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

Dual Distribution

Report of Sub-Committee III

I. INTRODUCTION

1. On 12 March 1971, at its forty-fifth meeting, the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor Beyond the Limits of National Jurisdiction decided to set up three Sub-Committees of the whole. At that meeting, the Chairman of the Committee, H.E. Ambassador H.S. Amerasinghe, read the "Agreement Reached on Organization of Work" which provided for the establishment of the three Sub-Committees and allocated to them subjects and functions in accordance with the mandate of the Committee as defined in General Assembly resolution 2750 C (XXV), of 17 December 1970^{1/}.

2. Under the terms of this Agreement, the following subjects and functions were allocated to Sub-Committee III:

"To deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research and to prepare draft treaty articles thereon."

3. The allocation of subjects and functions to the Sub-Committees, as provided for in the "Agreement Reached on Organization of Work" was based on the following understanding:

"Treatment and allocation of all outstanding subjects including, inter alia, (1) the precise definition of the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction and (2) peaceful uses of that area shall be left for determination by the Committee. It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction. It is clearly

^{1/} The text of the "Agreement Reached on Organization of Work" has been reproduced verbatim in the summary record of the above-mentioned meeting of the Committee (Document A/AC.138/SR.45).

understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction, proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors."

4. Being a sub-committee of the Whole, Sub-Committee III was composed of the States members of the Committee. Member States of the United Nations which accepted the invitation to participate as Observers in the Committee's proceedings, as well as representatives of certain international organizations, also attended the meetings.

5. During 1971, Sub-Committee III held fourteen meetings in Geneva. Two meetings (first and second meetings) were held in March. The third to thirteenth meetings were held in July and August.

6. At the first meeting, on 12 March 1971, the Sub-Committee elected the Chairman, the two Vice-Chairmen and the Rapporteur. The officers so elected were the following:

Chairman: Mr. M. Alfred VAN DER ESSEN (Belgium)

Vice-Chairmen: Mr. Mebratu GEBRE KIDAN (Ethiopia)
Mr. Augusto ESPINOSA VALDERRAMA (Colombia)

Rapporteur: Mr. Takeo IGUCHI (Japan)

7. At the second meeting, on 25 March 1971, the Sub-Committees adopted the following agenda (A/AC.138/SC.III/L.1) for its 1971 session:

1. Opening of the session
2. Adoption of the agenda
3. Programme of work for 1971

8. The Chairman of the Sub-Committee indicated in his Note (A/AC.138/SC.III/L.2) the following guidelines on the work of the Sub-Committee:

(1) The work divides itself into two parts:

- (a) Matters relating to the preservation of the marine environment, including the prevention of pollution; and
- (b) Matters relating to scientific research.

(2) The Sub-Committee will wish to call upon the expertise of UNESCO and IOC, FAO, WHO, IMCO, WMO, IAEA to make available the relevant scientific and technical documentation to the Sub-Committee.

(3) In regard to the preservation of the marine environment, the Sub-Committee will wish in particular to be regularly informed of the preparatory work for the Conference on the Human Environment to be held in Stockholm in 1972 and to use the opportunity of such Conference to further the work of the Sub-Committee.

9. In introducing the above-mentioned Note, the Chairman formulated the following four questions relating to the scope and extent of the Sub-Committee's terms of reference which, as he indicated, could be answered at the next session in July and August.

"The first question which arises is: should we think in terms of drafting articles for insertion in the four Geneva Conventions, which are open to revision - articles which would crystallize the substance of more specialized conventions prepared in other bodies; or should we think in terms of drafting a separate convention concerning the marine environment and scientific research?

"The second question relates more particularly to pollution. Should we think in terms of drafting texts which apply only to the high seas, or texts which cover the whole surface of the sea, including the territorial sea?

"The third question concerns the kind of pollution we have to consider. Is it only pollution due to the exploitation of the sea-bed or marine pollution in general, regardless of its origin?

"Lastly, the fourth question relates to scientific research. Should we confine ourselves to research on the sea-bed, or should we also consider research in the superjacent waters of the high seas?

"The replies to these four questions will enable us to define more clearly the limits which Sub-Committee III wishes to place on its terms of reference. It seems clear, however, that these limits might subsequently have to be adjusted in the light of the conclusions reached by the other two Sub-Committees, or in the light of the results achieved by other United Nations bodies such as the Conference on the Human Environment or IMCO".

10. The work of the Sub-Committee in 1971 involved a general discussion which took account of the four questions outlined by the Chairman in his note (A/AC.138/SC.III/L.2) and his statement (A/AC.138/SC.III/L.3). There were also views expressed on various aspects not directly related to the four questions. On the whole there was general recognition of the grave dangers that marine pollution presented to the entire marine environment.

11. It was generally agreed that adequate and effective measures should be taken within the context of the environment as a whole and that in adopting such measures due account should be taken of the interests of all States, particularly coastal States. Special attention should be given to the interests and needs of developing countries in participating in scientific research as well as in sharing of the results of such research and the benefits derived therefrom.

II. WORK OF SUB-COMMITTEE III IN 1970

12. During the course of its work, the Sub-Committee had before it documents dealing with various aspects of the preservation of the marine environment and marine pollution as well as scientific research. These documents are:

- Marine pollution and other hazardous and harmful effects which might arise from the exploration and exploitation of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction: Report of the Secretary-General (A/7924)
- Report of the Second Session of the Preparatory Committee for the UN Conference on the Human Environment (A/CONF.48/PC.9)
- Report of the First Session of the Intergovernmental Working Group on Marine Pollution, London 14-18 June, 1971 (A/CONF.48/IWGMP.I/5)
- The Sea: Prevention and Control of Marine Pollution, Report of the Secretary-General (E/5003)
- Views of Member States on the Desirability and Feasibility of International Treaty or Treaties relating to the Prevention and Control of Marine Pollution (ESA/ECOSOC/L.1/Misc.1)
- The Sea: Marine Science: Long-term and Expanded Programme of Oceanic Research, Progress Report of the Secretary-General (E/5017)

13. The following proposals were submitted at the present session and are annexed to the report.

- Suggested statement of views By Sub-Committee III (A/AC.138/SC.III/L.4 and Add.1) as proposed by: Australia, Japan, Malta, New Zealand, Peru, Philippines
- Draft resolution on preliminary measures to prevent and control marine pollution (A/AC.138/SC.III/L.5 and Add.1) as proposed by Norway and Canada.

14. In addition, Sub-Committee III heard statements on behalf of the Human Environment Conference to be held in Stockholm in 1972, the United Nations Secretariat, IMCO and the OIC (UNESCO).

15. The statements thus made to the Sub-Committee on behalf of these bodies, as well as views and comments made by delegations in the course of the debate, are briefly summarized below, with a view to presenting the basic trends of thoughts of various delegations and identifying the major and-priority issues within the purview of the Sub-Committee's work.

A. VIEWS AND COMMENTS OF DELEGATIONS^{1/}

PRESERVATION OF THE MARINE ENVIRONMENT, INCLUDING THE PREVENTION OF POLLUTION

16. Some delegations which spoke expressed the view that the Sub-Committee should prepare for a comprehensive treaty on the protection of the marine environment. Some delegations took the view that the preparation of a preservation treaty would be in keeping with the mandate set out in resolution 2750 C (XXV). Some of the reasons for preferring the adoption of a new separate treaty were as follows:

- (i) The Geneva Conventions on the High Seas, Articles 24 and 25 and the Continental Shelf, Article 5, were fragmentary in their provisions for the prevention of marine pollution whereas pollution required a new co-ordinate approach to treat the sea as a whole;
- (ii) the Geneva Conventions and the 1954 and 1969 IMCO Conventions on oil pollution were based on flag-State jurisdiction and did not sufficiently protect coastal States likely to suffer damage from marine pollution.
- (iii) a separate convention on protection of the marine environment might facilitate its adoption and ratification by States.

17. Many delegations felt that a single comprehensive treaty of general application could be supplemented by treaties of regional application or of a technical nature, and by national legislation. It was also stated that the preparation of a general treaty would be facilitated if preceded by the drafting of multilateral treaties of regional application. Some delegations expressed the view that the elaboration of a treaty or treaties for the protection of the marine environment should be undertaken in conformity with the international régime and machinery for the exploration and exploitation of the sea bed and ocean floor beyond the limits of national jurisdiction. The importance of strengthening the existing instruments adopted through IMCO on oil pollution by ships to cover all other noxious substances was stressed.

18. Several delegations were of the view that the Sub-Committee, in drafting a comprehensive treaty on marine pollution, should await the results of the U.N. Conference on the Human Environment. They felt that the items not adequately dealt with by the Stockholm and IMCO conferences should be dealt with by this Sub-Committee.

^{1/} For further details on these views and comments, please refer to the Index of Summary Records at the end of the Report.

However, some delegations expressed their opposition to such a passive attitude on the part of the Sub-Committee, and pressed for an early study and possible adoption of specific guidelines or rules for the protection of the marine environment, including the question of pollution arising from activities on the sea-bed, even before the Stockholm Conference in 1972 and the IMCO Conference in 1973. A view was also expressed that the work of these bodies as well as that of other international organizations and specialized agencies should be taken into consideration. Some delegations felt that the Sub-Committee should only consider pollution arising from activities in the international sea-bed area and sub-soil thereof. One delegation expressed the view that the relationship between the 1972 Stockholm Conference and the 1973 Law of the Sea Conference should be as follows:

- (a) The 1972 Conference on the Human Environment should produce a declaration of legal principles, which in turn should be reflected
- (b) in a "umbrella" treaty to be negotiated at the 1973 Law of the Sea Conference, and
- (c) be translated into related technical rules by IMCO and other specialized agencies.

19. Some delegations suggested that the Sub-Committee might, perhaps at its next meeting, begin drafting articles on pollution arising from the exploration and exploitation of the international sea-bed area. A view was also expressed that the UN Secretariat may be requested to collect information on the nature of activities of States in the sea-bed area, and to prepare an analysis about the sources of pollution, the types of pollutants, the extent of damage caused or likely to be caused, and measures for the prevention and control of marine pollution.

20. Some delegations thought that it was still premature to decide on whether partial amendments to the four Geneva Conventions were adequate or not and stated that such conclusion should be arrived at only after sufficient study had been made on the measures to protect the marine environment.

21. Several delegations expressed the view that the draft treaty should cover the whole ocean including the territorial sea and the continental shelf, that pollutants knew no boundaries and that pollution in one area of the sea would be carried by tides and currents to other areas. Therefore, effective standards for the protection of the marine environment could only be prepared if they were related to the seas and the oceans as a whole, i.e. to all their sectors from coast to coast and from the surface.

of the water to the sea-bed. Standards that are only applicable within certain areas would only create artificial divisions. The standards adopted, however, need not be the same for all sectors; they would have to be mutually co-ordinated and reinforced whether applicable within the limits of national jurisdiction or outside such limits. Measures adopted in territorial waters must be inter-linked with those adopted for the high seas, and the steps taken for the sea-bed must be co-ordinated with those taken in superjacent waters. Some delegations were of the view that the scope of national jurisdiction should always be respected and that the mandate of Sub-Committee III applied only to the areas beyond national jurisdiction.

22. Some delegations argued in favour of the development of rules of international law that would ensure that coastal States have the right to exercise effective control over ships on the high seas in an area contiguous to their territorial seas to enable them to guard against pollution of their coastlines and damage to the marine environment. In connexion with the above some delegations expressed the view that such powers should not enable the coastal State to hamper exercise of the basic right of freedom of navigation on the high seas.

23. A delegation reflected upon the present lack of a system of environmental law based on prevention of marine pollution and referred to inadequacies of the IMCO Conventions of 1954 and 1969, as well as the 1958 Geneva Conventions. It also expressed the view that the rights of coastal States to establish anti-pollution zones adjacent to the territorial sea, within the framework of a custodianship concept, and the related delegation of powers, should be acknowledged. In addition it expressed the view that the existing basis in international law for injunctive action against extra-territorial damage to the environment of other States or to the high seas should be strengthened and reflected in a future comprehensive treaty on marine pollution. Further the delegation stressed the importance of prior consultations before the undertaking by States of activities which might pollute the environment of other States or the marine environment in general, and also stressed the principle of liability for pollution damage from such activities.

24. Referring to liability for damages, other delegations have pointed out that, according to international law, State responsibility was involved for non-execution or violation of the dispositions of conventions to which States were parties. The same delegations insisted on the necessity of including, in the convention to be established, dispositions concerning the nature and the modalities of the implementation of a principle of responsibility for damage.

25. The view was expressed that the Sub-Committee should discuss the general question of disposal of all kinds of harmful materials in the sea, including the more specific aspects of ocean dumping in co-operation with the Human Environment Conference and IMCO.

26. Some delegations emphasized that careful consideration should be given to the possibility of formulating a broad principle applicable to a wide range of sources of pollution such as discharges into rivers and along the coast, air transport, disposal from ships and exploitation of the sea-bed. It was also pointed out that a difficult question concerns the degree to which international rules should be agreed for the observance within national territories of certain minimum standards concerning activities that could lead eventually to pollution of the territories of certain seas.

27. Some delegations expressed the opinion that the most appropriate test for determining the types of marine pollution which should be dealt with by the Law of the Sea Conference was the extent to which a particular kind of marine pollution was directly caused by some direct use of the sea itself or of the sea-bed.

28. A delegation expressed the view that in strict accordance with its terms of reference, the work of this Sub-Committee should focus on the wider concept of the preservation of the marine environment which includes, but is not limited to, the prevention of marine pollution. Towards this end the delegation felt that the Sub-Committee should start work on the formulation of general norms to the effect that no State may use its technological capability in a manner that may cause significant and extensive change in the natural state of the marine environment without obtaining the

consent of the international community. Secondly, with regard to the prevention and control of ocean pollution, the Sub-Committee should seek to replace Articles 24 and 25 of the Geneva Convention on the High Seas with the general norms more precisely defining the responsibility of States, and, thirdly, that the Sub-Committee examine the feasibility of drafting treaty articles enabling the international machinery to be established for the sea-bed to receive and to administer on behalf of, and in the interest of, the international community as a whole, islands, reefs, sandbanks and low-tide elevations of particular scientific interest. In this connexion, the delegation outlined preliminary and tentative texts of treaty articles.

29. It was emphasized by some delegations that any general legal norms regarding pollution of the marine environment should take into account the special position of certain developing countries where pollution had not yet reached a critical level and where the imposition of rigorous and costly pollution control standards would make undue demands on their infant industries and their development in general. According to these delegates the industrialized countries, in building up their industrial wealth had added most to the pollution problem through commercial neglect and industrial expediency. Pollution control measures must not be allowed to become an instrument to slow down the growth of nations still struggling to attain a similar level of development. Some delegations supported the concept that the training of nationals from developing countries and the transfer of technology in prevention and pollution control should be a matter of high priority for the developed countries.

30. It was proposed by one delegation that the problems and dangers to the marine environment involved in using the oceans and the sea-bed for storage purposes - with special regard to the storage of hydrocarbons and the disposal of dangerous and toxic wastes in containers placed on the sea-bed be dealt with as a special subject by Sub-Committee III.
31. There was general recognition of the need for co-ordination of the work of international bodies concerned with problems of preservation of the marine environment and marine pollution. In this connexion a number of delegations expressed the view that Sub-Committee III should have primary responsibility for this co-ordination. It was suggested that Sub-Committee III might assess the work already under way in other bodies and make proposals where needed to ensure effective international control of marine pollution.
32. One delegation, supported by another, pointed out that the problems of the marine environment are intimately linked to the concept of safety of the seas, understood as the safeguarding of human life and of the ecological balance of the ocean. The same delegation proposed the preparation of certain guiding principles on the basis of which, in accordance with the international law in force, States have the obligation to protect the marine environment and to eliminate the threat of pollution. This obligation, considered by some as a rule of jus cogens, derives from the fundamental right of human beings to the environment as a part of the fundamental right to life. Among these guiding principles, mention was made of the obligation of States to take appropriate measures to protect the marine environment and to co-operate in this respect with other States. Mention was also made of the right of States to protect themselves from the dangers of pollution.
33. Several delegations suggested the necessity of setting up zones of special jurisdiction beyond that of the territorial sea for the protection of the marine environment and prevention of pollution.
34. A delegation emphasized the general interest of the international community in the protection of the marine environment from the following three levels: national, regional and global. This general interest becomes the specific interest of the coastal State with regard to the areas adjacent to its coast. In these areas the coastal State has the priority interest, which coincides with the interests of the international community and justifies the extension of national jurisdiction within reasonable limits. In extending its jurisdiction, the coastal State exercises a right, fulfils a duty and a responsibility towards other States.

SCIENTIFIC RESEARCH

35. Some delegations supported the view that the Sub-Committee should not distinguish scientific research of the sea-bed from that of superjacent waters.
36. Several delegations argued that the existing rights of coastal States in respect of scientific research in areas subject to their national jurisdiction, and their rights to participate in such research, should be fully respected. A delegation was of the view that the work of the Sub-Committee, in matters relating to scientific research could include research on the sea-bed and in the superjacent waters, provided it was carried out in areas beyond national jurisdiction.
37. Another delegation expressed the view that the work of the Sub-Committee should be limited to scientific research on the sea-bed alone, without touching upon research in the superjacent waters, the freedom of which is implicit in the Geneva Conventions of 1958.
38. A view was also expressed that scientific research is linked with the régime of the sea and, in particular, with that of the continental shelf, and therefore comes very near to the topics to be considered by Sub-Committee II. In harmony with the work of the other two Sub-Committees, Sub-Committee III should bear in mind existing standards for scientific research on the continental shelf.
39. It was also pointed out that scientific research and industrial prospecting which is related to the study of Sub-Committee I are different in motive and approach and therefore should be covered by different régimes whereas other delegations saw difficulty in establishing objective criteria by reference to which the two types of activity might be distinguished and expressed the view that scientific research should be subject to the same controls as industrial prospecting. Some delegations emphasized the need for such controls where the research involved deep drilling or other projects with similar potential for pollution of the marine environment.
40. Some delegations expressed the view that scientific research, in particular, research conducted under international programmes, would be possible only through respect of the principle of the freedom of scientific research in the high seas. This principle was said to be one of the freedoms of the high seas recognized under contemporary international law and was considered to be a solid basis for the development of international co-operation among States and the concentration of their efforts in the field of global studies in the ocean.

41. Some delegations stressed that scientific research should be internationally regulated. A number of delegations emphasized the rights of coastal States of control in zones adjacent to the territorial sea and the rights of coastal States to be consulted and to give their consent for research in this area as well as to participate in all projects of research carried out in their adjacent zones.

42. A delegation was critical of the present Convention on the Continental Shelf since it gave a discretionary power to a coastal State to withhold its consent to a purely scientific research project on its continental shelf. It proposed a new agreement to replace the relevant provisions of the Geneva Convention which would enable scientific research on the continental shelf (or between the territorial waters and the boundary of the international sea-bed area) to take place either through simple notification or through the responsibility of the future international authority. Other delegations differed from this view and stressed the importance of adhering to the provisions of the 1958 Geneva Convention on the Continental Shelf concerning scientific research on the continental shelf.

43. Some delegations expressed the view that the consent of the coastal State was required for all research related to the continental shelf and undertaken there. The opinion was also expressed that in accordance with the applicable rules of international law, freedom of scientific research on the continental shelf is not unrestricted since it is subject to conditions that would allow the coastal State to verify at any moment the scientific character of the research.

44. Several delegations emphasized that in their view the subject "scientific research" as it came before Sub-Committee III included not merely the acquisition of new knowledge and the development of new techniques, but also measures to secure the widest possible dissemination of knowledge and technology, including international co-operation to make a reality of the transfer and application of marine technology to the developing countries.

45. A delegation observed that scientific research should form the subject of a future separate convention, which will ensure that scientific research is carried out in a spirit of co-operation and for the benefit and service of all with special consideration to the needs of developing countries. The results should be disseminated through appropriate international channels.

B. STATEMENTS MADE AT THE INVITATION OF SUB-COMMITTEE III^{1/}

Statement made on behalf of UNESCO (IOC: Intergovernmental Oceanographic Commission)
(Mr. S. HOLT)

46. The statement dealt with the Commission's relationship with the Sea-Bed Committee in connexion with a major project within the "LEPOR" Programme: a Global Investigation of Pollution in the Marine Environment. IOC would be pleased if the Secretary-General of the United Nations could make available to Sub-Committee III the progress report on the "LEPOR" Programme.

47. At the sixteenth General Conference of UNESCO (October-November 1970), the Director-General had been authorized to convene a preparatory conference at Paris in February 1972 of government experts to formulate a draft convention on the legal status of ODAS. In organizing that conference, the Director-General of UNESCO would naturally be guided by the considerations of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor.

Letter and Statement by the Secretary-General of the United Nations
Conference on the Human Environment (Mr. Maurice STRONG)

48. The Preparatory Committee for the Conference was ready to provide Sub-Committee III with any information it might need. For example, certain guidelines on the preservation of the marine environment might shortly be drawn up. Close co-operation between the Preparatory Committee and the Sea-Bed Committee should be maintained.

49. The Secretary-General of the Conference personally addressed the Sub-Committee III and expressed his hope that the Stockholm Conference will agree on comprehensive plans for action in future years. The Intergovernmental Working Group on Marine Pollution hoped to recommend specific action for governmental adoption at the Conference. It was felt that the preparatory work and the agreements reached at Stockholm would lay some groundwork for drafting treaty articles in Sub-Committee III.

Statement of Mr. V. Baum on behalf of the United Nations Secretariat,
Department of Economic and Social Affairs

50. Mr. Baum observed that marine pollution was a problem of concern to almost all organizations within the United Nations system. Most of the specialized agencies and bodies have undertaken or are undertaking important work in this field. Some of these bodies are IMCO, FAO, IAEA, WHO and the 1972 Environment Conference in Stockholm.

^{1/} For further details on these statements, please refer to the index of summary records at the end of the report.

51. The attention of the Sub-Committee was drawn to the Secretary-General's most recent and comprehensive report on marine pollution (E/5003).

52. The Sub-Committee was informed that the meeting of the Intergovernmental Working Group on Marine Pollution, held in London in June 1971, was attended by government representatives from thirty-three countries, fourteen of which were developing countries.

(d) Statement on behalf of IMCO (Mr. T.S. Busha)

53. In 1969, IMCO decided to convene a conference in 1973 to draw up an agreement to control pollution of the sea, land and air by ships and other equipment operating in the marine environment, through deliberate pollution of the seas by oil and at the same time to minimize accidental discharges or spillages of pollutants other than oil. IMCO was continuing its technical and legal work on other subjects upon which action may be taken by IMCO or some other body or bodies, depending in part upon the outcome of the Stockholm Conference.

These subjects are:

- (i) the minimization of wilful, intentional and accidental pollution of the seas by oil and other substances from off-shore facilities;
- (ii) the regulation and control of dumping or other means of disposal of shore-generated waste and sewage into the seas by ships and barges - a subject on which we are presently endeavouring to contribute to the Stockholm preparation;
- (iii) the regulation of the rights of intervention on the high seas in cases of pollution casualties involving substances other than oil or accidents in the marine environment not covered by existing instruments; and
- (iv) the regulation of civil liability for damage resulting from pollution casualties involving substances other than oil or accidents in the marine environment not covered by existing instruments.

C. PROPOSAL FOR A STATEMENT EXPRESSING ANXIOUS CONCERN ON ATMOSPHERIC NUCLEAR TESTS RECENTLY CONDUCTED IN THE PACIFIC

The case of recent nuclear testing in the South Pacific region by the Government of a member State was taken up by one delegation and the potentially deleterious effects of such tests on the marine environment were pointed out and the responsibility of this Sub-Committee to propose legal norms for the preservation of the marine environment stressed.

54. A number of delegations, belonging to different regions but mostly littoral States of the Pacific Ocean, supported this initiative and expressed a common concern about nuclear weapons explosions and strongly supported the above statement, further proposing that an urgent appeal be made by the Sub-Committee to the Government of that member State to the effect that in view of the possibility of serious harm to the marine environment and to marine life it cease atmospheric nuclear weapon test explosions.

55. Attention was also drawn to the fact that a number of Pacific countries had at a recent regional meeting issued an expression of their concern at the continuance of atmospheric nuclear weapon testing in the Pacific area, which presented a potential hazard to health, safety and marine life which is a vital element in the subsistence and economy of the Pacific Islands.

56. Several delegations voiced concern about nuclear weapons tests of any sort, whether in the atmosphere or underground, which could endanger the marine environment.

57. The delegation of the State conducting the nuclear tests strongly questioned the competence of Sub-Committee III to pronounce on such tests while no agreed answer had yet been given to the questions raised by the Chairman of Sub-Committee III regarding the exact terms of reference of this body. This delegation asked whether, in these circumstances, the Sub-Committee wanted to declare itself prepared to deal with all types of nuclear testings, underground or atmospheric, as well as with all sources of radio-active pollutants.

58. In order to avoid prejudging the mandate of Sub-Committee III, this delegation did not want to initiate a substantive debate, but pointed out that the tests which took place within its national jurisdiction were conducted in such a way (high altitude - strict protective measures) that no harmful contamination resulted. This delegation added that this fact was confirmed by the report of the United Nations Scientific Committee on the Effects of Atomic Radiation and invited member States to refer to this UN document.

59. The delegation initiating the discussion took the view that it was within the competence of the Sub-Committee to consider the potential dangers to the marine environment resulting from certain ways of applying nuclear technology whether within or outside national jurisdiction. All speakers who favoured the initiative shared this view.

60. The delegations of Australia, Japan, Malta, New Zealand, Peru and the Philippines proposed that the Sub-Committee adopt a statement of views in this regard, the text of which is annexed to this report. In view, however, of the opposition of the delegation of the member State conducting the tests, the Sub-Committee was unable to take a decision by consensus.

D. PROPOSAL BY NORWAY AND CANADA

61. These two States submitted a draft resolution contained in document A/AC.138/SC.III/L.5 and Add.1 on preliminary measures to prevent and control marine pollution. In submitting the draft resolution, they requested Sub-Committee III to transmit it, through the Sea-bed Committee, to the General Assembly. They hoped that if the General Assembly adopted the draft resolution it would act as an intermediary measure until adequate international instruments have been worked out.

III. Adoption of the report of the Sub-Committee

At its fourteenth meeting on 27 August 1971, the Sub-Committee adopted the present report and decided to transmit it to the Committee.

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