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

DRAFT REPORT

(Omit last two sentences of paragraph 17, then continue.)

18. At its session in August 1970, reports of the dumping of nerve gas by the United States in the Atlantic Ocean were drawn to the Committee's attention. Following a discussion, during which the United States representative gave an account of the safety measures taken by his Government in this case, the Committee, at its 38th meeting on 20 August, without objection adopted the following statement:

"The Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor, meeting in Geneva, today requested its Chairman to convey to the Secretary-General of the United Nations its concern at the practice of using the sea-bed and the ocean floor for the purpose of dumping toxic, radioactive and other noxious materials, which has been brought to public attention by the decision, since implemented, of the United States to dump a certain quantity of nerve gas in the Atlantic Ocean.

"In expressing this concern the Committee had in mind the General Assembly's desire, as stated in resolution 2340 (XXII), to preserve the sea-bed and the ocean floor and the subsoil thereof from actions and uses which might be detrimental to the common interest of mankind.

"The Committee was conscious of its special responsibility under the mandate entrusted to it by the General Assembly of the United Nations in resolution 2467A (XXIII), paragraph 2(d) to examine proposed measures of co-operation to be adopted by the international community in order to prevent the marine pollution which may result from the exploration and exploitation of the resources of this area.

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"The Committee also deemed it opportune to address a general appeal to all Governments to refrain from using the sea-bed and the ocean floor as a dumping ground for toxic, radioactive and other noxious materials which might cause serious damage to the marine environment.

"The Committee has noted the assurances given by the delegation of the United States that effective precautions had been taken by the Government of the United States to mitigate any harmful consequences arising from this particular action and that such action will not be taken again."

19. The concern of the members of the Committee with the widespread and urgent problems of pollution was also expressed in various statements in the Economic and Technical Sub-Committee as well as in a discussion in the main committee at the August session, on the basis of the Secretary-General's report (A/7924). The report was generally considered a useful preliminary survey though it was recognized that it could only be of a general and exploratory character in the absence of practical experience of the effects of exploitation of the resources of the sea-bed beyond the limits of national jurisdiction. However, regret was expressed that an interpretation had been given to article 24 of the Convention on the High Seas which appeared to conflict with the provisions of General Assembly resolution 2574 D (XXIV). The need for greater scientific knowledge of the ecology of the area and its vulnerability to pollutants were emphasized as well as the need for international co-operation in research and technology and in the dissemination of statistical and technical data to all States, so as to minimize the risk of pollution. Attention was drawn in this connexion to the emphasis being placed in the International Decade of Ocean Exploration on scientific observations with a view to preserving the ocean environment and preventing depletion of valuable species.

20. It was generally recognized that, as stated in the Secretary-General's report, it would not be possible to exploit the resources of the deep ocean floor without some degree of interference with the marine environment and it was agreed that a definition of the level of interference that would be permissible was necessary and should be established

by international treaty. It was suggested that appropriate rules might be adopted reflecting the best principles applied by the petroleum industry and laying down the exploitation procedures to be followed to avoid pollution. Reference was made to the definition of pollution by the Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which read:

"Introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as harm to living resources, hazard to human health, hindrance to marine activities including fishing, impairment of quality for use of sea water and reduction of amenities."

It was suggested that this definition might need to be supplemented by research into the threshold level -- at which the harm to the environment occurred -- and that this might vary for different sources of pollutants.

21. A number of delegations considered that, while the Committee's specific terms of reference were to consider the question of pollution that might arise from exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction, the marine environment for the purposes of the prevention and control of pollution had to be treated as an integral whole. At present little was known of the possible effects of pollution from deep-sea mining, but pollution from the discharge of domestic and industrial waste (mainly from coastal outlets), the escape or dumping of toxic or radioactive materials, oil spills from ships and from exploitation on the continental shelf presented vast and urgent problems of international concern. The problems required action on a world-wide scale since problems of pollution in different areas were related: ocean currents, for example, could carry the effects of pollution hundreds of miles in a comparatively brief time, while winds could carry pesticides from land. Some members considered that the international régime to be established for the area beyond national jurisdiction should provide that coastal States had the right to adopt the necessary conservation measures to protect their coastal areas from pollution caused by activities in the areas beyond their jurisdiction. It was stated, however, that a regional approach should be used only in a wider, international context and international measures should be within the framework of agreed scientific programmes of inquiry.

22. Attention was drawn by many delegations to General Assembly resolution 2566 (XXIV) calling for a comprehensive report in 1971 on pollution of the marine environment, to be prepared by the United Nations and the specialized agencies with special reference

to the Conference on the Human Environment in 1972. It was suggested that following this report there should be a special plenipotentiary conference to conclude a treaty or treaties for the prevention of pollution. It was recognized that such a conference, if held, would have to be co-ordinated with the 1972 Conference on the Human Environment and the projected IMCO conference on pollution from ships to be held in 1973. Mention was also made of the conference being organized by the Economic Commission for Europe in 1971 and the working papers being prepared for it which were to include one on the disposal of waste. Reference was made by various delegations to previous conventions relating to marine pollution and to the work of the specialized agencies, in particular the work of IMCO in connexion with pollution from oil spills from ships, and also to the work of the IOC, FAO and WMO, as well as to that of the IAEA. It was stressed that, while it was important to avoid duplication, it was necessary that there should be a more comprehensive approach, embracing all types of pollution. At present, no effective international safeguards exist to prevent pollution of the oceans, apart from cases of oil spills. There should be co-ordination, not only among the programmes of the specialized agencies but also between the international and the various national programmes of control.

23. As far as the specific mandate of the Committee was concerned, it was generally recognized that some statement should be made in the declaration of legal principles, of the need to prevent and control pollution and that provisions should be made in the international régime, including the machinery which would form part of it, for adequate safeguards against pollution. In this connexion, references were made to the provisions relating to pollution contained in the United States working paper submitted to the Committee (A/AC.138/25)^{1/}. It was also important, members considered, to arrive at an agreement on provisions for liability for damage.

(Subsequent paragraphs will be renumbered.)

^{1/} The United States representative drew attention in particular to the provisions of articles 1, para.1, 9, 10, 11, 12, 19, para.2, 23, 27 and 40, sub-paras. (j) and (k) in relation to the prevention and control of pollution.