ocean floor which did not come under the national jurisdiction of States and which should not be subject to appropriation. Secondly, the developing countries, the land-locked countries and the technically less advanced countries should participate in the exploitation of the resources of that part of the ocean floor. In that connexion, the Working Group had advocated the establishment of an international régime, preferably applied or controlled by the United Nations. Thirdly, the ocean floor beyond the limits of the national jurisdiction of States should be used exclusively for peaceful purposes. It was to be noted that the United States and the Soviet Union seemed to agree that all weapons of mass destruction should be banned from that part of the ocean floor.

His delegation considered that the documents submitted by the United States delegation (A/AC.135/25) and the Indian delegation (A/AC.135/21) contained very interesting proposals which should meet with the approval of the Ad Hoc Committee as a whole. Also, his delegation fully endorsed the comments made by the Czechoslovak representative concerning the situation and aspiration of the land-locked countries.

With reference to the question of the delimitation of the continental shelf, article 1 of the 1958 Convention could in no case be regarded as authorizing the unlimited extension of the right of States over the ocean floor, inasmuch as the purpose of that Convention was, on the contrary, to limit the claims of States. It was, of course, too early to work out a positive definition of the continental shelf, but perhaps it would be desirable at least to affirm that it could not be understood as extending to the deep ocean floor. It was merely a question of interpreting correctly an existing legal norm and excluding from the jurisdiction of States those areas which quite clearly did not belong geologically to the

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(Mr. Illsinger, Austria)

continental shalf. His delegation hoped that the problems of delimitation involved in such an interpretation could be resolved by common agreement in the near future.

Mr. SOUZA E SILVA (Brazil) said that, before legal principles to govern the activities of States could be recommended, a full and objective evaluation should be made of the present state of knowledge of and activities concerning the exploration and exploitation of the ocean floor and the subsoil thereof. That was especially important for the developing countries, whose scientific knowledge of the subject was limited as a result of the inadequacy of their technical resources. It was also essential that in formulating legal principles the Working Group should take into account the conclusions that might be reached by the Economic and Technical Working Group.

No one could deny the need to establish an equitable jurisdictional régime, but in doing so it would be a mistake to attempt to follow too closely the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies. Analogies between outer space and the ocean floor were often superficial, for the economic interests involved were much more considerable and immediate in the second case than in the first. The temptation to confuse the status of the ocean floor with that of the high seas was likewise to be avoided. As the Brazilian representative to the United Nations Conference on the Law of the Sea had observed on 26 March 1958, a fresh concept of the high seas should be worked out which would take into account the new dimensions revealed by modern technology and establish a distinction between biological resources, the ocean floor, the waters of the sea and the superjacent air space, since each of those elements should be subject to a separate jurisdictional régime.

If undue importance was attached to apparent analogies between the ocean floor on the one hand and outer space and the high seas on the other, there might be a temptation to establish a régime of full freedom of exploitation, which would be prejudicial to the majority of States that did not have sufficient technical resources to undertake such activities.

His delegation hoped that the Legal Working Group would establish some general principles and, in particular, that it would affirm, in accordance with the

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(Mr. Souza e Silva, Brazil)

fourth preambular paragraph of General Assembly resolution 2340 (XXII), that "the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof... should be conducted in accordance with the purposes and principles of the Charter of the United Nations, in the interest of maintaining international peace and security and for the benefit of all mankind". Another such principle was the concept that the ocean floor should be used exclusively for peaceful purposes. The Legal Working Group should also, in the light of the conclusions which might be reached by the Economic and Technical Working Group, take into account the need to avert the possibility that the exploitation of the resources of the ocean floor might adversely affect the economies of the developing countries by producing items which would compete with their products and cause the world market prices of the latter to drop. Lastly, it was desirable that all countries should be ensured immediate benefit from the exploitation of the resources of the ocean floor, so that States would not be tempted to extend indefinitely the limits of their national jurisdiction.

Mr. DARWIN (United Kingdom) expressed the hope that, in accordance with the provisions of General Assembly resolution 2340 (XXII), a part of the Working Group's report would be devoted to international agreements governing the ocean floor beyond the limits of present national jurisdiction and, in particular, to the 1958 Convention on the Continental Shelf, which had been frequently mentioned in the course of the discussion. It should also be indicated that the wish had been expressed that certain questions should be studied in greater depth. One such question was the delimitation of the continental shelf. The Working Group had discussed in that connexion the position under general international law and the interpretation of article 1 of the 1958 Convention, neither of which any delegation present had regarded as authorizing the indefinite extension of national jurisdiction; that would, moreover, be incompatible with the criterion of adjacency.

With regard to the use of the ocean floor exclusively for peaceful purposes, the security of all States should be guaranteed by the establishment of a balanced and verifiable control system. He recalled that both the Outer Space Treaty and the Antarctic Treaty had arranged for inspection.

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Mr. WATANAKUN (Thailand) expressed appreciation to the Secretariat for the high quality of the documentation which it had made available to the Working Group. He noted that the Working Group as a whole had recognized the existence of a part of the ocean floor not subject to national jurisdiction, the legal norms governing which were fragmentary and should be completed. There seemed to be agreement also on rejecting any appropriation of the ocean floor - which could not be regarded either as "res nullius" or as "res communis"- and on affirming that it should be used exclusively for peaceful purposes and in the interests of mankind as a whole. His delegation considered that the principle of the freedom of the high seas recognized in the 1958 Convention on the High Seas did not - as was, moreover, indicated in document A/AC.135/19/Add.1 - in anyway imply freedom to exploit unrestrictedly the resources of the ocean floor.

Only the establishment of an international régime would make it possible to ensure that the resources of the ocean floor and the subsoil thereof were exploited rationally and peacefully. It would therefore be desirable to establish an international body competent to regulate and control such exploitation and to ensure that it was conducted for the benefit of all mankind, and more particularly of the developing countries.

His delegation welcomed the United States proposal for the designation of an International Decade of Ocean Exploration, but he stressed that the establishment of a legal framework was essential in order to ensure that the technically advanced countries did not appropriate an unduly large share of the resources of the ocean floor. In that regard, a statement of principle affirming the necessity of using the ocean floor and the subsoil thereof beyond the limits of national jurisdiction exclusively for peaceful purposes and of exploiting their resources in the interests of mankind as a whole, on the model proposed by the Indian delegation, would constitute an important step forward in the development of international law.

Mr. ANDRASSY (Yugoslavia) said that at that stage of the Group's work, he wished to place on record his delegation's views on certain basic questions. The draft resolutions submitted during the session and the various statements of members of the Working Group seemed to indicate that there was a common denominator which could be expressed in the report in the form of a number of

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(Mr. Andrassy, Yugoslavia)

principles on which the Group was virtually unanimous. Those principles, which the General Assembly might be recommended to adopt were the following. The sea-bed and the ocean floor beyond the limits of present national jurisdiction was the common heritage of mankind and could not be subject to appropriation by any nation. It could be used exclusively for peaceful purposes and no activity of a military nature could be carried out therein. The exploration and exploitation of the resources of the ocean floor should be for the benefit and in the interests of mankind. All activity undertaken in those regions should be in accordance with international law, including the Charter of the United Nations, and should be carried out in the interest of maintaining international peace and security. One of the legal aspects to which the Ad Hoc Committee should draw the attention of the General Assembly was the fact that in seas and oceans depths ranged from 10 to 200 metres and were not of the continental shelf of any State. He referred to submarine part elevations (banks, shoals, sea-mounts and guyots) situated in the middle of seas and oceans and surrounded by deep waters. Those sea-mounts were not subject to the jurisdiction of any State and owing to the shallow waters covering them, they could be exploited now with existing techniques. Sea-mounts were to be found in all the oceans as, for instance, those of Saya, Malha and Hall in the Indian Ocean, Misteriosa and Rosalind in the Caribbean and the Vema Bank, which were situated in the Atlantic at a depth of 15 to 40 fathoms. There was a string of banks and sea-mounts north-east of the Hawaiian Islands, including Mellish, at a depth of 64 metres, Kuryaku, at a depth of 164 metres and Kinmay, at a depth of 10 metres. The Cortes Bank, 50 miles west of Clemente Island (California) was only a few fathoms deep. The existence of those exploitable regions situated beyond the limits of present national jurisdiction even now raised legal problems and attention should be drawn to it in the Working Group's report.

Mr. ABDEL-HAMID (United Arab Republic), speaking for his delegation, said that while the Group's work had not yet produced concrete results, it had substantiated certain specific facts, namely, that there were considerable resources beyond the continental shelf, that they could be exploited in the fairly near future and that substantial financial and human resources would be required to improve techniques of exploration and exploitation. The existence of those

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(Mr. Abdel-Hamid, United Arab Republic)

resources and their magnitude would have repercussions on relations between States. In that connexion, the lessons of the past had not been forgotten by the small developing countries, which had paid dearly for colonial exploitation. Consequently, the United Nations was now examining the legal, economic and technical conditions which should govern the exploitation of the resources of the ocean floor. In the opinion of the United Arab Republic and most of the participants in the Working Group, the prerequisites for the rational exploitation of those resources were as follows: the common interests of mankind should be the paramount consideration and all ambitions of a colonial nature should be renounced. The common heritage of mankind should not be divided into spheres of interest or be subject to appropriation by any State. International co-operation was essential to the maintenance of peace, which was now being threatened by the growing gap between the rich and poor countries. The joint exploitation of marine resources might make it possible to narrow that gap. Moreover, in the interest of collective security, it was essential to ban all military operations as well as the positioning of weapons of mass destruction on the ocean floor.

From a practical point of view, the idea of declaring a moratorium on the claims of States to sovereignty over any part of the sea-bed and ocean floor beyond the limits of their national jurisdiction was especially commendable; it would make it possible to continue scientific research and exploration without prejudice to the principle that the sea-bed and ocean floor were the common heritage of mankind. The second practical measure to be taken without delay was the preparation of a draft declaration to be recommended for adoption by the General Assembly which would contain the relevant principles raised by various members of the Group. In view of the expectations created by the prospect of exploiting the resources of the deep ocean floor, it was the duty of the United Nations, the organization responsible for the maintenance of world peace, to ensure that international law was made applicable to the realities of the situation. The delegation of the United Arab Republic fully supported the ideas suggested by the Indian delegation for inclusion in a draft declaration. The declaration should lay down the following principles: the sea-bed and the ocean floor beyond the limits of present national jurisdiction was the common heritage of all mankind; all countries had a common interest in their exploration and

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(Mr. Abdel-Hamid, United Arab Republic)

exploitation; activities to that end should be exclusively peaceful in nature; no State could appropriate any part whatsoever of that area; provision should be made for international co-operation and the best way to ensure that co-operation was to establish international machinery under United Nations auspices; the right of the developing countries to share in the economic benefits of exploiting marine resources should be expressly recognized; all Member States, as well as governmental and inter-governmental organizations and the specialized agencies, should carry out their activities in accordance with the principles and provisions of the declaration; those engaged in the exploitation of marine resources should strive to avoid pollution of the marine environment; States should desist immediately from any activity which was not in conformity with the principles of the declaration; and the United Nations immediately became the only body responsible for the preservation and utilization for peaceful purposes and in the interest of mankind of the resources of the sea-bed and ocean floor.

The Soviet delegation had quite rightly put forward the idea of prohibiting military activities on the deep ocean floor and it warranted the most careful study. Furthermore, the Maltese delegation had requested the Secretariat to prepare a document containing all available data concerning the possibilities of utilizing the ocean floor for military purposes in order to assist the Committee in its deliberations. The Eighteen-Nation Disarmament Committee might also provide valuable assistance in that respect. The item should certainly be retained on the agenda of the Ad Hoc Committee. He concluded by saying that his delegation attached the greatest importance to the idea of establishing international machinery under United Nations auspices.

Mr. ZEGERS (Chile) considered the problem under study to be of historic importance because it involved provision for the utilization of substantial wealth for the benefit of all mankind. It was difficult to draw up principles and a permanent régime governing the use of those resources until the question of the peaceful uses of marine resources had been subjected to more comprehensive, practical examination. In that connexion, it was the General Assembly rather that the Eighteen-Nation Disarmament Committee which should take action to prevent the use of the ocean floor for military purposes. As many members had pointed out, the standard legal régimes, in their present form, were not applicable to the

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(Mr. Zegers, Chile)

sea-bed and ocean floor. Consequently, it became necessary to construct a new legal order based on scientific and technological realities, the possibilities for exploitation, the economic facts and the anticipated utilization of the products of the ocean floor. In the absence of such a régime, those resources would soon belong to the strongest and it was essential to ensure the equitable sharing of the benefits to be derived from the exploitation of the sea-bed and the ocean floor. While the general interests of mankind should certainly be taken into account, the rights and interests of the riparian States should also be respected for those States were often largely dependent on their maritime resources. Those matters had already been discussed at the 1955 Rome Conference and in the International Law Commission in 1956 and those discussions had shed light on many important points.

Mr. SLOAN (Representative of the Secretary-General) said that the Maltese delegation's request for a document on the possibilities of using the ocean floor for military purposes had not been formally submitted.

Mr. PARDO (Malta) said that such a document would be very useful and inquired in what form he should submit his request.

The CHAIRMAN said that he would transmit the request to the Secretary of the plenary Committee so as to find out whether the document could be prepared and when it would be ready.

Mr. PANYARACHUN (Thailand) thought that the proposed study would be very interesting. Since there had been no objection, it was certainly possible to prepare it.

Mr. GOWLAND (Argentina) wished to know what the deadline was for delegations to submit a declaration of principles to be incorporated in the report.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, replied that the report could only contain those items which had been formally discussed. The discussion of legal principles was now concluded and Argentina had not yet submitted a formal document to the Working Group. On the other hand, draft resolutions or amendments could be submitted by delegations to the plenary Committee at any time before it concluded its work, that is, before the Rio session.

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Mr. WALDRON-RAMSEY (United Republic of Tanzania) recalled that his delegation had formally submitted a series of amendments to the United States draft resolution. He wanted to know whether he had to resubmit them in writing to ensure that they were taken into account.

The CHAIRMAN observed that the United States had submitted two draft resolutions (A/AC.135/24 and A/AC.135/25). However, the Working Group had only examined the legal aspects of the proposals and the draft resolutions themselves had not come under discussion. Consequently, it would be better if the representative of the United Republic of Tanzania submitted his amendments in writing to the Ad Hoc Committee.

The meeting rose at 1.15 p.m.

SUMMARY RECORD OF THE ELEVENTH MEETING

Held on Friday, 5 July 1968, at 11.50 a.m.

Chairman: Mr. BENITES Ecuador

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ADOPTION OF THE REPORT OF THE WORKING GROUP TO THE AD HOC COMMITTEE (A/AC.135/WG.1/R.5)

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, noted that the draft report dealt with the Working Group's first session, which implied that there might be further sessions. While urging the Working Group to adopt the draft report, he asked delegations wishing to submit amendments to do so in writing.

The CHAIRMAN said that if there were no objections he would suspend the meeting for half an hour so that delegations wishing to draft amendments could do so.

Mr. ARORA (India) thanked the Rapporteur for his work in drawing up the draft report, but observed that in view of the short time he had been given, the draft had had to be hastily prepared. Some changes were therefore needed and his delegation, for one, intended to submit amendments in writing. However, it was unlikely that it could finish doing so before the afternoon meeting of the Ad Hoc Committee.

The CHAIRMAN said that since the purpose of the plenary Ad Hoc Committee meeting was to consider the various draft reports, the Working Group must complete its work before that meeting.

The meeting was suspended at 12 noon and resumed at 12.35 p.m.

The CHAIRMAN announced that not all the amendments had yet been drafted and proposed that the meeting should be adjourned and resumed at 3 p.m., the plenary meeting of the Ad Hoc Committee being postponed until 5 p.m.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, stressed that he could only accept from delegations amendments relating to their own statements.

Mr. PANYARACHUN (Thailand) said that during the suspension, the delegations of the Asian and of most of the developing countries had met to draw up amendments jointly in order to save time.

Mr. GAUCI (Malta), supported by Mr. HAQUE (Pakistan), said that the report should reflect the views of the Working Group as a whole and that all amendments should consequently be accepted by the Rapporteur, no matter which delegations submitted them.

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Mr. ARORA (India) asked the Rapporteur to read out the amendments which had been submitted.

Mr. KIKHIA (Libya) suggested that the report should be drafted in very general terms, without naming the delegations which had expressed a particular opinion.

The CHAIRMAN noted that the report should reflect what had been said during the meetings and that each delegation was entitled to submit corrections if it thought that its opinions had not been faithfully recorded. Obviously, if several delegations had expressed the same view, they could submit a joint amendment. Actually, what was involved was not strictly speaking amendments, but corrections. After consultation with the representative of the Secretariat, he said in reply to the representative of Thailand that it would not be possible for all the corrections proposed by delegations to be circulated in the form of a document during the afternoon.

Mr. PANYARACHUN (Thailand) said he had thought that the reason members has been requested to submit their amendments in writing was to make it possible for them to be circulated.

The CHAIRMAN said that he had adopted that procedure in the interests of speed and efficiency; if the amendments were submitted in writing, they would be clearer and more precise.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that it was the task of the Secretariat to reproduce the amendments in all working languages, and that two hours should be sufficient for that purpose. It was important that the normal procedure should be followed, otherwise the Group would be unable to continue its work.

At the request of Mr. ARORA (India), supported by Mr. HOLDER (Liberia) and Mr. PANYARACHUN (Thailand), Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, read out the corrections submitted by delegations.

Mr. LAPOINTE (Canada), supported by Mr. MEEKER (United States of America), said that the procedure being followed was unsatisfactory, as amendments could not be given proper consideration.

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The CHAIRMAN suggested that, in order to save time, the officers might make the necessary corrections to the text themselves, where those were not in dispute, and only refer them to the Group when difficulties arose.

Mr. PANYARACHUN (Thailand) said that the proposed procedure was not very efficient. It would be better if the Rapporteur could arrange for the Secretariat to prepare a working paper containing all the amendments.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) supported the representative of Thailand and said that it was for the Working Group alone, not for the officers, to decide whether amendments should be accepted or rejected.

Mr. SLOAN (Secretariat) said that the proposal to leave it to the Rapporteur to insert the corrections in the report had been made in view of the short time available to the Working Group, but that if the Group decided otherwise, the Secretariat would make every effort to assist it.

The meeting rose at 1.30 p.m.

SUMMARY RECORD OF THE TWELFTH MEETING

Held on Friday, 5 July 1968, at 4.10 p.m.

Chairman: Mr. BENITES Ecuador

ADOPTION OF THE REPORT TO THE AD HOC COMMITTEE (A/AC.135/WG.1/R.5) (continued)

Mr. CHAI (Representative of the Secretary-General) said that, as the Legal Working Group had had to meet again, it had been suggested, after consultation with the Chairman of the Ad Hoc Committee, that that Committee should meet that same day at 9 p.m.

The CHAIRMAN summarized the position and recalled that he had proposed a sound method for the consideration and adoption of the Working Group's report. Certain delegations had wanted the report to contain additional clarifications and others had asked to submit joint corrections. It had then been suggested that all the corrections envisaged should be submitted in writing and circulated for consideration. That document (WG.1/WP.1) had just been distributed and the text of the amendment proposed by the Brazilian delegation would be available shortly.

Mr. GAUCI (Malta) thanked the Chairman for the courtesy he had shown towards the members of the Group. The discussions of procedure had gone on for too long. The report was an excellent basic document consideration of which should be concluded as soon as possible.

Mr. TILAKARATNA (Ceylon) said that the report was a working document and not a treaty. It clearly reflected all points of view and brought out the different questions on which agreement had been reached.

Mr. ANDRASSY (Yugoslavia) felt that the Group had achieved concrete results and that therefore there should be no difficulty in adopting the report.

After an exchange of views between the CHAIRMAN, Mr. KAMAT (India) and Mr. MENDELEVICH (Union of Soviet Socialist Republics), it was decided to take up the amendments paragraph by paragraph.

Paragraphs 1 to 8

Paragraphs 1 to 8, to which there were no amendments, were adopted.

Paragraph 9

Mr. AMAU (Japan) proposed that paragraph 9 and annex II should be deleted. Otherwise, the Economic and Technical Working Group would have to

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(Mr. Amau, Japan)

include a similar list in its report. He proposed that the list should be annexed to the report of the Ad Hoc Committee and not to that of the Working Group.

The CHAIRMAN, supported by Mr. DARWIN (United Kingdom), agreed.

Paragraph 9 was deleted.

Paragraph 10

Paragraph 10 (renumbered 9) was adopted.

Paragraphs 11, 12 and 13

The CHAIRMAN recalled that the delegations of Ceylon, India, Liberia, Libya, Malta, Pakistan, United Republic of Tanzania and Thailand had proposed the deletion of paragraph 12, and that the United States delegation had proposed amendments to paragraphs 11, 12 and 13.

Mr. KAMAT (India), supported by Mr. WALDRON-RAMSEY (United Republic of Tanzania), thought that it would be difficult to adopt the report in its present form and that the Legal Working Group could follow the procedure adopted by the other Working Group, whose report had been adopted paragraph by paragraph but not as a whole.

Mr. LAPOINTE (Canada) and Mr. DARWIN (United Kingdom) wondered what would happen if the report was not adopted. Would it become a simple working document?

Mr. TILAKARATNA (Ceylon) felt that the text should be considered as an interim report. It was stated, moreover, in paragraph 43 that the Working Group had been unable to complete its work.

Mr. HOLDER (Liberia), supported by Mr. DARWIN (United Kingdom), agreed to the deletion of the present paragraph 12, as had been requested by several delegations, and suggested that the Working Group should go on to consider the new paragraphs 12 and 13 proposed by the United States delegation.

Paragraph 11 (renumbered 10) was adopted and paragraph 12 was deleted.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) proposed the addition of the words "and amendments" to the second sentence of the text proposed by the United States delegation in document WG.1/WP.1.

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Mr. MEEKER (United States of America) read out the text which he proposed should be inserted in place of the former paragraph 12 and which would become a new paragraph 11:

"In addition, several draft resolutions suggested by delegations were referred to in the debates. These draft resolutions and amendments are appended as annex II."

(There followed the list of draft resolutions and amendments as they appeared in the report in former paragraph 13.)

Annex III was therefore deleted.

The new paragraph 11 was adopted.

Paragraph 14 (renumbered 12)

Mr. DARWIN (United Kingdom) proposed the addition in the last line of the word "complex" before the words "legal problems".

Paragraph 14 (renumbered 12), as amended, was adopted.

Paragraph 15 (renumbered 13)

Mr. KIKHIA (Libya) proposed that at the beginning of the paragraph the words "Many members" should be replaced by the words "The great majority of members".

Mr. MEEKER (United States of America) thought that the term "many members" was used traditionally in United Nations documents and that there was no need to change it.

Mr. LAPOINTE (Canada), Mr. ANDRASSY (Yugoslavia) and Mr. EVENSEN (Norway) shared that view.

Mr. GAUCI (Malta) proposed the formula "a large number of members".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said he could not accept the version submitted by the United States, Norway and Canada. On the other hand, if the idea of a majority was introduced, that would mean there had been a vote, which had not been the case. He proposed the expression "a very large number of members".

After an exchange of views in which Mr. DEJAMMET (France), Mr. THACHER (United States of America), Mr. GAUCI (Malta), Mr. KIKHIA (Libya) and Mr. DARWIN (United Kingdom) took part, that expression was adopted.

Paragraph 15 (renumbered 13), as amended, was adopted.

Mr. SOUZA E SILVA (Brazil) proposed the insertion after former paragraph 15 of the following sentence: "The view was expressed that in the formulation of a legal status, analogy between the sea-bed and ocean floor, on the one hand, and outer space and the high seas, on the other, should not be carried too far."

The CHAIRMAN noted that the Brazilian proposal was for the insertion of a new paragraph after former paragraph 15. Before continuing the discussion on that point, he would call on the representative of Chile.

Mr. ZEGERS (Chile) requested that note should be taken of the suggestion which he had made at the meeting on 27 June, namely, that the following sentence should be added at the end of former paragraph 15: "A suggestion was made that the especial rights and interests of the coastal States regarding the conservation and exploration of those resources should be taken into account."

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, suggested to the representative of Chile that his amendment should be considered in the context of paragraph 34 or paragraph 37.

The CHAIRMAN pointed out that paragraph 15 was concerned with the concepts of appropriation and ownership. A distinction should be drawn between appropriation and exploitation. As the Chilean suggestion did not relate to appropriation, it might be better to mention it in paragraph 34 or paragraph 37.

Mr. ZEGERS (Chile) said he had not requested that his suggested addition should be regarded as a consensus. He believed that his views should appear in the report, if not in paragraph 15, at least in paragraph 34.

The CHAIRMAN said that, if there was no objection, the views of the representative of Chile would be mentioned in paragraph 34.

It was so decided.

The CHAIRMAN asked the representative of Brazil whether he wanted his addition to paragraph 15 (renumbered 13) to form a new paragraph.

Mr. SOUZA E SILVA (Brazil) replied that that seemed to be the best arrangement. He requested that the expression "deep sea" should be replaced by "ocean floor".

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, pointed out that that change would impair the uniformity of the terminology used in the report.

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Mr. ARORA (India) proposed that, in the text submitted by Brazil, the words "The view was expressed" should be replaced by "It was suggested".

Mr. SOUZA E SILVA (Brazil) replied that what was involved was a view, rather than a suggestion.

The CHAIRMAN said that, if there was no objection, the Brazilian proposal would form the new paragraph 14.

The new paragraph 14 was adopted.

Paragraph 16 (renumbered 15)

Mr. HOLDER (Liberia) introduced the amendment proposed jointly by Ceylon, India, Liberia, Libya, Malta, Pakistan, Thailand and the United Republic of Tanzania. The proposal was that the words "The view was emphasized" in the second sentence, on the fourth line, should be replaced by "It was generally agreed".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that he had no objection to the idea expressed by the sponsors of the amendment; before one could speak of general agreement, however, it was necessary not only that all the members of the Working Group should be agreed, but that they should be agreed on specific points, and such was not the case. There was still some vagueness in the paragraph, especially with regard to the meaning of the concepts of res nullius and res communis, and those matters should therefore be considered more thoroughly with a view to reaching agreement on the principle to be applied.

It had been emphasized that the sea-bed and ocean floor, beyond the limits of the territorial waters of the coastal States, should be accorded special legal status, in the interests of all mankind. The experience acquired in considering questions relating to outer space proved that it was possible to formulate such a status. However, the Brazilian amendment, which questioned the desirability of establishing comparisons between those two fields, had been adopted. In his view, the question had not been considered thoroughly enough to make it possible to take a final stand on the possible value of comparing the sea-bed and ocean floor with outer space. For the same reasons, it was premature to speak of a general agreement, which could not be achieved until after the proceedings were completed. The best wording was that proposed by the Rapporteur, since it did not imply that an agreement had been reached before the end of the proceedings. He therefore asked the representative of Liberia to reconsider his amendment.

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Mr. HOLDER (Liberia) said that he was prepared to agree to the wording proposed by the Rapporteur, and withdrew his amendment.

Mr. ANDRASSY (Yugoslavia) proposed two amendments to the report. The first proposal was that the word "historic" should be inserted before the word "examples" in paragraph 16, renumbered 15. The second was that the following paragraph should be added to the text of the report:

"Mention has been made of banks and shoals covered by waters of a depth between a couple of metres and 200 metres, and situated beyond the limits of any national jurisdiction, some of which are already by now exploitable with existing technological means and techniques."

Mr. ARORA (India) proposed, with regard to the first of those amendments, that the word "examples" should be replaced by "occupations".

Mr. ANDRASSY (Yugoslavia) accepted the Indian representative's proposal.

Mr. YANKOV (Bulgaria), supported by Mr. KIKHIA (Libya), proposed that, instead of the amendment submitted by the representative of Yugoslavia, the words "historic examples of occupation" should be used.

After a discussion in which Mr. ARORA (India), Mr. KIKHIA (Libya), Mr. ANDRASSY (Yugoslavia) and Mr. YANKOV (Bulgaria) participated, the CHAIRMAN suggested that that wording should be adopted.

It was so decided.

The CHAIRMAN inquired where the second Yugoslav amendment should be placed.

Mr. ANDRASSY (Yugoslavia) proposed that it should be inserted after former paragraph 16 (renumbered 15).

The CHAIRMAN said that, in that case, the text proposed by Yugoslavia would become paragraph 16.

Mr. HAQUE (Pakistan) said that he did not see in what way the points mentioned in the new paragraph were of concern to the Legal Working Group; consequently, he did not feel that they should be mentioned in its report.

Mr. ANDRASSY (Yugoslavia), supported by Mr. GAUCI (Malta), disagreed. The points in question should appear in the report, since legal problems could arise at any time, and the Legal Working Group had an obligation to bring them to the attention of the General Assembly.

Mr. DARWIN (United Kingdom), pointing out that a very specific technical question was involved not entirely suitable to this report, asked the representative of Yugoslavia to be kind enough to reconsider his position, it being understood that his suggestion would be recorded in the record of the meeting.

Mr. KIKHIA (Libya) proposed that the discussion should be deferred to the end of the debate, since there seemed to be no prospect at that stage of arriving at an agreement on the position of the new paragraph.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that he supported the Yugoslav representative's proposal, the text of which could perhaps be placed between the former paragraphs 16 and 17. The object of that amendment was to state that certain areas were already being exploited beyond the limits of any national jurisdiction. As pointed out by the Soviet representative, that was, properly speaking, a legal question, and it was important for it to be mentioned. If, moreover, as the representative of the United Kingdom had said, it was a debatable question, there was even greater reason for not omitting it.

Mr. YANKOV (Bulgaria) proposed that at the end of the paragraph proposed by the representative of Yugoslavia, the following words should be added: "and, in consequence, the legal status of those areas must be given special attention within the framework of the legal status of the sea-bed and ocean floor and the subsoil thereof beyond the limits of present national jurisdiction".

Mr. HAQUE (Pakistan) withdrew his objection.

Mr. DARWIN (United Kingdom) suggested that the first and second parts of the sentence should be joined together by means of the phrase "some of which". If the Yugoslav delegation was able to accept that amendment, he would support the amendment proposed by the representative of Yugoslavia.

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Mr. ANDRASSY (Yugoslavia) thanked the United Kingdom representative for his suggestion, which seemed quite acceptable to the Yugoslav delegation.

Mr. ARORA (India) said that his delegation was prepared to accept the amendment proposed by the Yugoslav delegation as amended by the representative of the United Kingdom.

Mr. SCHRAM (Iceland), supported by Mr. PANYARACHUN (Thailand), said that he preferred the original wording of the Yugoslav amendment.

Mr. ARORA (India) asked the representative of Bulgaria to withdraw his amendment.

Mr. YANKOV (Bulgaria) withdrew his amendment.

The CHAIRMAN said that the Yugoslav amendment would be inserted after the former paragraph 16.

Paragraph 15 (formerly paragraph 16) and the new paragraph 16 were adopted.

Paragraph 17

Paragraph 17 was adopted.

Paragraph 18

Mr. TILAKARATNA (Ceylon) said that some delegations, including his own, regarded the expression "The view was frequently expressed" as not being sufficiently positive. He accordingly proposed that it should be replaced by the expression: "It was generally felt". As those same delegations regarded the expression "a new law" as too vague, they proposed that the words "for the benefit of mankind as a whole" should be added at the end of the paragraph.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) proposed that paragraph 18 should read as follows: "It was generally felt that many problems related to the sea-bed and ocean floor which concern economic, political and other interests of States were not sufficiently elaborated in modern international law. In this connexion, a question was raised whether legal principles on the activities of States in the exploration and use of the sea-bed and ocean floor beyond the limits of national jurisdiction for the benefit of mankind as a whole." That proposal was being made because paragraph 18 in its present form gave the impression of being rather vague as part of a text which had been the subject of careful drafting. It

(Mr. Mendelevich, USSR)

was important, above all, to know what aspect of international law was relevant and to stress the fact, recognized by all the members of the Working Group, that international law could not solve all the problems that would arise. He had incorporated the Ceylonese representative's suggestions in the text just read out, and he hoped that the Working Group would as a result be able to arrive quickly at agreement on the text of paragraph 18.

Mr. TILAKARATNA (Ceylon) said that the text proposed by the representative of the USSR was in general acceptable, but he wondered whether it was really necessary to specify the nature of the problems.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that he accepted the suggestion by the representative of Ceylon.

Mr. ARORA (India) said that he considered the text proposed by the USSR representative to be acceptable even though some modifications were desirable. He would prefer the term "existing" rather than "modern" law, and he asked the sponsor of the amendment whether it would not be possible to combine the two sentences which made up the paragraph.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that he accepted those suggestions, and he then read out the revised text, as follows: "It was generally felt that many problems related to the sea-bed and ocean floor were not sufficiently dealt with in existing international law and a question was raised whether legal principles on the activities of States in the exploration and use of the sea-bed and ocean floor beyond the limits of national jurisdiction should be developed for the benefit of mankind as a whole."

Mr. GAUCI (Malta) said that he would prefer the term "adequately" to the term "sufficiently" and thought that the words "a question was raised whether" should be replaced by the expression "it was also felt that", which was more positive.

Mr. THACHER (United States of America) thought that the expression "in the interests of" should be used rather than the expression "for the benefit of" in order to make the terminology employed more uniform.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that he accepted the changes suggested by the representatives of Malta and the United States.

Paragraph 18, as amended, was adopted.

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Paragraph 19

Mr. YANKOV (Bulgaria) proposed that the expression "It was also suggested" should be replaced by the expression "Some delegations suggested", which seemed to him to be closer to the facts.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) and Mr. GOBBI (Argentina) said that they supported the Bulgarian amendment.

Paragraph 19, as amended, was adopted.

The meeting was suspended at 7.25 p.m. and resumed at 8.35 p.m.

Paragraph 20

Mr. MENDELEVICH (Union of Soviet Socialist Republics) proposed that the words "by many members" should be inserted after the word "emphasized".

Mr. GAUCI (Malta) said that that amendment appeared to be unnecessary, since no delegation had opposed the view stated in paragraph 20.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the purpose of his delegation's amendment was to indicate that a great many members had emphasized the view set out in that paragraph.

Mr. YANKOV (Bulgaria), supported by Mr. ARORA (India), suggested that the expression adopted for paragraph 15, viz., "a very large number of members", should be used.

It was so decided.

Paragraph 20, as amended, was adopted.

Paragraph 21

Paragraph 21 was adopted.

Paragraph 22

Mr. THACHER (United States of America) said that, in order to record accurately the views expressed by his delegation, the present text should be replaced by the following: "Other delegations suggested that the terms 'peaceful purposes' and 'military purposes' were vague and ambiguous and that it would be more useful and more centrally directed at the real problem of arms limitation if the question of arms limitation on the sea-bed and ocean floor were taken up in an

(Mr. Thacher, United States)

appropriate forum with a view to defining those factors vital to a workable, verifiable and effective international agreement which would prevent the use of this new environment for the emplacement of weapons of mass destruction."

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the United States amendment indirectly evaluated the proposals made by many delegations and stressed what the United States delegation regarded as the weak side of those proposals. The United States delegation might, of course, insist on recording its view, but in that case the report should also contain the USSR delegation's opinion of the defects in the United States position. Accordingly, he proposed that, if the United States amendment was adopted, the following text should be added at the end of paragraph 22: "Along with this, a number of delegations expressed the view that the non-emplacement of weapons of mass destruction on the sea-bed would afford only a partial solution of the question of the prohibition of the use of the sea-bed for military purposes. Those delegations also pointed out that such a step would make it possible to step up on the sea-bed and the ocean floor the race of conventional weapons and the conduct of other military activities.

Mr. HAQUE (Pakistan), noting that the USSR amendment was conditional on the adoption of the United States amendment, suggested that the present text of paragraph 22 should be retained.

Mr. GAUCI (Malta) supported the Pakistan suggestion.

Mr. THACHER (United States of America) pointed out that paragraph 22 related to the suggestion made by his delegation and would be incomplete if it was not amended as he had proposed.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his delegation did not object to the present text of paragraph 22 and, therefore, found the Pakistan suggestion quite acceptable.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) asked whether any delegation other than that of the United States had in fact supported the view set out in the United States amendment.

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Mr. LAPOINTE (Canada) recalled that his delegation, at the 8th meeting, had also said that the term "peaceful purposes" was vague and ambiguous.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that since only two delegations had taken that view, the use of the expression "other delegations" in the United States amendment was not justified. It should be made clear that the meaning of the terms "peaceful purposes" and "military purposes" was evident to all but those two delegations.

Mr. LAPOINTE (Canada) said that to count the number of delegations taking any particular position would be a departure from the procedure followed so far and would make the Working Group's task extremely difficult.

Mr. THACHER (United States of America) said that the hour was rather late to reopen the substance of the question, and he proposed that the beginning of the amendment should be reworded to read: "It was suggested on the other hand that ...".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that although he would prefer to have the report state that the suggestion had been made by two delegations, he would not insist on that point if the new formulation met with general approval.

Mr. ARORA (India) said he was grateful to the United States representative for suggesting a more consistent formulation. The new wording should be generally acceptable and would put the draft in line with the views which had been expressed in the Working Group.

Mr. GAUCI (Malta) said that the words "vague and ambiguous" were unnecessarily strong and suggested that they might be changed to "susceptible to different interpretations".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that the deep implications of the phrase "vague and ambiguous" were of great concern to the Tanzanian delegation. Such strong language should appear in the report only if it had actually been used by the United States delegation in its statement.

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Mr. DARWIN (United Kingdom) said that the United States amendment merely reflected the statements made by that delegation and would have no effect on the other opinions presented in the report.

Mr. GAUCI (Malta) said that that section of the report reflected the general exchange of views which had taken place in the Working Group concerning the question of military activities. If the views of the United States and the USSR appeared individually, they would become predominant; the report would thus convey an entirely different impression.

The CHAIRMAN said that paragraph 22 correctly reflected the positions of many delegations. Different opinions had, however, been expressed by the United States and other delegations. He suggested that the United States amendment might take the form of a new paragraph if that would help to achieve a compromise.

Mr. HAQUE (Pakistan) said that he supported the views of the representative of Malta. Paragraph 22 already reflected the United States position, and special attention to the views of one delegation would impair the balance of the report.

Mr. THACHER (United States of America) said that it was odd for such a discussion to take place in connexion with a report which reached no conclusions, but merely set out to express different views on a subject. It was rarely so difficult to record a minority view. For his part, he would be happy to accept the Chairman's suggestion of a new paragraph, beginning with the words "It was suggested on the other hand that ...".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said he shared the views of the representative of Pakistan. To include the United States amendment as a new paragraph would give double treatment to the views of that delegation. In any case, the United States and Canada should not be afraid to accept the responsibility for their position; the report should state that such views were held only by some delegations.

Mr. EVENSEN (Norway) said he felt that the position taken by the Tanzanian delegation was not furthering the task of the Working Group. He suggested that a new version of paragraph 22 might be acceptable to the delegations of both the United States and the USSR. It would read as follows:

(Mr. Evensen, Norway)

"It was suggested that the terms 'peaceful purposes' and 'military purposes' were susceptible to different interpretations and that it would be more useful and more centrally directed at the real problem of arms limitation if the question of arms limitation on the sea-bed and ocean floor were taken up in an appropriate forum with a view to defining those factors vital to a workable, verifiable and effective international agreement which would prevent the use of this new environment for the emplacement of weapons of mass destruction. Other delegations expressed the concern that to confine the present examination to the non-emplacement of weapons of mass destruction on the sea-bed would only afford a partial solution to the question of the prohibition of the use of the sea-bed for military purposes."

Mr. HOLDER (Liberia), recalling that the USSR representative had said that his delegation's amendment had been submitted only because the United States was submitting an amendment, wondered how the USSR delegation had become aware of that fact. All delegations, and not merely a few, should have had an opportunity to see the amendments before they were considered by the Working Group.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that all his delegation's amendments except the one relating to paragraph 22 had been typed out and submitted at the beginning of the meeting. However, when the various delegations were explaining their amendments to the Rapporteur immediately before the meeting, his delegation had become aware that an amendment was being submitted by the United States. The new USSR amendment had been prepared in manuscript at that time and given to the Rapporteur.

The text of paragraph 22 proposed by the representative of Norway was adopted.

Paragraph 23

Mr. IAPOINTE (Canada) proposed that a new paragraph should be inserted before paragraph 23, to read:

"The view was expressed that arms limitation measures should be realistically conceived and show promise of durability without inflexibility. They should not threaten to undermine the international balance of power,

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(Mr. Lapointe, Canada)

and they should command the wide support of maritime nations. The view was also expressed that the international community should address itself to the most urgent and immediate problems susceptible to resolution."

The new paragraph was a close translation of a statement made in French by the Canadian representative in the Working Group.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that the new text presented difficulties for his delegation. If the paragraph accurately reflected the Canadian position as expressed in the Working Group, he would have no quarrel with the substance of the text. However, the implications of the text were even more far-reaching than those of the United States amendment previously discussed. The impression should not be given that the views outlined in the paragraph were held by a large number of delegations; therefore it should be explicitly stated that the paragraph reflected the views either of the Canadian delegation or of a single delegation.

Mr. DARWIN (United Kingdom) pointed out that the paragraph reflected the comments which had been made during the debate by other delegations including his own.

Mr. SCHRAM (Iceland) said the Canadian amendment was entirely acceptable to his delegation. In addition, he had understood that all delegations could have their views recorded in the draft report.

Mr. EVENSEN (Norway) suggested that it might be better for the paragraph to begin with the words "Some representatives expressed the view" and for the words "Some representatives" in the third sentence to be omitted.

Mr. LAPOINTE (Canada) said that the Norwegian sub-amendment was acceptable to his delegation.

Mr. GAUCI (Malta) said that the phrase "the wide support of maritime nations" was difficult to accept, since such nations should not be regarded as a separate entity.

Mr. THACHER (United States of America) said that if the Maltese representative wished to enter into the substance of the matter, a decision should be given by the Chair on whether such a procedure was in order.

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Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his delegation had no objection to the Canadian amendment but felt that the ideas were expressed in rather vivid terms. He agreed with the Tanzanian representative that the proposal was far-reaching; it would be more fitting if couched in more prosaic legal language.

Mr. LAPOINTE (Canada) said that it was not the function of the Working Group to discuss the substance of the amendment at that stage. He could, if required, provide the USSR delegation informally with a clear explanation of the meaning of the amendment.

Mr. DEJAMMET (France) said that as the draft report was intended to reflect the views of delegations, it was better to leave the wording of the amendment to the Canadian delegation.

Mr. GAUCI (Malta) asked whether it would be acceptable to the Canadian delegation to end the second sentence with the phrase "should command the wide support of all nations including maritime nations".

Mr. LAPOINTE (Canada) said his delegation had no objection to that amendment.

Mr. ARORA (India) noted that the amendment made no mention of the sea-bed and ocean floor. As the reference to arms control measures could apply to arms measures in general, the amendment was political rather than legal in nature.

Mr. YANKOV (Bulgaria) felt that the English version of the Canadian amendment had departed from the original French and that there was a difference in nuance and balance.

Mr. HARDERS (Australia) said he felt sure that the Canadian delegation merely wanted its views reflected in the report. In connexion with the remarks made by the representative of India, he pointed out that paragraph 23 of the draft report already referred to the sea-bed and ocean floor. He reserved the right to comment on the term "peaceful purposes" at a later stage.

Mr. EVENSEN (Norway) asked whether it would be acceptable to the Canadian delegation if the amendment was shortened to read: "Some representatives expressed the view that arms limitation measures concerning the sea-bed and ocean floor

(Mr. Evensen, Norway)

should be realistically conceived. They should not threaten to undermine the international balance of power and should command the wide support of all nations including the maritime nations".

Mr. LAPOINTE (Canada) replied that his delegation preferred the wording of the amendment as it stood. In reply to the representative of India, he said that it was not necessary to mention the sea-bed and ocean floor, since they were the subject of the entire document.

Mr. MENDELEVICH said that the Norwegian proposal contained all the ideas expressed in the Canadian amendment and should not give rise to any objection. He proposed that if the Norwegian amendment was acceptable, the two sentences should be combined.

Mr. THACHER (United States of America) asked whether the concept of durability had been included in the Norwegian proposal.

Mr. EVENSEN (Norway) replied that he regarded that concept as being inherent in the phrase "arms limitation measures".

The CHAIRMAN pointed out that it was not necessary to include in a draft report the text of a delegation's statement but merely the ideas it had expressed.

Mr. LAPOINTE (Canada) remarked that in paragraph 12 it was stated: "An account of the views expressed in the course of the debate is given below ...". As the proposed amendment gave an account of his delegation's view, he saw no reason why there should be any objection to it.

Mr. DARWIN (United Kingdom) said that his delegation agreed with many of the elements of the Canadian amendment and wished to support it. It was quite in order for the thoughts of the Canadian delegation to be included in the report. In addition, the Working Group had adopted an amendment to paragraph 22 which had included the words "to step up on the sea-bed and the ocean floor the race of conventional weapons", which could not be regarded as purely legal phraseology.

Mr. HOLDER (Liberia) said that while his delegation had no objection to the amendment, it was the duty of the members of the Working Group to co-operate.

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(Mr. Holder, Liberia)

Shortly before, the United States delegation had accepted a sub-amendment, and he felt that the representative of Canada should also make some concessions.

Mr. THACHER (United States of America) replied that he had been able to accept a constructive solution put forward by the Norwegian delegation. In the present instance, however, an important element had been omitted.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) pointed out that there appeared to be some inconsistency between the wording of the Canadian amendment and the statement by the Canadian representative reported in the provisional summary record for the meeting held on 29 June (A/AC.135/WG.1/SR.8). For example, the meeting record said that measures to reserve the sea-bed exclusively for peaceful purposes must be "realistic, viable and flexible", but no mention was made of "durability without inflexibility". The record also referred to means of inspection - something very germane to the question of arms control which had been omitted in the amendment. He felt that it was not necessary to include the view of every single delegation in the draft report and stated that if the Canadian delegation insisted on its position, his own delegation would be obliged to submit a different formulation.

Mr. EVENSEN (Norway) asked whether it might not be possible to insert the words "inter alia" in order to overcome the problem. In a brief report, it was not possible to have all views expressed.

Mr. LAPOINTE (Canada) said that only part of the Canadian statement had been submitted as an amendment. The intention had been to simplify matters.

Mr. ARORA (India) agreed with the representative of Liberia that statements should not be included word for word. If they were to be inserted in the draft report in that manner the delegation concerned should be named.

Mr. HAQUE (Pakistan) said that, in view of the discussions which were taking place, it would have been much easier to collect all the statements that had been made and pass them on to the Ad Hoc Committee.

Mr. GAUCI (Malta) appealed to the Canadian delegation to accept the version suggested by Norway, which reflected the Canadian views and appeared to be acceptable to the majority of the members.

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Mr. YANKOV (Bulgaria) suggested that it might be more useful to proceed with the next paragraph and to hope that some compromise could be reached in the meantime.

The CHAIRMAN announced that the discussion of paragraph 23 would be deferred to a later stage.

Mr. GAUCI (Malta), speaking on behalf of the eight Powers, proposed that, at the beginning of the paragraph, the words "with respect to procedure, the suggestion was made that the General Assembly should declare" should be replaced by the words: "The suggestion was made that the Ad Hoc Committee should recommend the adoption by the General Assembly of a declaration stating that".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the eight-Power amendment was acceptable to his delegation.

Mr. DEJAMMET (France) pointed out that the General Assembly, in resolution 2340 (XXII), had requested the Ad Hoc Committee to prepare a study for its consideration. The suggestion set out in paragraph 24 went beyond those terms of reference to introduce the new idea that the Ad Hoc Committee should recommend a course of action to the General Assembly. His delegation did not, however, object to the recording of that suggestion, since it thought that the report should reflect the opinions expressed by the various delegations.

The eight-Power amendment was adopted.

Mr. AMAU (Japan) proposed that the words "It was suggested that" should be inserted at the beginning of the second sentence, since otherwise that sentence might be interpreted as an independent statement.

Mr. KIKHIA (Libya) expressed the hope that the Japanese representative would not press his amendment, since the second sentence was clearly a continuation of the preceding sentence.

Mr. DARWIN (United Kingdom) suggested that the two sentences might be linked by the words "and that" to make it clear that they were parts of the same idea.

It was so decided.

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Mr. MENDELEVICH (Union of Soviet Socialist Republics), noting that paragraph 24, third sentence, and paragraph 25 referred to suggestions made by his delegation, proposed that the third sentence of paragraph 24 should be transferred to the beginning of paragraph 25, and that the word "also" should be inserted before the word "suggested" in the sentence presently constituting paragraph 25.

Mr. ARORA (India) said that he supported the USSR amendment.

The USSR amendment was adopted.

Paragraph 24, as amended, was adopted.

Paragraph 25

Mr. HAQUE (Pakistan) proposed, on behalf of the eight Powers, that the words "by a few delegations" should be inserted after the word "suggested".

Mr. MENDELEVICH (Union of Soviet Socialist Republics), noting that the Working Group had been endeavouring to avoid characterizing a suggestion as a majority or minority view, particularly as its discussions had been preliminary in nature, suggested that the expression "by some delegations" should be used.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, supported the USSR representative's suggestion.

Mr. HAQUE (Pakistan), speaking on behalf of the eight Powers, said that he accepted that suggestion.

Paragraph 25, as amended, was adopted.

Paragraph 26

Mr. PANYARACHUN (Thailand) proposed, on behalf of the eight Powers, that paragraph 26 should be replaced by the following text: "Many members suggested that the question of referring the matter to the Eighteen-Nation Committee on Disarmament, under a precise mandate, should remain on the agenda of the Main Committee." The eight Powers were concerned lest the present wording of paragraph 26 might seem to prejudge an issue not yet resolved.

Mr. SALGADO (Chile) proposed that the following sentence should be added to the end of paragraph 26: "Other members were opposed to the consideration of

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(Mr. Zegers, Chile)

this subject by the Eighteen-Nation Committee on Disarmament and suggested that it should remain in the agenda of the General Assembly."

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his Government in its memorandum concerning urgent measures for limitation of the arms race and disarmament had included among such measures the prohibition of the use for military purposes of the sea-bed and ocean floor beyond the limits of the territorial waters of coastal States. The fact, however, that the question of prohibiting such uses might be discussed by the Eighteen-Nation Committee on Disarmament did not preclude the Ad Hoc Committee from discussing the subject. On the other hand, the eight-Power amendment cast doubt upon the possibility of the Eighteen-Nation Committee's discussing that question, and the Chilean amendment went still further. While the Eighteen-Nation Committee might decide not to discuss the question, the Ad Hoc Committee, which under its terms of reference was simply to submit a study for consideration by the General Assembly, could certainly not oppose whatever decision the Eighteen-Nation Committee might take. His delegation accordingly favoured the present text of paragraph 26.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that it would be difficult for the members to accept the eight-Power amendment and urged its sponsors to reconsider it.

Mr. HAQUE (Pakistan) assured the USSR representative that the eight-Power amendment did not attempt to impose a decision on the Eighteen-Nation Committee, but was merely a suggestion. Surely, the members of the Working Group were free to express the opinion that the matter should remain on the Ad Hoc Committee's agenda.

Mr. TILAKARATNA (Ceylon) said that it was not the purpose of the eight-Power amendment to undermine the importance of the Eighteen-Nation Committee. The objective of the amendment was to ensure that if the matter was referred to the Eighteen-Nation Committee, it would be so referred under more specific and precise terms of reference.

Mr. PANYARACHUN (Thailand) also assured the USSR representative that the eight-Power amendment was not intended to undermine the authority or integrity of

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(Mr. Panyarachun, Thailand)

the Eighteen-Nation Committee. The wording of the original text tended to prejudge the issue whether the question should be referred to the Eighteen-Nation Committee, and since that question was still unresolved, the wording of the amendment was a better reflection of the discussions in the Working Group.

Mr. SALGADO (Chile) said that his delegation did not intend to cast reflections on the Eighteen-Nation Committee on Disarmament. However, since the matter had far-reaching implications, it should be kept on the agenda of the General Assembly, which was a more representative body.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said it was merely being suggested that when the General Assembly referred the matter to the Eighteen-Nation Committee, it should do so under precise terms of reference.

Mr. YANKOV (Bulgaria) said that a number of delegations, including his own, had expressed the view that the question should be referred to the Eighteen-Nation Committee, while others had said that it should be referred under precise terms of reference and should also be retained on the agenda of the General Assembly. However, the eight-Power amendment stated the problem differently, saying that the question of referring the matter to the Eighteen-Nation Committee should be retained on the agenda of the General Assembly. The Chilean amendment, which expressed still another view, could perhaps be stated separately.

Mr. GOBBI (Argentina) said that, as he understood it, the amendment proposed by Chile accurately reflected that delegation's position and was not open to discussion. It should be included in the report.

Mr. WALDRON-RAMSEY (United Republic of Tanzania) said that the views of his delegation appeared to be better reflected in the Chilean amendment than in the eight-Power amendment. The Ad Hoc Committee and thus also the Working Group were responsible to the General Assembly under specific terms of reference. It was for the General Assembly to decide whether the military aspects of the question should be referred to the Eighteen-Nation Committee or to the Ad Hoc Committee. The report should state the three predominant views, namely, that the matter should be referred to the Eighteen-Nation Committee, that it should be referred to that body only under precise terms of reference and that it should not be referred at all.

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Mr. TILAKARATNA (Ceylon) said his delegation had originally felt that the question should be considered by the Ad Hoc Committee itself, but a ruling had subsequently been given that it could be considered by the Legal Working Group. His delegation had then suggested that when the question of military activities arose in the General Assembly, it should be referred to some other body only under precise terms of reference. All three views should be expressed in the report.

Mr. PANYARACHUN (Thailand) explained that the wording of the eight-Power amendment had been intended to take into account the feeling of many delegations that the question of referral should await further information, whereas some delegations had argued for the necessity of precise terms of reference.

Mr. ARORA (India) pointed out that the USSR representative had not objected to the eight-Power amendment, but had merely commented on it. After the interventions of Thailand, Ceylon, Tanzania, Chile and other delegations, it was clear that there were various points of view on the matter which could be incorporated into a revised paragraph 26. His delegation favoured a compromise formula acceptable to all.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his delegation's position was reflected in paragraph 25 and it therefore felt that paragraph 26 was superfluous and could be deleted. If, however, it were to be retained, other opinions should be included. He was surprised to note that some delegations wished to place a veto on the work of the Eighteen-Nation Committee on Disarmament, which was not an organ of the General Assembly.

Mr. GAUCI (Malta) remarked that the military aspects of the question were still on the agenda of the Ad Hoc Committee because a request had been made for a report on that matter to be submitted at the next session.

Mr. THACHER (United States of America) said that paragraphs 25, 27 and 28 reflected similar views, while paragraphs 26 and 29, in the proposed amended versions, expressed reservations. He suggested that paragraph 26 should be deleted and be replaced by paragraph 29, which should include a sentence reading as follows: "With regard to the suggestion to request the Eighteen-Nation Committee on Disarmament to consider the matter, some delegations desired a precise mandate, while others wished the matter to be considered in the Ad Hoc Committee itself".

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Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, observed that the eight-Power amendment did not add anything to the draft report, as the question was on the agenda of the Ad Hoc Committee. The Chilean amendment was already covered by paragraph 29.

Mr. SALGADO (Chile) pointed out that paragraph 29 said that "reference of these questions to the Eighteen-Nation Committee on Disarmament would be premature", but his delegation was opposed to the General Assembly referring consideration of the subject to the Eighteen-Nation Committee at any time. There were, in fact, three positions: those who wished the matter to be referred to the Eighteen-Nation Committee on Disarmament, those who wished that to be done under precise terms of reference, and those who, like his own delegation, were opposed to any consideration of the question by the Eighteen-Nation Committee.

Mr. ARORA (India) said he agreed that there were three points of views, and he failed to see how there could be any objection to the revised version of paragraph 26. Delegations opposed to it could have a further sentence inserted, and the Chilean amendment could also be added.

Mr. DARWIN (United Kingdom) suggested that the three sets of views should be included in three separate paragraphs.

The CHAIRMAN felt that there was also a fourth view, as expressed by the USSR delegation, according to which the matter should be discussed first by the General Assembly. That was a logical procedure. The Legal Working Group could certainly not refer the matter to the Eighteen-Nation Committee on Disarmament. He proposed that further discussion of the question should be deferred to the following meeting.

Mr. CACERES (Peru) proposed that the Rapporteur should be entrusted with preparing a text which would reflect the views of all members.

Mr. GOBBI (Argentina) pointed out that, at the current rate of progress, the Working Group would require seventeen more hours to complete its work. He supported the Chairman's suggestion.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) noted that the position of his delegation was reflected in paragraph 25 of the report; if the

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(Mr. Mendelevich, USSR)

various points of view were represented according to the United Kingdom proposal, his delegation would have no objection.

The CHAIRMAN suggested that the matter should be left to the Rapporteur, as proposed by the representative of Peru.

It was so decided.

The meeting rose at 12.25 a.m.

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SUMMARY RECORD OF THE THIRTEENTH MEETING

Held on Monday, 8 July 1968, at 10.40 a.m.

Chairman: Mr. BENITES Ecuador

ADOPTION OF THE REPORT TO THE AD HOC COMMITTEE (A/AC.135/WG.1/R.5) (continued)

Paragraph 26

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that after consultation with the delegations concerned, he proposed the following solution. Paragraph 26 as it appeared in the draft report should be retained and supplemented by the addition of two sentences. The first, which was proposed by the eight developing countries (Ceylon, India, Liberia, Libya, Malta, Pakistan, Thailand and the United Republic of Tanzania) would read: "Many members suggested that the question of referring the matter to the Eighteen-Nation Disarmament Committee, under a precise mandate, should remain on the agenda of the main Committee." The second, proposed by the delegation of Chile, would read: "Other members were opposed to the consideration of this subject by the Eighteen-Nation Disarmament Committee and suggested that it should remain in the agenda of the General Assembly."

Mr. PANYARACHUN (Thailand) assured the representative of the Soviet Union that, contrary to what the latter had appeared to think at the preceding meeting, the proposal implied no right of veto on the Eighteen-Nation Committee on Disarmament. He supported the wording proposed by the Rapporteur.

Mr. ARORA (India) accepted the Rapporteur's proposal.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) accepted the wording proposed by the Rapporteur and the amendment of the eight developing countries. In the amendment submitted by Chile, he would prefer the words "other members" to be replaced by "some members". He was surprised to note that Chile and other countries continued to object to the consideration of the matter by the Eighteen-Nation Committee on Disarmament.

Mr. ZEGERS (Chile) accepted the Rapporteur's wording and the Soviet Union amendment. He emphasized that his delegation's insistence that the matter should be considered by the General Assembly was motivated by the fact that the problem was not, properly speaking, one of disarmament.

Paragraph 26 was adopted with the proviso that changes would later have to be made in the light of the wording of subsequent paragraphs.

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Paragraph 29

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that the Legal Working Group had before it three proposals referring to paragraph 29. The Soviet Union proposed that the paragraph should be deleted; Bulgaria proposed that the words "it was suggested that" should be replaced by "some delegations suggested that"; and Ceylon and the seven other developing countries had proposed the addition to the paragraph of the following words: "and that such references could be considered fruitfully only when a declaration of general principles governing the sea-bed, ocean floor and the subsoil thereof, beyond the limits of present national jurisdiction, had been accepted".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) asked the delegations of the eight developing countries what new elements their proposal would introduce into paragraph 29, in relation to paragraph 26.

Mr. GAUCI (Malta) said that the sponsors of the proposal had in mind that, if it was decided that the Eighteen-Nation Committee on Disarmament should examine the question, it would be desirable to draw up guidelines to help it in its work; its activities would be more productive if those guiding principles were accepted by the international community.

Mr. TILAKARATNA (Ceylon) pointed out that two aspects were involved. In the first place, paragraph 26 specified that the question should be referred to the Eighteen-Nation Disarmament Committee under a precise mandate and should also be retained on the agenda of the Ad Hoc Committee. Paragraph 29, on the other hand, contained another idea, namely, that it was very important to draft a declaration of the general principles governing the sea-bed and the ocean floor before practical measures were taken. While it was, of course, possible to combine paragraphs 26 and 29, the idea contained in the latter should be retained. He accepted the Bulgarian proposal.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the question of the declaration of general principles should appear in paragraph 42 of the draft report. Paragraph 29, or the combined text of paragraphs 26 and 29, should mention only the principle of prohibiting the use for military purposes of the sea-bed and the ocean floor.

Mr. YANKOV (Bulgaria) pointed out that the section of the draft report under discussion did not deal with general principles, but with "reservation of the

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(Mr. Yankov, Bulgaria)

sea-bed and ocean floor and the subsoil thereof underlying the high seas beyond the limits of present national jurisdiction exclusively for peaceful purposes". In his view the Working Group should adopt paragraph 29 as it appeared in the draft report, and add the proposal of the eight developing countries to paragraph 26, with a reference to prohibiting the use of the sea-bed for military purposes.

At the suggestion of the Ceylonese representative, the CHAIRMAN proposed that the sponsors of the amendment should confer with the representatives of the Soviet Union and Bulgaria.

It was so decided.

Mr. FUTTERMAN (United States of America) said that he would accept the result of those consultations to the extent that the agreed text reflected what had actually been said in the Working Group.

Paragraph 30

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that the eight developing countries (Ceylon, India, Liberia, Bolivia, Malta, Pakistan, Thailand and the United Republic of Tanzania) proposed the insertion of the word "some" between "provide" and "guidance".

Paragraph 30, as amended, was adopted.

Paragraph 31

Mr. FUTTERMAN (United States of America) proposed the addition, at the end of the paragraph, of the following words: "although no conclusions were reached as to how those interests could best be served".

Mr. GAUCI (Malta) said it would be more accurate to say that, owing to the limited time available to the Working Group, it had been impossible to reach a conclusion as to how those interests could best be served.

Mr. FUTTERMAN (United States of America) endorsed the proposal.

Mr. ARORA (India) said he would have difficulty in accepting the proposals of the United States and Malta, since the Working Group had not reached any conclusions in general. Therefore, it seemed unnecessary to specify that no conclusion had been reached on that particular point. Paragraph 31 should begin with the phrase: "A vast majority of members have agreed...", so that the amendment would no longer be necessary. /...

Mr. FUTTERMAN (United States of America) emphasized that that proposal did not fulfil the purpose of his amendment.

Mr. GOBBI (Argentina) said he would prefer to maintain paragraph 31 as it stood in the draft report. However, in order to take account of the United States amendment, it might be possible to retain paragraph 31 and add a new sentence containing the amendment, which would begin with the words: "Some members stated that no conclusions had been reached...".

Mr. HAQUE (Pakistan) agreed with the representative of India that it was unnecessary to indicate that no conclusion had been reached on the point since the report of the Working Group actually contained no conclusions.

Mr. FUTTERMAN (United States of America) said that the readers of the report might have a wrong picture of the debate which had taken place if account was not taken of his amendment. Paragraph 31 could end with the words: "but, owing to lack of time, no agreement was reached." Consultations could be held in order to settle the matter.

Mr. HOLDER (Liberia), supported by Mr. MENDELEVICH (Union of Soviet Socialist Republics), proposed that the idea should be expressed in a positive manner by adding the following sentence at the end of the paragraph: "It was felt there was a need to discuss the method by which these interests could best be served."

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, proposed that the following sentence should be added at the end of the paragraph: "The question of how those interests could best be served would be studied further."

Mr. THACHER (United States of America), supported by Mr. ARORA (India), proposed that the expression "would be studied further" in the text of the amendment should be replaced by the words "should be studied further".

Mr. GAUCI (Malta) said he considered it desirable to specify where and when the matter would be studied.

Mr. HARDERS (Australia) pointed out that the last sentence of paragraph 43 should satisfy the representative of Malta.

Paragraph 31, as amended, was adopted.

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Paragraph 32

Mr. MENDELEVICH (Union of Soviet Socialist Republics) proposed that the beginning of the last sentence should be amended to read: "Some members expressed the view...".

Paragraph 32, as amended, was adopted.

Paragraph 33

Mr. THACHER (United States of America) proposed that the following words should be added at the end of the last sentence of the paragraph: "and identify the main objectives of such arrangements".

Paragraph 33, as amended, was adopted.

Paragraph 34

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, recalled that it had been decided, when paragraph 15 was adopted, that the following sentence proposed by the Chilean delegation should be added at the end of paragraph 34: "A suggestion was made that the especial rights and interests of the coastal States regarding the conservation and exploration of those resources should be taken into account."

Mr. YANKOV (Bulgaria) proposed that the expression "and rules governing the high seas" in the third line should be replaced by the words "and rules of international law in general and the law of the sea in particular".

It was so decided.

Mr. MLADEK (Czechoslovakia) proposed that the sentence in the sixth line beginning with the words: "It was also suggested..." should be deleted and replaced by the following paragraph:

"Several delegations emphasized that the interests of landlocked countries in participating in the exploration and exploitation of the sea-bed and the ocean floor beyond the limits of present national jurisdiction should be safeguarded."

It was so decided.

Paragraph 34, as amended, was adopted.

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Paragraph 35

Mr. TILAKARATNA (Ceylon), Mr. ARORA (India), Mr. HOLDER (Liberia), Mr. KIKHIA (Libya), Mr. GAUCI (Malta), Mr. HAQUE (Pakistan), Mr. WALDRON-RAMSEY (United Republic of Tanzania) and Mr. PANYARACHUN (Thailand) proposed that the word "some" should be added at the beginning of the first sentence, that the expression "such as" should be inserted before the word "UNESCO" in the seventh line, and that the words "or exploitation" should be added after the word "appropriation" in the eleventh line.

Mr. HAQUE (Pakistan), replying to a question from Mr. MENDELEVICH (Union of Soviet Socialist Republics), explained that, as several delegations had stated, it should be specified that scientific exploration should not be used to justify the exploitation of resources, which should be governed by international regulations. The amendment would serve to make a distinction between exploration and exploitation.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) emphasized that opinion was divided with respect to the introduction of international regulations or controls, and that, as a result, the amendment did not reflect the views of the Working Group as a whole, as did the rest of the paragraph.

He pointed out that it was important not to equate mere exploitation with appropriation, for to do so would have serious legal implications. His delegation did not exclude the possibility of limiting the exploitation rights of States, but the question was still open and should be studied more carefully. Hence, it was important that the view stated in the amendment in question should be attributed to certain delegations and not to the Working Group as a whole.

Mr. NITTI (Italy) proposed that the wording used should be similar to that in paragraph 34 and that the beginning of the fifth sentence of paragraph 35 should be amended to read: "It was suggested that such scientific exploration ...".

Mr. ARORA (India) said he was prepared to accept the solution proposed by the Italian delegation. There was no express rule in international law authorizing or prohibiting the exploitation of the resources in question, but he recalled that, according to paragraph 31, which the Working Group had just adopted, "Members were in agreement that the use of the resources of the sea-bed and ocean floor and the subsoil thereof underlying the high seas beyond the limits of present national jurisdiction should be in the interests of mankind".

The CHAIRMAN suggested that the beginning of the sentence should be amended to read: "Many members considered that such scientific exploration...".

Mr. WALDRON-RAMSEY (United Republic of Tanzania) recalled that the Working Group had recognized that there was no rule of international law applicable to the exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction, and that it was necessary to establish a new legal régime. He noted that there seemed to be a contradiction between the last two sentences of paragraph 16 and between the first two sentences of paragraph 34. Similarly, the end of paragraph 35 was unclear and was worded in such a way that it implied that purely scientific research, unlike research linked with the exploitation of resources, could serve as a basis for claiming sovereignty or appropriation.

The CHAIRMAN suggested that the fourth and fifth sentences of paragraph 35 should be replaced by the following: "Many delegations also stated that it was necessary to distinguish between purely scientific research and that connected with the exploitation of resources, and that such scientific exploration would not serve as a basis for the assertion of sovereignty or claims to appropriation or exploitation."

Mr. MENDELEVICH (Union of Soviet Socialist Republics) supported the Chairman's suggestion, but with two changes. He proposed that the words "such scientific exploration would not serve as a basis" should be replaced by the words "no scientific exploration would serve as a basis". Secondly, although it was true that many delegations had stated that scientific exploration should not serve as a basis for claims to appropriation, only a few delegations had commented that it should not serve as a basis for claims to exploitation. He therefore proposed that the sentence suggested by the Chairman should be amended to read: "Many delegations also stated that it was necessary to distinguish between purely scientific research and that connected with the exploitation of resources, and that no scientific exploration would serve as a basis for the assertion of sovereignty or claims to appropriation; some delegations considered that no scientific exploration would serve as a basis for claims to exploitation."

Mr. HOLDER (Liberia) said he did not see why the USSR representative wished to make such a distinction in a section which dealt solely with freedom of scientific research and exploration of the sea-bed and ocean floor.

Mr. GAUCI (Malta) suggested that the following words should be inserted after the amendment suggested by the Chairman: "which would not be in the interests of mankind".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) withdrew his proposal and agreed to the Chairman's amendment, with the addition suggested by the representative of Malta.

Mr. YANKOV (Bulgaria) pointed out that the amendment suggested by the representative of Malta was ambiguous, since it would allow any appropriation or exploitation if it was in the interests of mankind. In the view of his delegation, the Chairman's suggestion was sufficiently comprehensive and precise.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, proposed that the amendment suggested by the representative of Malta should be changed to read: "inconsistent with the interests of mankind".

Mr. HAQUE (Pakistan) pointed out that it was impossible to tell whether in the English text the word "inconsistent" applied solely to exploitation or to the assertion of sovereignty and claims to appropriation, as well.

Mr. KROYER (Iceland) proposed that the English text should be amended to read: "claims to appropriation or to exploitation inconsistent...". It was then clear that the word "inconsistent" referred solely to exploitation.

Mr. GOBBI (Argentina) said he considered that the Bulgarian proposal was likely to obtain the widest approval. He suggested that the final wording of the paragraph should be left to the Rapporteur, in consultation with the members concerned.

Mr. FUTTERMAN (United States of America) agreed with the representative of Pakistan on the need to ensure that the wording of the report would not give rise to differing interpretations. He too supported the amendment proposed by the representative of Bulgaria.

The CHAIRMAN agreed with the Argentine representative's suggestion and decided that the final wording of the paragraph should be left to the Rapporteur.

Paragraph 36

Mr. PANYARACHUN (Thailand), speaking on behalf of the eight sponsors, proposed that the words "exploitation of" in the first line of paragraph 36 should be replaced by the words "any activities on" and that the word "exploitation" in the seventh line should be replaced by the words "such activities".

The amendment proposed by the delegations of Ceylon, India, Liberia, Libya, Malta, Pakistan, Thailand and the United Republic of Tanzania was adopted.

Mr. BUSHA (Inter-Governmental Maritime Consultative Organization) suggested that the following sentence should be inserted before the last sentence of paragraph 36: "The devices of exploration and exploitation should be employed in a manner consonant with the general safety and protection of the persons manning them".

Mr. DEJAMMET (France) supported the suggestion of the representative of IMCO.

Mr. ARORA (India) also supported the amendment suggested by the representative of IMCO, but suggested that the words "of exploration and exploitation" should be replaced by the words "employed for such activities", in order to bring the amendment into line with the rest of the paragraph.

The CHAIRMAN decided that it should be left to the Rapporteur to propose a final version of the paragraph.

Paragraph 37

Mr. MENDELEVICH (Union of Soviet Socialist Republics) proposed that the beginning of the second sentence of paragraph 37 should be amended to read: "The view was advanced by some delegations ...".

Paragraph 37, as amended, was adopted.

Paragraph 38

Mr. YANKOV (Bulgaria) proposed that the word "damages" in the ninth line of the English text should be replaced by the words "liability for damages".

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Mr. DARWIN (United Kingdom), supported by Mr. HOLDER (Liberia), pointed out that the word "damages" should be in the singular.

The amendment proposed by the representative of Bulgaria, as sub-amended by the representative of the United Kingdom, was adopted.

Mr. BUSHA (Inter-Governmental Maritime Consultative Organization) pointed out that paragraph 38 did not take sufficiently into account the remarks which had been made concerning pollution. He therefore suggested that the last sentence of the paragraph should read: "The suggestion was made that appropriate safeguards should be assured and that existing international arrangements, such as the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, should be extended, in order to minimize pollution of the seas and the disturbance of the existing biological, chemical and physical processes and balances."

Mr. DEJAMMET (France) supported the suggestion of the representative of IMCO.

Paragraph 38, as amended, was adopted.

The meeting rose at 1.5 p.m.

SUMMARY RECORD OF THE FOURTEENTH MEETING

Held on Monday, 8 July 1968, at 3.40 p.m.

Chairman: Mr. BENITES Ecuador

ADOPTION OF THE REPORT TO THE AD HOC COMMITTEE (A/AC.135/WG.1/R.5) (concluded)

Paragraph 39

Mr. MLADEK (Czechoslovakia) proposed the addition, at the end of paragraph 39, of the following sentence: "In this connexion, it was suggested that a special sub-item entitled 'Elaboration of a definition of the sea-bed beyond the limits of national jurisdiction' should be included in the agenda of the appropriate committee for the next year."

Mr. ABDEL-HAMID (United Arab Republic) suggested that the words "appropriate committee" in the Czechoslovak amendment should be replaced by the words "appropriate forum".

The Czechoslovak amendment, incorporating the suggestion of the United Arab Republic, was adopted.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the continental shelf was not fully under national jurisdiction, as stated in the final sentence of the original text, since such matters as navigational and fishing rights were subject to international law. He therefore proposed the deletion of the word "fully" and the addition, at the end of the sentence, of the words "for the purpose of exploring it and exploiting its natural resources".

Mr. GOBBI (Argentina) objected to the proposal. His delegation had consistently taken the position that for the purposes of General Assembly resolution 2340 (XXII), in which the Ad Hoc Committee's terms of reference were laid down, the continental shelf was in fact under national jurisdiction. However, the replacement of the words "fully under national jurisdiction" by the words "under national jurisdiction for the purpose of its peaceful utilization" would be acceptable.

Mr. SOUZA E SILVA (Brazil) and Mr. ZEGERS (Chile) agreed.

Mr. HOLDER (Liberia) suggested using the words "under national jurisdiction, in accordance with international law".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that the expression "under national jurisdiction within the limits set by international law" would be acceptable to his delegation.

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The CHAIRMAN suggested that, in order to reflect the views of the Argentine and Soviet delegations, the word "fully" should be deleted from the sentence in question, which should be followed by a sentence to read: "In this connexion, it was also pointed out that national jurisdiction applies to the continental shelf only within the limits established by international law."

It was so decided.

Paragraph 39, as amended, was adopted.

Paragraph 40

Paragraph 40 was adopted.

Paragraph 41

Mr. DARWIN (United Kingdom) proposed the addition, after the first sentence, of the following sentence: "It was suggested that subject to the observations of delegations, the 'survey of existing international agreements concerning the sea-bed and ocean floor, and the subsoil thereof underlying the high seas beyond national jurisdiction' (A/AC.135/10) might serve as an element in the survey called for by operative paragraph 2 (a) of General Assembly resolution 2340 (XXII)". That amendment would, of course, in no way commit Member States to any position regarding the international agreements referred to in it. He recalled also that the basic legislation of the United Kingdom in this field was the Continental Shelf Act 1964 and not the subsequent Orders in Council.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) said that his delegation was prepared to accept paragraph 41, including the United Kingdom amendment, on the understanding that it did not imply approval by the Working Group of any conclusions contained, or legal acts referred to, in the documents to be forwarded to the General Assembly.

The United Kingdom amendment was adopted.

Paragraph 41, as amended, was adopted.

Paragraph 42

Mr. YANKOV (Bulgaria) proposed the addition, after the word "mankind", of the phrase "that the sea-bed and the ocean floor and the subsoil thereof,

(Mr. Yankov, Bulgaria)

underlying the high seas beyond national jurisdiction should not be subject to national appropriation by claim of sovereignty, by means of use, occupation or any other means"; the addition, after the words "United Nations" of the phrase "the exploration and exploitation of the ocean floor beyond national jurisdiction should be conducted with due respect for the freedoms of the high seas and with due regard for the interests of other States and should not infringe on the legally protected uses of the sea for fishing, navigation, communications, research and other purposes complying with international law and with generally agreed upon standards of security and safety regulation"; and the addition, in the last line of the paragraph, of the words "international responsibility and" before the word "liability".

Mr. DEJAMMET (France), Mr. ARORA (India) and Mr. GAUCI (Malta) supported the first Bulgarian amendment.

Mr. HOLDER (Liberia) supported the second Bulgarian amendment.

Mr. PANYARCHUN (Thailand) said that since the second Bulgarian amendment was based on material contained in paragraphs 36 and 37 of the report, its wording should be brought more into line with those paragraphs; the words "the sea-bed and" should be added before "the ocean floor".

Mr. ARORA (India) proposed that the words "the exploration and exploitation" should be replaced by "all activities in the exploration and use", and that the word "respect" in the second line should be replaced by the word "regard".

Mr. DEJAMMET (France) supported the second Bulgarian amendment with those modifications.

The Bulgarian amendments, as amended, were adopted.

The CHAIRMAN drew attention to the amendment proposed by a number of delegations to insert the words "at its forthcoming session" after the words "General Assembly" in the third line.

Mr. BEAULIEU (Canada) said that, if that amendment was adopted, the initial words of the sentence should be altered to read "Some representatives expressed the view that", in order to reflect the facts more accurately. Furthermore, such a suggestion of urgency seemed incompatible with the statement in the second sentence of the paragraph that the contents of the declaration were regarded as matters for more detailed discussion and consultation.

Mr. GAUCI (Malta) said that with the inclusion of the Bulgarian amendments the paragraph would be unduly long. It might therefore be wise to deal with the question of timing in a separate paragraph, and to transfer the sentence just referred to by the representative of Canada.

Mr. DARWIN (United Kingdom) said that if that were done, the inclusion of the words "at its forthcoming session" would be inappropriate; logically, the matter of timing should be dealt with separately from that of the content of the declaration.

Mr. NITTI (Italy) agreed.

Mr. ARORA (India) agreed that a separate paragraph dealing with the timing would be desirable. However, he also felt that it would be desirable to retain the reference to the forthcoming session in the first sentence, or if that was not acceptable, to replace it by the words "as soon as possible".

Mr. TILAKARATNA (Ceylon) supported that view.

Mr. DARWIN (United Kingdom) said that to make such a statement might imply that the Committee would prefer the adoption of a bad declaration of principles at the earliest possible moment rather than of a good one later. Both views - that the declaration could be adopted by the General Assembly at its forthcoming session and that more detailed discussion and consultations were needed - should be clearly reflected.

Mr. YANKOV (Bulgaria) agreed. The paragraph could open with its present first sentence unaltered, followed by the list of principles contained in the third sentence, with a separate paragraph dealing with the timing.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) pointed out that the present second sentence of paragraph 42 dealt not only with the timing but also with the content of the declaration. The reference to the fact that the contents were regarded as a matter for more detailed discussion and consultation should be retained in the new version of the paragraph.

Mr. DARWIN (United Kingdom) thought that, though the contents of the declaration and the precise timing for its adoption were both matters for more detailed discussion and consultation, the second sentence of paragraph 42 could not

(Mr. Darwin, United Kingdom)

be retained as it stood. The need for more detailed discussion on the contents of the declaration should be mentioned in a paragraph dealing with the contents, while the need for more detailed discussion on the timing should be mentioned in a separate paragraph dealing with the timing.

Mr. ARORA (India) withdrew the proposal for including the words "at its forthcoming session" or "as soon as possible" after the words "General Assembly" in the first sentence and proposed instead that the first sentence should be adopted as it stood, followed by a new sentence reading: "Many delegations considered that the declaration could be adopted at the General Assembly's twenty-third session, while others believed that the precise timing for its adoption was a matter for more detailed discussion and consultation."

Mr. HARDERS (Australia) and Mr. MENDELEVICH (Union of Soviet Socialist Republics) said they were prepared to accept the new Indian proposal.

Mr. FUTTERMAN (United States of America), after commenting on the United Kingdom and Indian proposals, suggested that the first sentence of paragraph 42 should be retained without amendment and should be followed by a second sentence reading: "The contents of such a declaration of principle were, however, regarded as a matter for more detailed discussion and consultations." As the Bulgarian representative had suggested, paragraph 42 should end with the sentence beginning: "Various principles were widely supported for inclusion in the draft declaration...", and should be followed by an entirely separate paragraph dealing with the timing of the adoption of the declaration.

It was so decided.

The CHAIRMAN observed that the foregoing decision related only to the rearrangement of the material contained in paragraph 42. He asked whether any delegations wished to submit amendments to the redraft.

Mr. FUTTERMAN (United States of America) proposed that, in the sentence beginning: "Various principles were widely supported for inclusion in the draft

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(Mr. Futterman, United States)

declaration...", the words "widely supported" should be replaced by the word "suggested". In his view, it was illogical to say in one sentence that the contents of the declaration were regarded as a matter for more detailed discussion and, in the next sentence, that various principles were "widely supported" for inclusion in the draft declaration.

Mr. GOBBI (Argentina) was opposed to the United States amendment. In other parts of the report, the Working Group had used the word "suggested" for ideas which had been put forward by one or two delegations but had not commanded general support. As the majority of the principles mentioned in the sentence beginning: "Various principles were widely supported for inclusion in the draft declaration..." had received a wide measure of support in the Working Group, the words "widely supported" should be retained. As an alternative solution, he proposed that the Working Group should distinguish between principles which had been widely supported and those which had been advanced by one or two delegations only.

Mr. ARORA (India) also believed that the words "widely supported" should be retained.

Mr. DARWIN (United Kingdom) said that his delegation would have some difficulty in accepting the words "widely supported". The various concepts listed in the sentence concerned had indeed been discussed at length by the Working Group and some of them had been widely supported. But, though his delegation agreed that a number of the concepts mentioned could be included in a draft declaration, it could not support the wording used in the text now before the Working Group to express those concepts.

Mr. FUTTERMAN (United States of America) proposed that, if the Argentine representative objected to the word "suggested", the words "widely supported" should be replaced by the word "proposed". In his view, it would be difficult at the present stage to differentiate between principles which had been supported by a majority of delegations and those which had been supported by one or two delegations only.

Mr. HOLDER (Liberia) supported the proposal to replace the words "widely supported" by the word "proposed".

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Mr. PANYARACHUN (Thailand), referring to the United Kingdom representative's statement, suggested that the words "Various principles" might be replaced by the words "Various concepts".

Mr. GAUCI (Malta) thought that the text of the sentence under discussion should be left unchanged. It would be a great pity if the Working Group failed to note that there had been general agreement on a number of principles for inclusion in the draft declaration.

Mr. DEJAMMET (France) agreed that it was difficult to distinguish between principles and concepts.

Mr. BEAULIEU (Canada) proposed the use of the words "Various principles, some of which received wide support, were proposed for inclusion in the draft declaration".

Mr. MENDELEVICH (Union of Soviet Socialist Republics) endorsed that proposal. He stressed the preliminary nature of the Working Group's discussion of principles for inclusion in the draft declaration and recalled that the Working Group had been unanimous in its view that the draft declaration must be given much more careful consideration. The proposal of the Maltese delegation therefore seemed inappropriate.

Mr. GAUCI (Malta) said that the Working Group would have failed in its task if it did not recommend to the General Assembly possible principles for inclusion in the draft declaration. The matter had been discussed at length and areas of agreement had been reached; those areas should therefore be indicated in the report.

Mr. YANKOV (Bulgaria) endorsed the Canadian proposal. The Working Group had discussed various principles for consideration by the General Assembly; it had not reached agreement on the principles to be included in the draft declaration.

Mr. DARWIN (United Kingdom) noted that the degree of support for the various principles proposed could be ascertained from the body of the report. The difficulty facing the Working Group lay in the attempted compression of very complex matters into a single sentence.

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Mr. GOBBI (Argentina), supported by Mr. ARORA (India), repeated his suggestion that a distinction should be made between those proposals which had been widely supported and those which had raised no fundamental objections.

Mr. YANKOV (Bulgaria), supported by Mr. HARDERS (Australia) and Mr. KROYER (Iceland), said that it would be difficult, if not impossible, to categorize the various principles. He urged the adoption of the Canadian proposal.

Mr. TILAKARATNA (Ceylon) said that his delegation was prepared to accept the Canadian proposal in the interest of saving time, but he hoped that its adoption would not lead to the subsequent inclusion of proposals that had not received support.

Mr. WATANAKUN (Thailand) and Mr. GOBBI (Argentina) endorsed those remarks.

The Canadian proposal was adopted.

Mr. FUTTERMAN (United States of America) proposed the inclusion, after the words "of mankind", of the words "the need for an internationally agreed boundary for the deep ocean floors; the desirability and objectives of internationally agreed arrangements for the deep ocean floor;".

Mr. GOBBI (Argentina) said that the United States proposal was not acceptable to his delegation. The two principles proposed by the United States delegation were highly controversial and had no place in the principles to be enumerated in paragraph 42. If the United States delegation attached importance to those two principles, it could have its views reflected in a separate paragraph.

Mr. DARWIN (United Kingdom) believed that there would be considerable support in the Committee for the second element of the United States amendment, dealing with international arrangements. However, the first part of the amendment raised substantial problems in that it was not a principle of the same type as the others listed but rather a question of policy, and it might therefore be included more appropriately in a separate paragraph.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) agreed that the definition of boundaries was a problem to be solved rather than a principle. He therefore supported the Argentine proposal.

Mr. ZEGERS (Chile) agreed that the matter was not a principle, and pointed out that in any case it was already referred to in paragraph 39 and need not therefore be repeated.

Mr. ARORA (India) agreed. He also had some doubts as to the acceptability of the proposal for internationally agreed arrangements; if those arrangements were to be defined as in sub-paragraphs 2 (a) to 2 (d) of document A/AC.135/25, his delegation could not accept them, especially in a paragraph dealing with principles.

Mr. YANKOV (Bulgaria) agreed that the points raised by the United States delegation were practical problems rather than principles.

Mr. FUTTERMAN (United States of America) said that, rightly or wrongly, his delegation had proposed the points as principles and had stated its reasons for doing so; it felt they were important and should be agreed upon as early as possible. He did not understand why objections were being raised against them when no other principles proposed by other delegations had been opposed.

Mr. MENDELEVICH (Union of Soviet Socialist Republics) agreed that the points raised by the representative of the United States were important. However, the question at issue was where and how they should be included in the report; the fact remained that they were not principles and should not be included in a paragraph dealing with principles.

Mr. HARDERS (Australia) suggested that the difficulty might be avoided by replacing the words "the need for" by "the question of".

Mr. GOBBI (Argentina), Mr. SOTO (Peru) and Mr. DARWIN (United Kingdom) supported the suggestion.

Mr. FUTTERMAN (United States of America) said that he could accept the Australian suggestion.

Mr. YANKOV (Bulgaria) said that in that case it would be desirable to begin a new sentence, since the original sentence began with a words "Various principles... were proposed"; toinclude something other than principles in the list would be inappropriate.

Mr. ARORA (India) and Mr. SOTO (Peru) supported that view.

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Mr. FUTTERMAN (United States of America) thought that his delegation's amendments, together with the sub-amendments by Australia and Bulgaria, might be incorporated in a single sentence reading as follows:

"It was also proposed that a declaration of principles deal with the question of a more precise boundary for the area under consideration, and with the question of internationally agreed arrangements concerning the use of the resources of the area."

The text proposed by the United States representative was adopted.

Paragraph 42, as amended, was adopted.

New paragraph to be inserted after paragraph 42

Mr. ARORA (India) recalled that the Working Group had decided earlier to insert after paragraph 42 a new paragraph dealing with the timing for the adoption of the Declaration. He proposed the following text for the new paragraph:

"Some delegations considered that such declaration could be adopted by the General Assembly at its forthcoming session. Some delegations, however, considered that the precise timing for its adoption was also dependent upon more detailed discussion and consultation".

The new paragraph proposed by the Indian representative was adopted.

Paragraph 43

The CHAIRMAN invited the Working Group to consider the USSR amendment to paragraph 43, to the effect that the last sentence should be amended to read: "In this connexion in the Working Group the views were expressed that the General Assembly may be requested at its twenty-third session to consider the question of establishing a body for continuing the study of the legal problems involved".

Mr. ARORA (India) said that he thought no action should be taken on the matter to which the sentence referred until the Ad Hoc Committee met at Rio de Janeiro. The sentence should therefore be deleted.

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Mr. MENDELEVICH (Union of Soviet Socialist Republics) agreed with the Indian representative that at the present stage the assumption referred to in the sentence would be premature; that was precisely why his delegation had submitted an amendment. It would withdraw the amendment if the original sentence was deleted.

The CHAIRMAN said that, if he heard no further comment, he would take it that the last sentence was to be deleted, in which case both the USSR and the United States amendments would be withdrawn.

It was so decided.

Paragraph 43, as amended, was adopted.

Paragraph 23

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that as the result of a compromise there were further changes in the revised Canadian amendment. The first of the two new sentences proposed by the Canadian delegation would now read: "Some delegations expressed the view that effective arms limitation measures on the sea-bed and the ocean floor should be realistically conceived and that the most urgent problems should be examined first."

Mr. HARDERS (Australia) said that the Canadian amendment, as originally drafted and as now redrafted, fully accorded with the views of his delegation.

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that the sponsors of the eight-Power amendment, in a spirit of compromise, had now revised their amendment to read, "The view was emphasized by some members".

The revised Canadian and eight-Power amendments, as read out by the Rapporteur, were adopted.

Paragraph 23, as amended, was adopted.

Paragraph 35

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that the eight Powers sponsoring the amendments had now informed him with reference to the last amendment that, instead of adding the words "or exploitation" to the

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(Mr. Abdel-Hamid, UAR)

penultimate sentence, they could accept the insertion of an additional sentence reading "Some members expressed the view that scientific exploration should not serve as a basis for claims to exploitation".

The revised eight-Power amendments to paragraph 35 were adopted.

Paragraph 35, as amended, was adopted.

Paragraph 39

Mr. ABDEL-HAMID (United Arab Republic), Rapporteur, said that after conferring with the Argentine delegation, the USSR delegation had agreed that the last sentence could be left unchanged provided it was followed by a new sentence reading "In this connexion, it was also pointed out that national jurisdiction applies to the continental shelf only within the limits established by international law". That would be followed by the sentence proposed by the Czechoslovak delegation reading "A suggestion was made that a special sub-item entitled 'Elaboration of a definition of the sea-bed beyond the limits of national jurisdiction' should be included in the agenda of the appropriate forum for the next year".

The revised USSR amendment and the Chilean amendment to paragraph 39 were adopted.

Paragraph 39, as amended, was adopted.

Paragraphs 26 and 29

Mr. TILAKARATNA (Ceylon) said that the sponsors of the eight-Power amendments had formulated a new text for paragraph 29 which would replace their amendments to paragraphs 26 and 29. The latter paragraph would thus remain unchanged and the beginning of the new paragraph would read: "Some members suggested that the question of referring the matter, or certain specific aspects of it, to the Eighteen-Nation Disarmament Committee should be considered by the Ad Hoc Committee. These members further suggested that consideration of this question should be preceded by consideration by the Ad Hoc Committee of general principles governing the sea-bed, the ocean floor and the subsoil thereof beyond the limits of present national jurisdiction." That would be followed by the

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(Mr. Tilakaratna, Ceylon)

sentence proposed by the Chilean delegation at the 12th meeting as an addition to paragraph 26.

The new eight-Power amendment to paragraph 29 was adopted.

The Chilean amendment, proposed originally as an amendment to paragraph 26, was adopted as an amendment to paragraph 29.

Paragraph 26 in its original form and paragraph 29, as amended, were adopted.

CLOSURE OF THE SESSION

After the customary exchange of courtesies, the CHAIRMAN declared that the Working Group had completed the work of the current session.

The meeting rose at 3.35 p.m.
