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

ECONOMIC AND TECHNICAL SUB-COMMITTEE

SUMMARY RECORDS OF THE TWENTY-SIXTH TO THIRTY-FOURTH MEETINGS

Held at Headquarters, New York,
from 9 to 23 March 1970

The list of representatives is to be found in documents A/AC.138/INF.2 and Corr.1 and 2, and Add.1-5.

Chairman:	Mr. DENORME	Belgium
Rapporteur:	Mr. PROHASKA	Austria

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SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

Held on Monday, 9 March 1970, at 10.50 a.m.

Chairman: Mr. DENORME Belgium

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TRIBUTE TO THE MEMORY OF REVEREND FATHER DE BREUVERY

On the proposal of the Chairman, the members of the Sub-Committee observed a minute's silence in tribute to the memory of Reverend Father de Breuvery.

OPENING OF THE SESSION

The CHAIRMAN said that during the past ten years mankind had come to realize that the sea-bed contained mineral wealth which might eventually prove of considerable economic value. It had also come to realize that that wealth could be exploited only if extensive exploratory work were undertaken and techniques permitting efficient work on the ocean floor developed. Assessments made during 1968 and 1969 had led to the conclusion that hydrocarbons were probably the most valuable economic resources of the ocean's subsoil and that the most promising potential reservoirs of hydrocarbons were situated on the continental shelf, the continental slope and the continental rise and in small oceanic basins. There had been a tendency during the general debate in the main Committee to extend the interpretation of the legal definition of the continental shelf to include the continental slope, and even the continental rise, as those areas became accessible to exploitation. However, it seemed obvious that general acceptance of the idea of a gradual extension of national jurisdiction would deprive the international community of the "most promising resources of the ocean floor". Another conclusion reached by the Sub-Committee at its previous sessions was that in addition to the hydrocarbons, there were other resources on the sea-bed, such as the bedrock deposits of minerals and surficial deposits of manganese nodules, whose exploitation might in future become technically feasible. Indeed, according to a recent issue of Chemical Engineering, such activity might be commercially profitable in about 1975. Consequently, even assuming that the international community would have no control over the exploitation of hydrocarbons, it might be useful to consider how the community of nations might eventually enable mankind as a whole to benefit from the exploitation of the resources beyond the jurisdiction of coastal countries.

The Sub-Committee was fully equipped to undertake the task entrusted to it in General Assembly resolution 2574 B (XXIV): it could make use of the work it had done in 1969; it could take account of comments made during the general debate in the Main Committee; and, it could base its analyses on the excellent review of

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(The Chairman)

Government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21 and Corr.1) prepared by the Secretariat at the Sub-Committee's request. The Sub-Committee should not confine itself merely to commenting on the review. Rather, it should use the document as a means of determining possible measures for the development of sea-bed resources beyond national jurisdiction in the context of the régime to be set up. Strictly speaking, the Secretariat paper was only the substratum, and not the subject, of the Sub-Committee's debates. It was a survey of existing practices which were not open to discussion and which, moreover, related to an area outside the Sub-Committee's competence. The Sub-Committee should, however, consider the extent to which national practices could be applied to the establishment of a régime for exploitation beyond the limits of national jurisdiction. It would also be necessary to confirm the working hypothesis, reached during March 1969, that identification of the denominators common to national practice might facilitate acceptance by the international community of an agreed method and thus ensure maximum efficiency of the régime for the exploitation of sea-bed resources. It was on the basis of that hypothesis that he had suggested, in document A/AC.138/SC.2/L.2, that in considering item 3 of its provisional agenda (A/AC.138/SC.2/L.1) the Sub-Committee should follow the pattern adopted by the Secretariat in document A/AC.138/21.

The Sub-Committee's task was not merely to prepare a report on its discussions: its most important duty was to prepare recommendations for submission to the General Assembly. Those recommendations should meet two criteria: first, they should relate solely to matters which came within the competence of the Sub-Committee in accordance with the distribution of tasks outlined in document A/AC.138/8; and, secondly, they should enjoy the support of all delegations, or at least not be contested by any delegation. He requested delegations to inform the Rapporteur of their suggestions in that regard.

Mr. ZEGERS (Chile), supported by Mr. GOWLAND (Argentina), requested that the Chairman's introductory statement be issued in full as a document of the Sub-Committee.

Mr. LEVY (Secretary of the Sub-Committee) drew attention to the fact that compliance with that request would involve financial implications.

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The CHAIRMAN said that in the absence of comments to the contrary he would assume that the Sub-Committee wished the statement to be issued in full.

It was so decided.*

ADOPTION OF THE AGENDA (A/AC.138/SC.2/L.1)

The CHAIRMAN said that a distinction should be made between the provisional agenda (A/AC.138/SC.2/L.1) and the programme of work he had suggested in document A/AC.138/SC.2/L.2. The latter document was not for consideration under item 2 of the provisional agenda.

In item 3, the words "and ocean floor and the subsoil thereof" should be added after the word "sea-bed". The recommendations to be formulated under item 4 would, of course, be based on the studies the Sub-Committee was about to undertake.

Mr. ZEGERS (Chile) said that his delegation had noted with satisfaction that the wording of item 3 was based on operative paragraph 6 of resolution 2574 B (XXIV). The Sub-Committee would thus be able to make a thorough study of the economic and technical conditions of the future régime and take account of the propositions on the subject made by various delegations. The recommendations made by the Sub-Committee under item 4 would be reviewed by the Main Committee before being submitted to the General Assembly. If the consensus to which the Chairman had referred was not reached, the opinions expressed on the matter could be noted in the Committee's report together with indications of minority views.

Mr. DIGGS (Liberia) said that his delegation could accept the programme of work suggested by the Chairman.

Mr. YANKOV (Bulgaria) said that his delegation could accept the provisional agenda but had reservations about the programme of work suggested in the Chairman's note (A/AC.138/SC.2/L.2). It could not, as a matter of principle, agree that the Sub-Committee should base its work on the Secretariat review of Government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21). There was no indication in the Sub-Committee's earlier report (A/7622, Part Three) that the Secretariat review

* The full text of the Chairman's statement will be issued as document A/AC.138/SC.2/L.4.

(Mr. Yankov, Bulgaria)

had been requested in order to provide a basis for the Sub-Committee's future work. In fact, the Sub-Committee should follow the instructions given to it by the General Assembly in paragraph 6 of resolution 2574 B (XXIV), which were broader in scope than the subjects dealt with in the Secretariat review and would, in any case, permit discussion of those subjects. In accordance with those instructions, the Sub-Committee's programme of work should therefore be the following: (a) Economic and technical conditions for the exploitation of the resources of the area; (b) Rules for the exploitation of the resources of the area; (c) Recommendations regarding those items, in the context of the régime to be set up. The Sub-Committee could, in its deliberations, take into consideration the report of the Committee and its Sub-Committees, the comments made during the debate in the First Committee at the twenty-fourth session of the General Assembly and the Secretariat review in document A/AC.138/21.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) agreed that the Sub-Committee should follow the instructions given to it by the General Assembly and consider economic and technical conditions and rules for the exploitation of the area concerned. The Secretariat review, which had certain shortcomings, dealt with national practices, which could not be applied to an area beyond national jurisdiction. In addition to the elements mentioned by the Bulgarian representative, the Sub-Committee could also take into consideration the comments made at the current session.

Mr. GOWLAND (Argentina) supported the Bulgarian representative's remarks about the elements to be taken into consideration by the Sub-Committee and their relative importance. Paragraphs 3 and 4 of the Chairman's note should be reconsidered in the light of those remarks.

Mr. ZEGERS (Chile) endorsed the Bulgarian representative's enumeration of the elements to be taken into consideration by the Sub-Committee, and agreed that the Sub-Committee's primary task was to consider the economic and technical conditions for the exploitation of the sea-bed.

The CHAIRMAN suggested that the third and fourth items of the provisional agenda should be amended to read:

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(The Chairman)

"3. Consideration of economic and technical conditions and rules for the exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction in the context of the régime to be set up (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, pp. 43-78; A/C.1/PV.1673 to 1683, A/C.1/PV.1708 to 1710; A/AC.138/SR.17 to 24; A/AC.138/21 and Corr.1).

4. Formulation of recommendations to be submitted to the General Assembly on economic and technical conditions and rules for the exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, in the context of the régime to be set up."

It was so decided.

The provisional agenda, as amended, was adopted.

The CHAIRMAN stressed that he had submitted the note in document A/AC.138/SC.2/L.2 in a desire to facilitate the work of the Sub-Committee and had not intended to imply approval of a Secretariat report which had not yet been discussed. However, the Sub-Committee had requested the report and would have to consider its various chapters. If the pattern of the Secretariat review did not seem appropriate, the Sub-Committee could follow a different pattern in its report to the Main Committee. It should be noted that the Secretariat review dealt with the economic and technical conditions for the exploitation of the resources of the area under discussion.

Mr. GOWLAND (Argentina) pointed out that delegations would be free, if they wished, to model their statements on the programme of work suggested by the Chairman.

The meeting rose at 12.10 p.m.

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

Held on Tuesday, 10 March 1970, at 10.55 a.m.

Chairman: Mr. DENORME Belgium

CONSIDERATION OF ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION IN THE CONTEXT OF THE REGIME TO BE SET UP (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, part three; A/C.1/PV.1673-1683 and A/C.1/PV.1708-1710; A/AC.138/SR.17-24; A/AC.138/21 and Corr.1)

Mr. BAUM (Co-ordinator, Ad Hoc Unit for Marine Science and Technology, Resources and Transport Division), introducing the Secretariat review of government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21), said that the Secretariat had attempted to highlight the common features of the various actions taken by Governments for the development of those resources. The paper was therefore a factual review and not a study in depth. Emphasis had been placed on the common concepts which could be detected and on a classification of the prevailing types of measures, rather than on detailed quantitative information. The Secretariat was grateful for the kind comments which had been made on the quality of the document, but it wished to draw attention to some errors in the text. Even the first corrigendum was not itself altogether accurate. In foot-note 11 to paragraph 11, only the words "United States" should be deleted. In addition, in paragraph 62 only the first sentence should remain, and the rest of the paragraph should be deleted. The Secretariat would be grateful if delegations also would submit corrections and thus make it possible to produce a final corrigendum before the end of the session.

Mr. McKELVEY (United States of America) said that his Government was firmly convinced of the need to establish a régime governing the exploration and exploitation of the resources of the sea-bed beyond the limits of national jurisdiction, and was glad that the General Assembly in resolution 2574 B (XXIV) had requested the Committee to study the economic and technical conditions and the rules for the exploitation of those resources. However, he agreed with the Chairman that the Secretariat's excellent review (A/AC.138/21) and the additional descriptions of national resource management systems which might be presented during the discussion were not the primary subject of the Sub-Committee's work but were only the substratum for the development of rules and provisions governing exploration and exploitation of resources. Everyone recognized that

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(Mr. McKelvey, United States)

none of the existing resource management systems were fully applicable to the mineral resources of the sea-bed beyond the limits of national jurisdiction, for sea-bed resources in that environment raised many new problems. Some sub-sea mineral resources, such as the manganese nodules, were in fact wholly different from the deposits which had hitherto been mined off-shore or on land. Indeed, it would be impossible to formulate specific rules and provisions governing the exploration and exploitation of the resources of the sea-bed until agreement had been reached on the kind of régime which would be most suitable and effective. His delegation had already expressed its preliminary view of the broad structure of the régime it advocated; but it was not yet prepared to propose the specific rules and provisions by which such a régime would be defined and implemented. He thought that the Sub-Committee should first consider the various subjects and problems for which rules must be devised, and form an evaluation of the merits of alternative rules. For example, the régime, regardless of its character, must provide an agreed means of assigning would-be operators exploitation rights to specific areas. That could be done in a number of ways, as follows: (1) registration of claims on a "first-come first-served" basis, (2) selection by lottery, (3) assignment by the administering authority, on the basis of its judgement of the merits of the applicants, or (4) assignment to the highest bidder in an auction in which the bidding was based on the amount of a cash bonus to be paid for the acquisition of rights, the amount of royalty to be paid on production, the share to be paid on profit, the amount of work to be undertaken, or possibly some combination of those elements. All of those methods of assigning exploitation rights had been used at various times and places, and the Sub-Committee should consider the respective merits of each as applied to the sea-bed beyond the limits of national jurisdiction.

Much had already been said on the various topics to which he had referred. Nevertheless, the subjects to be covered by rules had not been fully identified, nor had the merits of alternative measures or procedures been systematically evaluated. By utilizing all the sources of information available, the Sub-Committee could, within a few days, decide which matters needed to be governed by rules; it could understand something of the merits of the various ways of

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(Mr. McKelvey, United States)

dealing with those matters, and perhaps agree on some general principles which could be used as a guide for further and more detailed discussion at the August session. Such an examination of the scope of the rules and the merits of the various alternatives might very well help Governments to determine their position regarding the régime before the session and make it possible to consider the question of rules in much greater detail at that time. Moreover, agreement at least on the scope of the rules and identification of the rules which should be spelled out in the treaty establishing the régime - as opposed to those which would be better defined by the Administering Authority - would enable the Sub-Committee to transmit its conclusions to the main Committee in the form of a recommendation, for subsequent submission to the General Assembly.

If it was felt that such an approach would be both useful and feasible, he would suggest that the topics to be considered for rules and provisions should include the following: (1) assignment of responsibility for the administration of rules and provisions; (2) entities entitled to participate in sea-bed exploration and exploitation; (3) activities subject to registration or licensing; (4) kinds of rights to be assigned on an exclusive and on a non-exclusive basis; (5) kinds of minerals to be covered by exploration or exploitation rights; (6) means of assigning rights; (7) means of selecting areas to be explored or exploited; (8) size of tracts to which exploitation rights would apply; (9) duration of rights; (10) relinquishment of area; (11) work requirements; (12) size of total area that may be held by a single operator or State; (13) production requirements; (14) operational standards governing performance of work, safety of personnel and equipment, prevention of unjustifiable interference with other uses of the high seas, prevention of waste in mineral exploitation, and prevention of pollution and other damage to other resources and to the environment; (15) collection and dissemination of data acquired during mineral exploration and exploitation; (16) liability; (17) means and magnitude of payments; (18) terms of forfeiture; (19) means to ensure adequate inspection of operations and compliance with the rules; and (20) provision for the settlement of disputes. That list was in no sense comprehensive; for example, it did not deal with the structure of the Administering Authority or the way it should be governed. However, the subjects identified in the list fitted well into the groups of topics identified in the Secretariat report

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(Mr. McKelvey, United States)

(A/AC.138/21) and the programme of work suggested by the Chairman (A/AC.138/SC.2/L.2). He would refer in detail to the various topics at later meetings; and, in considering alternative measures and procedures, he would mention the relevant experience acquired in United States operations on the outer continental shelf of the United States.

The meeting rose at 11.15 a.m.

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SUMMARY RECORD OF THE TWENTY-EIGHTH MEETING

Held on Wednesday, 11 March 1970, at 11 a.m.

Chairman: Mr. DENORME Belgium

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CONSIDERATION OF ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR,AND THE SUBSOIL THEREOF,BEYOND THE LIMITS OF NATIONAL JURISDICTION IN THE CONTEXT OF THE REGIME TO BE SET UP (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, part three; A/C.1/PV.1673-1683 and A/C.1/PV.1708-1710; A/AC.138/SR.17-24; A/AC.138/21 and Corr.1) (continued)

Mr. ARCHER (United Kingdom) said that his Government had not yet reached firm conclusions about the nature of an international régime itself, and much less about the detailed regulations which would apply within a régime. His comments were therefore of a preliminary nature. It could be seen from document A/AC.138/21 that national practices and machinery pertaining to mineral development on the continental shelf varied according to the legislation, economic circumstances and technological capabilities of the State concerned. A further complicating factor was the distinction commonly drawn between those minerals for which fixed installations are necessary (for example, hydrocarbons) and those that would be dredged. However, the different measures adopted had some common features, since they were all designed to satisfy one particular aim - namely, to ensure that the search for and winning of mineral resources would proceed. The methods of regulating activities would have failed, if they did not lead to the exploitation of potentially workable minerals.

Because the area beyond the limits of national jurisdiction was to be developed for the benefit of all parties to an international agreement, with special consideration for the needs of developing countries, and because it was more complex and costly to exploit than the area under national jurisdiction, the same rules could not always be applied to the two different areas. There were, however, certain requirements common to both areas. The regulations must provide for an equitable distribution of the economic benefits of exploiting the minerals. The régime should be stable and the operator should know what payments he would be required to make throughout the period of his activities. Security of tenure for an adequate period should be guaranteed and there should be exclusive access to the minerals specified in areas of adequate size. Exploration rights might initially be granted for a

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(Mr. Archer, United Kingdom)

limited period, which could be extended if adequate safeguards were provided. The period for exploitation, however, should be substantially longer. It was necessary also to ensure the orderly development and conservation of mineral resources, by avoiding wasteful methods of extraction and sterilization of deposits which might be exploitable at some future date. The interaction between workings for different minerals should also be taken into account.

Provision should be made for the review and revision of the rules in the light of practical experience, without jeopardizing operations in progress. It might therefore perhaps be advisable initially to consider making only a portion of the sea-bed beyond the limits of national jurisdiction available for exploration and exploitation. To encourage active work, provision could be made for minimum work requirements and a sliding scale of annual fees. In addition, operators might be required after a certain period to surrender part of the area assigned to them and licences could be revoked if responsibilities were not discharged.

Regulation to minimize the risk of pollution, disturbance of the environment and interference with navigation on the high seas, and with submarine cables, were also important. The regulations applicable to the United Kingdom continental shelf contained stringent provisions aimed at the prevention of pollution. In addition, there should be no interference with scientific research or the dissemination of its results.

Certain special provisions would also be needed to regulate the development of mineral resources in the area beyond the limits of national jurisdiction; and those provisions could not be modelled so easily on the measures adopted by coastal States It would probably be more appropriate for claims to be submitted by - and areas allotted to - States, whether the activities were to be undertaken by the States themselves or by companies. Primary responsibility for operations might lie with States, under their own legislation and in accordance with the conditions imposed by the international body, in which case States would need powers of inspection and access to appropriate information. The international body should have some way of ascertaining that its conditions were being observed. The companies might be based within the States or elsewhere; however, it seemed likely that, if the necessary control were to be exercised, they would have to be incorporated in the States to which the areas were allotted.

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(Mr. Archer, United Kingdom)

All States parties to the agreement would be entitled to submit claims. A system would have to be devised for the allocation of areas for which two or more claims had been submitted - by mutual agreement, by the allocation of adjoining areas, by drawing lots, by a system of "first come, first served" or by competitive bidding. The fact that a State or an operator had invested substantial sums on exploration could be taken into account.

Licensing fees and royalties would seem to be the only way of sharing the proceeds from the development of the area beyond national jurisdiction. Licensing fees should be limited to what was necessary to finance the international body established to administer the rules; royalties, on the other hand, should be distributed to all States parties to the agreement, taking special account of the interests of the developing countries. The level of such payments by operators should not be such as to discourage activity.

Miss MARTIN-SANE (France) said that, if the Sub-Committee wanted to make headway in its work it must endeavour to answer some of the questions which had been raised during the discussions. It would get nowhere merely by asking questions.

The time had come to piece together the views of members, and to determine at least the main trends of thought on the first questions which had to be answered. With that consideration in mind, her delegation wished to offer some comments on the first eleven points raised by the United States representative at the previous meeting (A/AC.138/SC.2/SR.27), although it considered that those points could be condensed or regrouped in a more co-ordinated manner.

With regard to the first point - assignment of responsibility for the administration of rules and provisions - it seemed that the international machinery to be set up by convention should be responsible for ensuring that the provisions of the convention were applied. It had already been agreed that detailed consideration of the question should be deferred until the Sub-Committee's August session when the further study by the Secretariat would be available.

As to the second point - entities entitled to participate in sea-bed exploration and exploitation - only States should be able to submit applications on behalf of natural or juridical persons. It must be understood, however, that States need not necessarily act alone but could act together in ad hoc governmental organizations or regional organizations. It must also be understood that

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(Miss Martin-Sane, France)

States could submit applications for public or private undertakings listed by name but that the undertakings could perfectly well be of different nationalities. Finally, it must be recognized that the State, for its part, would enter into a contract with the undertaking concerned, which would be subject to the State's domestic law.

With respect to the third point - activities subject to registration or licensing - a distinction must be made between prospecting for and exploitation of mineral substances by operations requiring the use of fixed equipment and prospecting for and exploiting mineral substances by means of mobile equipment. For the second type of operation, registration and the payment of dues was all that was required. For the first type, however, a régime providing for the assignment of exclusive rights in a specified area and for a specified period - a right which would lapse in the case of non-exploitation - would have to be established.

The fourth point related to the kind of rights to be assigned on an exclusive and non-exclusive basis. The distinction between the two types of activity to which she had just referred applied to that point too. In so far as the first type was concerned, consideration of document A/AC.138/21 had led her delegation to the conclusion that provision should be made, within the framework of the international régime, for a single category of rights covering both prospecting for and exploitation of resources. Adoption of such a procedure would simplify the régime considerably and it would be up to the State concerned to regulate its relations with the undertaking, or undertakings, operating in the area assigned to it. Such a provision would obviously affect the duration of exclusive rights in the case of substances exploited by fixed equipment, but it would have the advantage of reducing considerably the danger of "freezing". For substances in the second category - those exploited by mobile equipment - it could be agreed that registration would relate to the two consecutive phases of prospecting and exploitation.

Turning to the fifth point - kinds of minerals to be covered by prospecting or exploitation rights - she said that all minerals extracted from the sea-bed and ocean floor and the subsoil thereof should be covered, the manner of coverage differing according to the category to which the minerals belonged.

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(Miss Martin-Sane, France)

The sixth point - the means of assigning rights - related to the nature and functions of the international machinery, which would be discussed in August. Her delegation would try to elaborate criteria which would facilitate maximum automaticity in the assignment of exclusive activities.

As to the seventh point - means of selecting areas to be prospected or exploited - no distinction should be made, in assigning rights to States, between the prospecting and exploitation phase; and it should therefore be unnecessary to distinguish between areas for prospecting and areas for exploitation. However, technical data permitting determination of the extent of the areas to be assigned to States should be collected.

The eighth point concerned the size of tracts to which exploitation rights were to apply. Assuming that rights would cover both prospecting and exploitation, the area assigned for activities in the first category (fixed equipment) should be sufficiently extensive to enable an undertaking to engage in activities with the knowledge that it would derive a reasonable profit. A technical study would be necessary to determine the influence of factors such as type of substance, distance from shore, depth of sea-bed and subsoil thereof, etc., on the extent of the area. For activities in the second category (mobile equipment) areas would not be delimited. At the time of registration information could be given on the area in which the mobile equipment would operate.

The ninth point - duration of rights - was extremly important for activities in the first category for it raised the question of "freezing". The question of duration was a decisive factor in stimulating the interest of undertakings in prospecting for and exploiting the resources of the sea-bed and ocean floor. The period of validity would obviously vary in accordance with the type of substance involved, distance from the shore and other factors. That should not, however, result in the "freezing" of entire areas by States which declared themselves ready to engage in exclusive activities but which did not in fact engage in them. Provision for the automatic lapse of rights in specificed conditions would obviously be one of the sensitive points in the convention establishing the international régime. As soon as the international machinery started dealing with States or

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(Miss Martin-Sane, France)

groups of States, care would have to be taken to ensure that the provisions relating to lapse of rights were as precise as possible so as to avoid making the lapse of right appear as a sanction.

Her delegation had no answer on the tenth point - relinquishment of area - because in its opinion the right assigned to a State should cover both prospecting and exploitation. The mere fact that the question had been put showed the difficulties which would arise if a distinction were made between two types of right.

As yet, her delegation had no specific answer to the eleventh question - work requirements. It did seem, however, that the State concerned should be required to submit periodic work reports. Failure to submit the report would constitute a presumption of failure to comply with the obligations entered into by the State engaged in the activity.

The question of the distinction to be made between a licence to prospect and a licence to exploit would be entrusted to States and be governed by domestic law. Other answers to the various matters to which she had referred would certainly have to be incorporated in the text of the convention. The details of application could be dealt with in model rules and regulations. The drafting of the rules and regulations should not, however, be left to an international administration. Rather, it should be the subject of international co-operation, and the rules and regulations should be annexed to the convention establishing the international régime.

In conclusion she said that she had deliberately used the word "prospecting" rather than "exploration". Whereas the former applied only to research undertaken with a view to furture exploitation, the latter could apply to scientific research as well. France was determined to ensure freedom of basic scientific research and wanted to avoid misunderstandings in the matter.

Mr. McKELVEY (United States of America) said first that, even though agreement had not yet been reached on the kind of régime that should be developed, it was necessary to have some notion of the objectives to be served by a régime and the rules which were to be formulated to implement it. Secondly, in considering rules, account must be taken of the stage of development of the area to which they applied, for rules governing exploration and exploitation during the pioneer stage might not be the same as those which would be most effective when mineral

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(Mr. McKelvey, United States)

exploration and exploitation had reached an advanced stage. In fact, it might even be said that exploration and exploitation of the sea-bed beyond the limits of national jurisdiction was now in the pre-pioneer stage, since no mineral exploitation had yet been attempted in the area and little, if any, exploration had been undertaken with the primary aim of seeking recoverable minerals. It was fair to assume that the pioneer stage would continue for at least two or three decades, since it lasted a long time even in mineral exploration on land. Thirdly, although the Australian representative had rightly emphasized the need for stability of rules - which everyone recognized as an essential feature of an accepted régime - and although the individual operator must be assured that the terms governing his rights and his payment obligations would remain constant throughout their stated duration, it could be assumed that the régime would provide procedures for changing rules to take account of new developments and progress in the exploitation of sea-bed resources. While it was possible to anticipate some of the changes that later developments might require, he believed that it was best to devise rules designed primarily to accommodate needs during the pioneer stage. Fourthly, many rules were interrelated and they would therefore need to be considered not only individually, but also in the context of the full purposes they were intended to serve. For example, it had been stated that a system of assigning exclusive rights to resources merely on the basis of the initiative of operators would lead to a race for claims and would, in a short space of time, place the resources of the area in the hands of speculators. A system of that type might, however, be accompanied by several forms of safeguards to prevent both a race for claims and the holding of claims in perpetuity.

Turning to the list of topics he had outlined at an earlier meeting, he said that, in the assignment of responsibility for the administration of rules and provisions, the principal question was the extent to which such responsibility was to be assigned to States, as opposed to an international resource management authority. The latter, if given complete authority, would ensure that operations were managed uniformly and with a higher degree of technical competence than some countries might be able to achieve on their own. On the other hand, it would be difficult to develop a large organization with the requisite world-wide expertise; and the organization might subsequently become so large that it would be costly to maintain and cumbersome to manage. The advantages of States

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(Mr. McKelvey, United States)

assuming responsibility for the operations of their nationals were that States could use their existing organizations and bear the cost of supervision in direct proportion to their participation in sea-bed exploration and exploitation, thus avoiding the problem of financing another international organization, particularly during the pioneer stage, when revenues might be insufficient to cover costs. The disadvantage of having States bear the entire responsibility for supervising operations was that they would not do it in a unfiorm manner, and some might not even be prepared to do it well. One alternative which might perhaps eliminate all the disadvantages would be a system which gave States the responsibility for supervising their nationals, but also gave the international organization authority for inspection and compliance. In that way, States would have full responsibility - which would be important in considering the matter of liability - and, by performing most of the supervisory and inspection functions themselves, they would reduce the cost of an international organization. Moreover, the interests of the international community would be protected if the organization had full inspection capability and competence, and full authority to ensure compliance with agreed rules and procedures in the form of a right to approve only those operations which conformed to them and to institute proceedings for forfeiture of rights against operators who failed to satisfy the relevant requirements.

Alternative definitions of entities which might be authorized to participate in activities in the area included: (a) any qualified operator who met agreed standards of technical and financial competence, (b) any State or State-authorized operator and (c) the international organization or such entities as it might contract with to undertake exploration and exploitation on its behalf. The merit of permitting the participation of any qualified operator was that the international organization would deal directly with the operator himself, who might also appreciate the benefit of not having to work through an intermediary organization. Furthermore, the international organization might be less diffident in dealing directly with the operator, even if the latter was a State organization, than it would be in dealing with a State, particularly in matters involving judgements or rulings on the competence of operators, the revocation of rights or other sensitive matters. The disadvantages of such a procedure related

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primarily to the question of responsibility, for it seemed important that States should bear responsibility for supervising the actions of their nationals. That, in fact, was precisely the main advantage of the second of the three possibilities he had mentioned - that the entities participating in sea-bed resource development should be States or State-authorized organizations. The value of the third alternative was that an international organization would be in the best position to organize sea-bed development in the most orderly fashion. It would choose solely those operators it considered to be most competent and efficient, and reap not only economic benefits but also the profit due to management, thus maximizing revenues for the international community. However, as was pointed out in the Secretary-General's report on international machinery (A/7622, annex II), it would be difficult to amass the capital required to finance such an organization, for individual operations in the area might entail expenditures of the order of $50-$100 million before reaching the commercial production stage. Again, it would be difficult to resolve the problem of distribution of profits to investors - as opposed to the international community - and the problem of the use of patents and industrial or trade secrets; and it would be equally difficult to decide how to award contracts in order to employ the most efficient operators whilst ensuring that contracts were shared amongst participating States. Added to those disadvantages were the risks that would have to be assumed by the international community, the likelihood that, after a few failures, the organization would be unwilling or unable to take or finance the risks essential for success in mineral exploration and exploitation, the conflicts of interests it would meet or perhaps even generate in marketing its mineral products, and the denial of the opportunity for developing countries to enjoy the several kinds of benefits that will come to those who produce and use sea-bed resources as they become capable themselves of participating in sea-bed operations.

On the subject of activities subject to registration or licensing he said that all exploitation, as well as deep exploratory drilling and other exploratory activities requiring fixed installations, must undoubtedly be registered or licensed or otherwise controlled. Nevertheless, there was a choice as to whether other kinds of exploratory activities, including geophysical surveys which made no direct contact with the sea bottom, the sampling of surficial materials and shallow drilling, should likewise be registered and licensed. No obstacle

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in the form of high fees or onerous requirements should be placed in the way of those wishing to engage in such activities. However, the first requirement of an adequate resource management system was to know who was doing what and where; and, for that reason, some form of registration or licensing of all kinds of commercial exploratory operations directed towards the search for mineral deposits seemed desirable.

It was clear that exploitation rights must be assigned to an operator on an exclusive basis and that they must specify terms of tenure which would allow him to recoup his investment if he was successful in developing a minable deposit. Exploration rights were sometimes exclusive, but many advantages were afforded by the Canadian and United States practice of permitting operators to undertake exploration and prospecting which did not involve deep drilling or fixed installations on the sea bottom on a non-exclusive basis and with no preferential rights for exploitation. It did not entail large expenditures and the operator, after identifying favourable ground, could apply for exclusive rights which also imposed certain obligations. Few operators would be willing to spend large sums required for deep drilling and other expensive kinds of physical exploration unless they were assured of exclusive rights to exploit the area if the exploration was successful. On the United States outer continental shelf, deep drilling rights were combined with exploitation rights under terms which required an operator to relinquish his exclusive right if commercial production was not achieved within five years. Such a procedure was advantageous in that it provided security of tenure for an operator who was engaged in expensive activities, it required no proof of discovery, which was often a condition for the award of an exploitation right and might tend to delay development, and it furnished no pretext for negotiation of terms after substantial sums had been spent on exploration - something which operators regarded as unfair and which therefore tended to discourage investment. Moreover, the linking of exclusive rights to drill and to produce if a commercial deposit was found, did not of course preclude the submission of the production plan for approval by the supervisory authority.

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In determining the kinds of minerals to be covered by exploration and exploitation rights, it was possible to specify that the rights should apply to one particular mineral, to groups of similar minerals, or to minerals to be extracted in a single operation, or to any and all minerals found in a designated area. There seemed no good reason, in the type of exploration he had described as best undertaken under a non-exclusive right, to specify that the rights should relate to any particular minerals, for it was in the interest of the world community to encourage exploration for any minerals which might be of commercial value. So far as exploitation rights were concerned, great differences in the modes of occurrence of various sea-bed minerals affected the size of the area for which an exploitation right was required. For example, manganese nodules were scattered sparsely over the surface of the sea-bed, and an operator would have to sweep the sea bottom over many tens of square miles each year in order to gather enough to support a commercial operation. The relevant exploitation rights would therefore require special terms. On the other hand, oil, gas, helium, sulphur and saline minerals formed a group which might occur within the same area and could be extracted through drill holes. Consequently, the rights to exploit them might well be covered by a "blanket" authorization. Similarly, the occurrence of all other minerals was such that they might be grouped together under an exploitation right that would permit production of any or all of them.

With regard to the means of assigning rights, he considered that the registration of claims or tracts on a "first-come first-served" basis greatly encouraged operators, for it rewarded them with the exclusive right to exploit their discoveries. That method had undoubtedly promoted exploration in the western part of the United States and had, in turn, contributed enormously to its economic development. One disadvantage, however, was that the owner of the resources had no opportunity to obtain possible additional revenue from an auction held under competitive conditions. Moreover, permissive registration without any provision for appropriate safeguards could lead to a race for claims and allow speculators to acquire and hold exclusive rights to large areas. Such drawbacks could be overcome by instituting competitive bidding where it was thought to be justifiable, by limiting the duration of exclusive rights, by imposing work requirements that obliged the operator to spend substantial sums on

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exploration in order to hold his rights and by establishing fees and rentals which made it prohibitive for him to hold land he had no intention of developing. Of the three methods which existed for assigning exploitation rights to specific areas in competitive situations, a lottery was by far the poorest means of selecting the most efficient operator. At the same time, it was equitable, it did not impose an additional financial burden on the operator, nor did it favour those whose chief qualification was that they were able to pay more for the rights. Assignment on the basis of the administering authority's judgement of the merits of the applicants might be the best way to choose the most efficient operator if the integrity and competence of the authority were of the highest order; yet it was a procedure which invited suspicion and would not, probably, be acceptable to the world community. Competitive bidding was generally regarded as the best means of selecting the most efficient operator. While it is true that the ability to outbid others was not a guarantee of efficiency, it must not be forgotten that operators with large sums of capital available for investment did not acquire their capital through inefficiency in their business operations. Furthermore, the award of rights under competitive bidding was fair and impartial, and if the bid was substantial, the operator was under pressure to develop the resources as expeditiously as possible in order to recover his additional investment. At the same time, it furnished the international community with a means of collecting a larger part of the economic rent and net resource value under circumstances in which competitive interest justified higher value. The disadvantages were that the system precluded the possibility of participation by small but otherwise efficient operators, and it required an evaluation of the worth of the deposit far in advance of the time at which sufficient information was available for that purpose. Under some circumstances it might indeed be nothing more than another form of lottery.

Competitive bidding might be based on one or more elements. If it was based on the amount of royalty or share of profit to be paid, it required no cash outlay and was no test of the efficiency of the operator or his intent to proceed expeditiously with development. In addition, it might have the effect of raising operating costs to a level which precluded commercial production. Bidding on the basis of the amount of work to be undertaken might sometimes be appropriate but could lead to waste, if preliminary exploration showed that further exploration

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was not desirable. Bidding on the basis of the amount of a cash bonus to be paid for the acquisition of rights, possibly with terms permitting delay in full payment, yields the most benefits of competitive bidding.

There were a number of methods of selecting areas to be explored or exploited. The selection could be made by the operator - a method which would have advantages during the pioneer stage. The principal disadvantages would be that, unless safeguards were provided, operators might acquire more ground than they needed and that, unless the size of the area was artificially restricted, it might not be possible to develop competitive interest in specific areas. Another method would be for the administering authority to select the areas. The advantage of that method was that the authority could direct attention to specific areas in the interests of efficient development and time the opening of new areas to correspond to suitable economic conditions that would enhance economic rent and net resource value. The disadvantage was that the administering authority - which, for the area under consideration, would be the international community - would have to bear the cost and the risk of identifying promising areas. Another method, whereby the administering authority selected areas on the basis of applications from operators, was more suitable for areas in which the existence of valuable minerals had already been established and would not encourage exploration and exploitation in new areas.

The size of tracts to which exploitation rights were to apply would depend on the mineral to be exploited and would require careful study. It appeared that sea-bed tracts, even for oil and gas, might have to measure many tens of square miles, in order to give the operator the maximum chance of discovering producible deposits and thus encourage him to embark on major investment in exploration.

The duration of the rights would also vary. Exploration on a non-exclusive basis required no security of tenure and the rights could be granted for a short period and could be easily renewable. However, security of tenure was required for deep drilling and exploitation on an exclusive basis, involving large investments which would take many years to recover. A number of questions arose in that connexion: whether retention of such rights should be contingent upon the achievement of production after a suitable period; whether, after production

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had been achieved, the rights should be limited to a period ample for the recovery of the investment, perhaps with an opportunity for renewal under new terms agreed in the meantime; or whether exploitation rights should extend into perpetuity. It would seem advisable to require that continuation of rights after a certain initial period should be dependent on the achievement of commercial production and that some limitation should be placed on their retention after a period long enough to amortize the investment.

As indicated in the Secretariat review, many systems granting exploitation rights to large tracts established a time-table for the relinquishment of a certain part of the initial tract, thus giving the operator every opportunity to select the most promising areas but preventing him from tying up the rights to large areas. Under the Canadian system, the exploitation rights to such relinquished areas were sold by competitive bidding, thus giving the State the advantage of the enhanced value acquired by land after a discovery had been made nearby.

The Canadian system and some other systems also required the operator to spend a minimum amount on exploration each year to be deposited in advance with the administering authority. The amount was initially small but increased over a period of twelve years, after which the tract was forfeited if production was not achieved. Such requirements forced the operator to attempt to achieve production and discouraged him from acquiring rights for purely speculative purposes.

The meeting rose at 12.20 p.m.

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SUMMARY RECORD OF THE TWENTY-NINTH MEETING

Held on Friday, 13 March 1970, at 10.45 a.m.

Chairman: Mr. DENORME Belgium

CONSIDERATION OF ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION IN THE CONTEXT OF THE REGIME TO BE SET UP (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, part three; A/C.1/PV.1673-1683 and A/C.1/PV.1708-1710; A/AC.138/SR.17-24; A/AC.138/21 and Corr.1) (continued)

Mr. LIVERMORE (Australia) agreed with the representatives of Bulgaria and the Soviet Union that the Committee in its deliberations should keep in mind not only the provisions of resolution 2574 (XXIV) but also those of resolution 2467 (XXIII) which contained among others the important concept of promoting the exploration and use of sea-bed resources. That was a vital concept because, until the technology necessary to cope with the environment of the deep sea was developed and the resources of the area extracted, there was little prospect of any tangible benefit to mankind as a whole. Another theme to be kept in mind was that any rules and conditions the Sub-Committee might recommend must serve the principle that exploitation of the resources of the area was to be for the benefit of all mankind, irrespective of the geographical location of States, taking into account the special interests and needs of the developing countries whether land-locked or coastal.

Resolution 2574 B (XXIV) required the Sub-Committee to devise a code of title arrangements and submit recommendations. In commenting on that task he would endeavour to keep within the four main headings of the Secretariat review entitled "Government measures pertaining to the development of mineral resources on the continental shelf" (A/AC.138/21). The Sub-Committee's aim should be to test whether national measures were applicable, in principle, to the proper regulation of resources development in the area of the sea-bed beyond national jurisdiction. There might be other matters peculiar to that area which should be covered by agreed rules and conditions. It should be recognized that the Sub-Committee interpreted exploitation in the broad sense as including those commercial activities of search and exploration which were the essential forerunner of any resource production. Rules and conditions governing both exploration and exploitation would be essential in any effective resource management régime.

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His comments on operating rights would relate only to those granted in respect of operations with a commercial objective. Such operations should take place only where the activities by a particular operator had been recognized by an appropriate authority established under the internationally agreed régime. Given the environment of the deep sea, it appeared that exclusive rights would be essential when an operator reached the point of actually producing deep sea mineral resources. In any case, in the interests of proper resource management the international community should insist on that requirement, so that it would know from where resources were being produced. On the other hand, a non-exclusive licence appeared appropriate for comparatively inexpensive exploration or search techniques, such as continuous seismic profiling. In deciding whether exclusive exploration and exploitation rights were to be covered by a single title, or by separate titles covering first the exploration phase and then leading, as of right, to a production title, it would be important to keep in mind the financial obligations which should be placed on operators at various stages of their work. Members would recall his delegation's comments on that question at the fifth meeting of the Sub-Committee (A/AC.138/SC.2/SR.1-14, p. 36). The kinds of minerals to be covered by titles granting exclusive rights should be separated into three categories: hydrocarbons and related substances; manganese and similar nodules; and all other minerals. Non-exclusive exploration titles, should provision be made for them in the régime, should cover all mineral resources.

As to the assignment of rights, the régime would have to be such as to instil confidence in the minds of would-be operators and satisfy Governments that it was effective, credible and impartial. It would also be important to ensure that all interested States would have access to the sea-bed for the purpose of exploring and exploiting mineral resources.

The question of selecting areas to be explored or exploited raised some interesting points. There seemed to be every reason to encourage entities holding non-exclusive exploration rights to operate far and wide over the sea-bed. Australia would not, however, wish to commit itself to any scheme under which exclusive rights would be granted anywhere within the area of the sea-bed beyond national jurisdiction simply because someone requested them.

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The size of areas which might be granted and the period of title validity would depend on the type of title system envisaged. The non-exclusive exploration title could permit an operator to carry out geophysical work - together with bottom sampling and, possibly, core-drilling - to limited depths in any part of the sea-bed beyond national jurisdiction. There would seem no reason for such a title to run for longer than a year or two at a time, but it could be renewed, provided the operator was reporting regularly on his work, for periods of one or even two years. In the case of detailed exploration it might not be unreasonable, at the exploration stage, for an operator to be granted an exclusive licence over an area of perhaps 10,000 square miles for a period of, say, five years. It would be important, however, to ensure that only a comparatively small portion of that large area could be held at the production stage. If both exploration and exploitation were covered by one title it would be necessary to grant large areas initially and reduce them considerably when the exploitation stage was reached. If production was not achieved within a stipulated period all rights should lapse. At present his delegation had an open mind on the question whether sea-bed activities might not be better served by having separate titles covering first detailed exploration and then production.

It seemed desirable to include, as a condition of titles, a stipulated level of expenditure on, or in relation to, a title area each year. That expenditure requirement would probably best be set on a sliding scale, rising progressively with each year of the title. In that way an operator would not be tempted to hold ground possibly with a view to speculation. Consideration could also be given to the possibility of allowing an operator to offset his production value against his expenditure requirement once he had achieved production.

There seemed no need to limit the total holdings of a single State or operator provided the following conditions were met: first, that the international community retained the initiative to determine, from time to time, the total area made the subject of exclusive title; second, that the conditions attaching to exclusive titles were sufficiently onerous to ensure that the title areas were effectively worked; third, that the size of individual exclusive titles was subject to agreed limitations; and, fourth, that operators could satisfy the appropriate authorities that they had the necessary technical and financial competence and capacity.

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Operational standards would obviously have to be of the highest order. Standards must be set to protect the safety of personnel and equipment and ensure that sea-bed resources were exploited in a manner which conformed with good mining practices and maximized the benefits obtained from those resources. It would also be necessary to guard against pollution and anything which could upset the natural balance of the ecology of the marine environment.

Australia attached great importance to the dissemination of data acquired during mineral exploration and exploitation. Operators should be required, after the lapse of a suitable period of time, to make available, or to allow access to, basic data such as seismic records and geological reports as well as cores, cuttings and samples.

In the matter of pollution, the proposition that States should bear responsibility for activities on the sea-bed carried out under their sponsorship was one which deserved the closest consideration. The question would have to be studied further by the Legal Sub-Committee.

In conclusion, he said that it was important to remember, in considering the question of rules and conditions, that the Sub-Committee was planning for the future. It must ensure that the resources of the deep sea-bed were properly conserved and used to the best advantage and that the benefits arising from their use were available not only to the present but to future generations of mankind.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that national practices and machinery pertaining to mineral development on the continental shelf could shed light on the problems involved in the development of the area beyond the limits of national jurisdiction. However, they were not suitable for application to that area, because of the special nature of its environment and the new technical requirements for the extraction of deep-sea minerals. In addition, the rules would not necessarily be the same for all kinds of mineral resources. Since no legal régime had yet been established for the exploration and exploitation of the sea-bed resources, rules for the exploitation of those resources could be evolved only through agreement and understanding among States, with due regard for the interests of different States and groups of States. Unlike the rules for the exploration and exploitation of the resources of the continental shelf, which were

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based on national interests, those applicable to the area beyond the limits of national jurisdiction should be geared to the interests of the entire international community.

Application to the area under consideration of the national practices followed for the continental shelf might produce the same adverse effects as were currently evident in coastal areas, where failure to observe technical standards had resulted in serious pollution of the marine environment and damage to living organisms. In addition, care should be taken to ensure that the area beyond the limits of national jurisdiction was not plagued by the contradictions and antagonisms which existed in relations between States as a result of the capitalist monopolies' exploitation of the natural resources of other States and particularly of the developing countries, including the resources of the continental shelves of those States. The extension of the rules governing the continental shelf to cover the exploitation of the resources beyond that area might give the impression that the exploitation of those resources was easy, and might create a false picture of its effectiveness at the present time and in the near future.

The exploration and exploitation of the resources of the area under discussion should be undertaken on a rational and scientific basis. However, it would be premature to try to formulate economic and technical rules to govern State activity in that area until a legal régime for the area had been established, on the basis of an international agreement of a universal character.

The situation was further complicated by the uncertainty currently surrounding the question of the limits of national jurisdiction. It was not clear what kind of depths should be considered when conditions and rules were being formulated for the area beyond national jurisdiction.

In addition, knowledge about the resources of the area was still inadequate and little experience had been acquired in their exploitation. The pioneer phase had not yet been completed. Considerable time and effort and enormous investment would be required before industrial exploitation of the area's resources became technically feasible and economically justified. It was true that the scientific and technological revolution taking place in the world might accelerate that process but it would also render anachronistic any detailed rules which were elaborated at the present stage.

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The Secretariat's review of government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21 and Corr.1) described the practice and experience of developed capitalist countries and developing countries and gave no information on the legislative and administrative provisions which had been enacted in the socialist countries. It attempted to influence the formulation of economic and technical conditions and rules in the direction of the adoption of private capitalist practice, and it prejudged the establishment of a supra-national organ with extensive powers - the "international machinery" - though the establishment of such machinery had in fact not yet been discussed. The review concentrated on the administrative and commercial aspects of the regulation of activities on the continental shelf and neglected such important questions as pollution control, interference with other types of activity and safety requirements. Stress was placed on national practices and legislation and on operating rights and related questions, which were far broader in scope than the economic and technical conditions and rules which the Sub-Committee had been requested to study. The fact that such questions had been raised essentially prejudged the content and character of the régime to be set up and the powers to be entrusted to the "international machinery".

After careful and unhurried study of all aspects of the question, the Sub-Committee might at some future stage be able to formulate some general conclusions. Such conclusions might include the following: (1) States shall bear international responsibility for national activities in the area, regardless of whether the activities are undertaken by government organs or by physical or juridical persons. Activities by physical and juridical persons shall be undertaken with the authorization and under the supervision of the State concerned. (2) The exploitation of the mineral resources of the area shall be undertaken in such a manner as to promote the development of the world economy and of international trade. (3) When engaging in any activity of research or utilization of the area, States shall take appropriate measures to prevent pollution of the marine environment, particularly by radioactive contamination, to avoid disturbance of existing biological, chemical and physical relationships and processes and to prevent destruction of marine flora and fauna. (4) In their activities, States shall take reasonable account of the lawful rights of other States in the area. (5) The activities of States in the use of the area shall not violate the

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recognized freedoms of the high seas or interfere with navigation, fishing, laying and maintenance of underwater cables and pipelines, protection of the living resources of the sea and scientific research. (6) States shall give advance public notice of the erection or installation of equipment, plant or structures in the area, and shall also maintain a permanent warning system to indicate their presence.

The problems involved in the subject under consideration could be resolved only by the broadest international co-operation. It had become clear that the foremost task was to expand scientific research on the subject of the sea-bed, and to study the resources of the area through co-ordinated efforts by States. It could be seen from resolution 2560 (XXIV) that the General Assembly attached great importance to a long-term programme of oceanic research and to the development of marine science.

Mr. McKELVEY (United States of America) said that, in considering the size of the total area which might be held by a single operator or State, it was possible: (a) to make no attempt to limit the total area in any way; or (b) to attempt to limit it through a combination of rules that would provide a de facto limitation by making it uneconomic for any one to hold large areas and impossible to hold any area into perpetuity. Included in the latter group of alternatives would be procedures which would restrict the size of the area open for exploration and exploitation at any given time, or which would restrict the amount of the area to which exploration rights could be assigned each year without limiting the amount to be held by an individual State or operator. A third possibility was to limit the total area that could be held by an individual operator or by all of the operators of a given State by some formula designed to prevent the creation of a monopoly of sea-bed resources, and to permit equal access to them by the peoples of the world. The first alternative could easily be discarded, for everyone agreed that all the resources of the area should not be appropriated or claimed by a few nations or operators for their benefit alone. The other alternatives, however, posed some extremely difficult problems. The ultimate objective was to encourage exploration and exploitation, to ensure the development of the resources for the benefit of all mankind, to guarantee that all nations had access to the resources without discrimination, to guarantee the international community - and especially the developing countries - the benefit of the economic rent or the

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net resource value that might accrue from minerals produced in the area and, lastly, to protect each nation's interest in its share of the sea-bed, whether or not it was able to exploit the resources now or in the foreseeable future. At the present stage only a few nations had the ability or desire to exploit the resources of the area under discussion, and it was unlikely that all nations would be able to do so during the pioneer stage. If an attempt were made to restrict the activities of operators or nations to the areas to which they had exploitation rights, and if that attempt were made in such a way as to curtail the activities they might otherwise wish to undertake, it would in effect discourage exploration and exploitation and reduce the revenue which might be shared by those unable to participate during the pioneer stage. Moreover, he wondered whether a formula to limit the size of the total area to be held would be based on the size or the population of each nation or its geographical location, or whether account would be taken of diverse national interests in - for example - manufacturing as opposed to agriculture. Again, would the formula make allowance for the fact that the lands of some nations were richer in mineral resources than others, or, since the resources of the sea-bed were unequally distributed, would the formula attempt to allocate sea-bed area or sea-bed resources? The difficulties of finding an equitable means of distributing the resource potential were such that they must be regarded as one of the great disadvantages of any rule designed to limit the total area or the total resources to be held by any one party or State, or to allocate them in some way to nations. In general, most countries wished to encourage mineral exploration and exploitation. Consequently, few existing national systems contained provisions limiting either the number of tracts or the total area which might be held by a given operator. On the other hand, he knew of no country in the world where exploitation rights to all, or anywhere near all, of its area had been taken up by operators. Large areas favourable for the occurrence of various minerals still remained to be explored or developed, and new mineralized regions were constantly being identified. The area of the sea-bed was two or three times larger than that of the world's land surface and, with the prevention of national appropriation and a race for claims, it would still be a long time before a small part of its potential resources came under anyone's

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control. In addition, if a limitation were placed on the duration of rights, no one would control any part of the sea-bed in perpetuity. It was plain therefore that it would be in the greatest interest of the world community to develop rules that would directly encourage exploration and exploitation, and discourage by economic means the acquisition of areas for purely speculative purposes. Such a policy would help to increase revenue during the period when the developing countries needed it most.

With regard to production requirements, one important question was how to determine what constituted production for the purpose of retaining exploitation rights. For reasons beyond the operator's control, it was sometimes impossible to bring a commercial deposit into production, even after it had been fully evaluated. In the case of oil, for example, production might have to await the development of pipeline or other transportation facilities. Some factors, such as market conditions or labour problems, might necessitate the interruption of production, perhaps for periods of a few years. Similarly, it was necessary to determine what constituted commercial production; and limitations would also have to be imposed on the rate of production of oil and gas in order to achieve maximum recovery. An even more complex problem was whether production should be controlled so as to protect the markets of land producers and maintain the prices of minerals on which some developing countries might depend heavily for their national income - an objective for which his delegation had much sympathy. Eventually, production from the sea-bed beyond the limits of national jurisdiction might also be an important factor in influencing the markets and prices of certain minerals, particularly the metals contained in manganese nodules. Production and marketing controls - if they were to be imposed - would have to be established within the context of world mineral production and trade, and not within a régime that applied solely to production beyond the limits of national jurisdiction. Any other course would discourage sea-bed exploration and exploitation, for if the prospector in that environment knew that his production might be arbitrarily limited, he might well decide to search in other areas where such controls did not exist.

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A treaty establishing a régime must contain a provision calling for compliance with certain operational standards. However, the rules relating to operational standards should not be set forth in the treaty itself, because they would be of a highly technical nature and would have to be changed frequently to keep pace with new developments. The United States Outer Continental Shelf Lands Act was only a few pages in length, but the regulations for implementing that Act, which were frequently revised, were much longer. Operational standards were required to achieve the basic objectives of safety, protection of other uses of the high seas, prevention of pollution and prevention of waste in mineral exploitation; but the administering organization must have the authority to devise the standards and regulations and to change them when appropriate. The operating regulations would also have to include provisions for the transmittal of work plans and progress reports on exploration and exploitation. Such a requirement might seem to be an unnecessary burden on an operator engaged in exploration authorized on a non-exclusive basis. On the other hand, shallow drilling and seismic surveys utilizing explosives could have unfortunate consequences and must be controlled.

With regard to the collection and dissemination of data acquired during mineral exploration and exploitation, he observed that nearly all existing resource management systems called for the transmittal of the data collected by operators. The question arose as to whether the operator should be required to transmit all the information acquired or only the information needed by the State and/or the international administering authority for the purposes of monitoring his production and supervising and inspecting his operations. The date would have to be kept in strict confidence for some years. On the other hand, the transmittal of data to the resource manager would place him in a better position to supervise operations and bring about the orderly development of sea-bed resources; and the eventual release of information to the public would promote greater understanding of geological features which might lead to future discoveries.

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(Mr. McKelvey, United States)

The question of liability for damage resulting from exploration and exploitation was one of increasing concern. Rules and procedures governing such liability must be developed and they should include arrangements for financial responsibility to pay for the cost of reparations. It was also desirable to seek ways of providing insurance for liability of massive proportion, to consider whether or not participation in such an insurance plan would be a compulsory requirement for operators.

With regard to means and magnitude of payments, he noted that the various forms of payments could be divided into two groups. One consisted of fees and rentals designed primarily to offset or pay for the resource manager's actual costs, though they were generally set at a low level to encourage operators to enter the field. The purpose of payments consisting of royalties and bonuses was to give the resource manager the economic rent or the net resource value that might accrue from mineral production. As members would recall, he had defined net resource value as the surplus remaining after the mineral product had been sold and the cost of production, plus a normal profit on risk investment, had been paid. The magnitude of the net resource value might vary considerably, and could not be predicted accurately in advance even if the size and character of the mineral deposits were fully known, because it depended on the price at which the product could be sold and the cost of its production, both of which might change over time. Considering also the great difficulty of appraising the size and character of mineral deposits in advance of production, the amount actually paid could only be a very rough approximation of net resource value. Competitive bidding on a cash bonus supplemented by a royalty with a fixed rate provided a means of adjusting the payment of net resource value when more was known about the promise of a deposit and there was competitive interest in it. For example, a royalty of one sixth of the value had to be paid on crude oil production from the United States outer continental shelf. In addition, the acquisition of the right to drill and exploit was sold by competitive bidding on a cash bonus. The sums bid varied enormously, reflecting the great range in the pre-drilling appraisal of net resource value from place to place. However, even in those areas where a great deal was known about the mineral potential, the cash bonus was only a poor approximation of net resource value. Where later drilling resulted in no discovery, the cash bonus system would

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(Mr. McKelvey, United States)

involve gross overpayment by the operator and, where an unsuspected windfall was obtained, it might involve gross underpayment to the resource owner. The payment of royalty on the value at the site at which the minerals were produced was probably the best method; but a high rate would discourage exploration during the pioneer stage and a careful study would be required to choose the most appropriate rates. Another difficulty was that of determining the value of manganese-oxide nodules, which had never been mined and might never be sold as raw products. The sale of the refined metals recovered from them would involve many costly transportation and processing phases. Hence, the value of refined metals in the market place would be far greater than that of the unprocessed nodules on board ship over the site from which they had been dredged and was in itself no indication of their value in raw form in the middle of the ocean. Even the value of the refined products derived from them might vary a great deal. He knew of no good solution to that problem at the moment. The only alternatives seemed to be the payment of a royalty which would be set at an arbitrary dollar value per ton of nodules mined, or perhaps the payment of a small percentage of the market value of the refined metals which the operator planned to recover.

With regard to terms of forfeiture, he considered that penalties might have to be established in order to help enforce the relevant rules. Undoubtedly, agreed rules on forfeiture or revocation of rights would be required to deal with operators who did not keep up their payments and failed to meet operating standards or other agreed obligations. Attention would have to be given to such matters as the procedure to be followed, the period and form of the notice to be given by the operator, and provision for hearings and appeals. Voluntary forfeiture would pose no difficulties from the legal standpoint, but where fixed installations or wells were involved, the operational standards would have to provide for proper abandonment procedures.

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(Mr. McKelvey, United States)

Means to ensure adequate inspection of operations and compliance with the rules had already been discussed in conjunction with some of the other rules and provisions. He noted, however, that consideration should also be given to the possibility that coastal States would have some rights in controlling activities in adjacent waters, possibly to the extent not only of inspecting those activities, but of being able to approve them in the planning stage.

With regard to provisions for the settlement of disputes, he wished merely to state that provisions should be made for settling disputes not only between operators, but also between operators and the international administering organization.

In conclusion his delegation considered that the treaty establishing a régime should define specifically the activities and objectives to which operational standards were to apply, but that the standards and the relevant procedures should be established by the Administering Authority. However, the rights and obligations of States and operators must be set forth in precise terms; and all the topics he had referred to should be covered, or at least touched upon in the treaty. It might not be necessary to establish a rule for each topic mentioned; but a decision not to have a rule should be taken only after due consideration of the need for a rule.

Mr. ARCHER (United Kingdom) suggested that it would be useful for the Sub-Committee to consider two further topics. Firstly, it had become abundantly clear that it was important to define terms. The representative of France had referred to the meanings to be attached to the words "prospecting" and "exploration". Similarly, it was obvious that "hydrocarbons" and "petroleum" had different meanings for different delegations. The second topic was that of transferability, for it would be necessary to decide whether any rights should be transferable from one licence-holder or concession-holder to another. In addition, two of the topics suggested by the United States representative should be sub-divided. Topic No. 4 (A/AC.138/SC.2/SR.27, p. 4) might conveniently be divided into two distinct topics - the kind of rights to be assigned and whether or not rights should be exclusive. Lastly, although the subjects included in topic No. 14 all related to operational standards, the differences between them were

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(Mr. Archer, United Kingdom)

sufficiently wide to justify five separate headings, i.e. (1) performance of work, (2) safety of personnel and equipment; (3) prevention of unjustifiable interference with other uses of the high seas; (4) prevention of waste in mineral exploitation; and (5) prevention of pollution and other damage to other resources and the environment. He hoped that an opportunity would be provided at later sessions of the Sub-Committee to discuss the merits of the alternatives available under each of those headings.

Mr. CROSBY (Canada) said that the Sub-Committee should come to grips with the specific topics which would form the basis for the regulatory provisions necessary to govern the development and utilization of sea-bed resources beyond the limits of national jurisdiction. Apart from the prospect of finding and producing valuable mineral deposits, the single most important factor in promoting resource exploitation in the area would be the provision of a system of resource management designed to encourage and maintain investment on a continuing and orderly basis. There did not seem to be any need to devise a number of régimes based upon technological or other factors. Rather, there should be an over-all régime broad and flexible enough to be able to deal appropriately with all factors.

The two main fields of interest to be considered were first, the arrangements by which rights to the resources would be made available to operators and the terms and conditions to be fulfilled by operators, and, secondly, the manner in which exploration and exploitation operations would be supervised and controlled. The first field included the regulation and issuance of whatever types of terminable grants or forms of tenure might be devised, the scale of fees, rentals, royalties and other charges to be levied, the work requirements to be met in order to hold the grants involved and other items relating to the disposition of rights to those resources. The manner of ensuring title must not only work effectively but must also be designed so as not to favour any particular national interest.

In view of the interest displayed by the Sub-Committee, he wished to clarify some of the main points in the Canadian system of off-shore resource management. First, before undertaking any exploratory work in the Canadian

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(Mr. Crosby, Canada)

offshore, a party was obliged to acquire an exploratory licence, which was simply an authorization for the licensee to carry out exploration work - short of evaluation work - in any region of the Canadian offshore. The idea was to encourage work throughout the Canadian offshore by granting exploration rights on a non-exclusive basis for a nominal fee. The second requirement was the exploratory permit, which related to a clearly defined area. The holders of oil and gas exploratory permits had two advantages over their competitors: first, they had the exclusive right to acquire exploitation rights within the permit area; and, secondly, they had the exclusive privilege of being allowed to drill wells deeper than 1,000 feet within the permit area. Applicants paid a fee for each permit at the time of issuance and also deposited money, bonds or a demand promissory note, suitably guaranteed at the time to the full amount of the work requirements for the first period of the permit, as a guaranty that the work would be carried out. Guaranty deposits were also made prior to each succeeding period of work. All deposits were returned upon receipt of satisfactory evidence that appropriate work had been performed. Offshore permits were valid for six years with six renewals of one year each. They carried work requirements that increased progressively so as to reflect the progressive increase in expenditure necessary effectively to evaluate an area.

The third requirement was a production lease, into which the exploratory permit had to be converted before commercial production could begin. Leases could be acquired for up to half the area covered by a permit, at the normal rates of royalty; the remaining portion of the permit area reverted to Canada. Rights to the reverted portion could be issued for an additional royalty or by public tender.

Under the Canadian system, which had been quite successful in stimulating exploration in pioneer areas, no discretionary authority was vested in the administering body. At the international level, the régime should enable the administering authority to operate as objectively as possible, with no more power than it could exercise effectively.

It was important to ensure that activities beyond the limits of national jurisdiction met adequate standards in respect of safety, conservation, pollution and various other matters. In particular, the vulnerable ocean

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(Mr. Crosby, Canada)

environment should be protected from pollution by effective supervision and controls. In the case of offshore drilling, there were two primary concerns relating to pollution prevention: safety of drilling procedures and equipment and seaworthiness of installations and vessels. Many complex and high technical factors were involved, which affected well control and the safety of personnel. Scientific research should be encouraged in every possible way; however, it was not always possible to distinguish between an activity undertaken for scientific purposes and a similar activity considered to be a commercial enterprise. Prevention was the key to pollution control; and similar requirements should be imposed for scientific research programmes which might cause pollution as for commercial research programmes involving a similar risk.

In view of the extreme complexity of the subject under discussion and the difficulty of reaching agreement on a number of matters, it was essential to come to grips with the specific questions involved.

The meeting rose at 12.55 p.m.

SUMMARY RECORD OF THE THIRTIETH MEETING

Held on Monday, 16 March 1970, at 3.15 p.m.

Chairman: Mr. DENORME Belgium

CONSIDERATION OF ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR AND THE SUBSOIL THEREOF BEYOND THE LIMITS OF NATIONAL JURISDICTION IN THE CONTEXT OF THE REGIME TO BE SET UP (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, part three; A/C.1/PV.1673-1683 and A/C.1/PV.1708-1710; A/AC.138/SR.17-24; A/AC.138/21 and Corr.1) (continued)

Mr. ST. JOHN (Trinidad and Tobago) reiterated his delegation's view that the creation of an international régime to govern the exploration and exploitation of the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction must be based on the common heritage concept. His delegation was pleased to note that there was now general agreement in favour of the establishment of such a régime and hoped that the Committee would succeed in its efforts to establish it.

The phrase "in the context of the régime to be set up", in operative paragraph 6 of General Assembly resolution 2574 B (XXIV), clearly established the terms within which the Committee was to make recommendations on the conditions and rules. The Sub-Committee must therefore bear in mind, in making its recommendations to the Committee, that the rules and conditions governing the exploitation of the resources of the area must be in keeping with the primary objective of benefiting mankind as a whole.

The Secretariat's review of Government measures (A/AC.138/21), which should form a useful basis for the Sub-Committee's deliberations, did not reflect the practices of eastern European countries in the exploration and exploitation of mineral resources on the continental shelf. Since the Sub-Committee should not prejudge the issue by considering only one particular system, his delegation hoped that the omission would soon be rectified. The various systems applied by Governments for the exploitation of the continental shelf had proved to be workable and might, with some modification, provide a basis for the rules to govern the area beyond the limits of national jurisdiction; the only question was the extent to which current national practices should be taken as a guide.

The United States delegation had made it clear that it was not yet prepared to propose specific rules and provisions to define and implement the régime; his own delegation felt that whatever rules and conditions were devised should be flexible enough to allow for the inevitable long-term changes, and should also be acceptable to the international community as a

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(Mr. St. John, Trinidad and Tobago)

whole. The United States delegation had suggested that the first topic to be covered by the rules and provisions should be the assignment of responsibility for the administration of rules and provisions (A/AC.138/SC.2/SR.27); and, in the opinion of the delegation of Trinidad and Tobago, the power of assigning that responsibility should be vested in an international authority. His delegation had, in the plenary Committee, advocated the establishment of such an authority, but would await the further study on various types of international machinery requested in resolution 2574 C (XXIV) before adopting a definite position on that matter.

In the short term, the international authority would be unable itself to undertake direct exploitation. Considerable difficulties would be involved in raising the large amount of initial capital required; and further difficulties might arise regarding the type of entities which would be authorized to participate in sea-bed exploration and exploitation.

In regard to the granting of operating rights, the national practices outlined in the Secretariat review seemed to vary considerably. In his delegation's view, the most important consideration in granting operating rights was to ensure that the resources of the area were exploited for the benefit of all mankind, taking into account the special needs and interests of the developing countries, both land-locked and coastal. The common practice of granting exclusive rights for exploitation, and separate rights for operations relating to hydrocarbons, might well be adopted in the area beyond the limits of national jurisdiction.

The Sub-Committee would have to consider carefully the question of allocation of rights. The United States delegation had concluded that the operator's initiative was the most effective criterion for the assignment of rights during the pioneer stage, but that competitive bidding was an impartial way of assigning rights, choosing an efficient operator and increasing revenue. His delegation had no definite views on that topic at the present stage, except that the relevant rules should ensure that no discrimination could be exercised against any State. It did not consider that the proposition that all States should have access to exploration and exploitation activities meant that it would be easier for the technologically advanced countries to obtain rights or interests in the area amounting to virtual appropriation. It was rather for

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(Mr. St. John, Trinidad and Tobago)

the international régime to regulate "equal access to the area. The principle that exploration rights should apply to larger areas and for shorter periods than exploitation rights might perhaps also be adopted, at least in the initial stages.

National regulations regarding operating obligations seemed to contain no reference to the question of pollution. However, in view of the events of recent years - and indeed, of recent weeks - he agreed with the Soviet delegation that the rules and conditions must include provisions to prevent pollution.

Some of the topics mentioned by the United States delegation - liability, terms of forfeiture and settlement of disputes - should undoubtedly be dealt with in any code of rules and conditions, but must first be considered in their legal aspects.

Regarding the distribution of benefits to be derived from the exploitation of the resources of the area, the United Kingdom delegation had suggested that the costs of the international body should be met from licence fees, but that the funds to be distributed to States parties to the agreement, particularly the developing countries, should be obtained from royalties. Whichever system was selected, the most important consideration was that the proceeds should be distributed equitably in the interests of mankind as a whole, with special reference to the developing countries. He reiterated his delegation's request for a new study regarding the criteria to be applied in the apportionment of benefits derived from exploitation of the resources of the area.

The international authority, whatever its form, would need suitably trained personnel if the area was to be efficiently managed. Such personnel should be drawn from the widest possible geographical sectors of the international community. Training should be concentrated in the developing countries if the latter were to have equal access to sea-bed activities, and to participate in the administration of the area.

Mr. SELLI (Italy) said that the first main problem related to the organization of the authority which would administer and control exploration, evaluation and exploitation. It would be less expensive, and more practical, to make each State responsible for its operations and for those of its nationals, while the international authority would issue the permits or licences. The

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(Mr. Selli, Italy)

question of general supervision and implementation of rules called for further study. The most practical way of issuing licences for exploration and exploitation would be to issue them to States, which would then be directly responsible to the international authority for their own activities and for those of their nationals.

The types of sea-bed resources to be exploited could be divided into two categories: (a) deep deposits, i.e., oil, gas, sulphur, saline mineral and steam - which could be extracted through drill holes in the sub-bottom and (b) surficial deposits - i.e., manganese nodules, phosphorites, etc. - which could be collected by dredging or other methods. There would therefore be two different types of operations and licensing. Licensing might also be in three different stages - for exploration, evaluation and exploitation.

With regard to exploration, it was essential - though very difficult to distinguish between economic exploration and strictly scientific investigation. There were only two possible alternatives - registration or licensing of all exploration, practical or scientific, or complete freedom of exploration, registration being required only in the case of deep drill-holes for scientific purposes. As a scientist, he preferred the latter solution. With regard to evaluation, he felt that mineral dredging activity would call for registration only but, in the case of evaluation by drilling, licences should be issued to States by the international authority. With regard to such problems as means of assigning rights, extention of area, duration of rights and amount of payments, he would for the moment merely note that the amount of the fees and the duration and extent of permits would depend on the accessibility and the economic promise of the area. All exploitation would have to be licensed when the existence of mineral resources had been proved, and the discoverer should have rights until the field or ore was exhausted. The amount of royalties should differ according to the type of mineral, its exploitability and other economic factors, and the concession should be restricted to a specific field or ore. The State holding the licence would be responsible, vis-à-vis the international authority, for the fulfilment of operating obligations such as observance of operational technological standards, non-interference with other uses of the high seas and the sea-bed or with any kind of scientific research, prevention of waste and pollution, financial responsiblity for damage resulting from oil, gas or steam spills, data collection and communication and progress reports.

(Mr. Selli, Italy)

In his delegation's view, any international machinery to govern the use of the sea-bed beyond the limits of national jurisdiction should be organized on the basis of flexible, practical and economical criteria. The authority should issue operating licences only to States, which would then operate directly or through their nationals but, even in the latter case, would be responsible to the international authority for the proper conduct of the operations. Operations could be conducted in the context of four different situations: (a) a free régime for exploration with no distinction being made between economic and scientific exploration; (b) registration in the case of evaluation of surficial minerals and deep-sea drilling for scientific purposes; (c) short-term licensing for the evaluation of deep mineral resources through drill-holes; (d) long-term concessions for all exploitation of surficial and deep mineral resources. In all operations, the States concerned would exercise direct control.

The exploration, evaluation and exploitation of sea-bed mineral resources would require enormous sums and efforts. Care should therefore be taken to provide encouragement rather than obstacles, especially in the pioneering stage.

Mr. PARDO (Malta) said that document A/AC.138/21 and the United States paper on world sub-sea mineral resources would both help the Sub-Committee in carrying out its mandate under General Assembly resolution 2574 B (XXIV). The United States paper stated that (a) the currently known commercially exploitable deposits of hydrocarbon were largely restricted to the geophysical continental shelf and (b) a favourable geological environment for hydrocarbon accumulations would be found almost exclusively on the geophysical shelf, the geophysical slope and rise and, in a few cases, in marginal seas. The prospects of considerable financial benefits from the exploration of hydrocarbons were excellent, and borne out by the oil companies were rapidly increasing their investments in exploration activities. Even if marketable quantities of hydrocarbons were found in the abyssal plains, however, they would be much more difficult to exploit, and their development in the near future could not, therefore, be expected. With regard to sulphur, the United States paper indicated that the lack of knowledge about its origin made it difficult to focus exploration on the most favourable environment. In any case, deposits of sulphur - as well as of coal and other sub-sea minerals - discovered at great depths or far from the shore would become commercially exploitable at a much later date than those found in more accessible areas. The only truly oceanic minerals that might be commercially exploitable in the foreseeable future were manganese nodules and possibly some metalliferous muds and precipitates.

In 1967 he had prophesied that, on the basis of current trends and predictions, gross annual income from the exploitation of sea-bed resources would, at a conservative estimate, amount to $6,000 million. Despite the criticisms made at the time, he predicted that his estimate would in fact be

(Mr. Pardo, Malta)

found to be conservative. However, no authority established at the present time could expect an annual income even remotely approaching the figure of $6,000 million, since his delegation's hope that States would surrender some currently exercised rights in the interests of mankind as a whole had proved to be false. It was clear from debates over the past two years that coastal States were determined to retain jurisdiction over wide areas of the sea-bed adjacent to their coasts.

Even if the technical difficulties involved in application of the criterion suggested by the Canadian delegation could be overcome, the annual revenue accruing to an international authority from the exploitation of sea-bed resources could theoretically be very high if the entire sea-bed were placed under an international régime; but it would be negligible if more than 70 per cent of the sea-bed were included in the area under national jurisdiction. Because of long delays in delimitation, and the incorporation within national jurisdiction of vast ocean floor areas, the revenue accruing to an international authority would be nil for at least a decade and insignificant for the foreseeable future.

If the geomorphological criterion for delimitation suggested by the Brazilian representative were accepted, prospective revenues accruing to an international authority would be insignificant for the next decade and probably small thereafter, since all potentially valuable sea-bed deposits, except manganese nodules, would be included within national jurisdiction.

If a distance criterion of 200 miles from the nearest coast was adopted for delimiting the area subject to national jurisdiction, much of the rise and part of the geophysical slope would be governed by an international régime; modest revenues could be expected if the international machinery were established in 1975, and increasing revenues could be anticipated after 1975, although they would be nowhere near the amount his delegation had mentioned two years ago.

However, it should be borne in mind that most of the immediately exploitable and valuable resources would remain under national control.

In his delegation's view, document A/AC.138/21 was not relevant to the Sub-Committee's task since it dealt with measures to develop precisely those resources which were unlikely to be found in the area eventually covered by an international régime.

It was hard to see how the Sub-Committee could "formulate recommendations regarding the economic and technical conditions and rules" for exploiting its

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(Mr. Pardo, Malta)

sea-bed resources beyond national jurisdiction, as requested by the General Assembly, if it was not known what commercially exploitable resources would be found in the area remaining beyond national jurisdiction. Such a task would be more appropriately left to whatever machinery was established under an international régime or should at least be set aside until Governments had a better idea of the likely area and its possible resources.

It would be wiser at present to make the General Assembly aware that the question of delimitation of the area beyond national jurisdiction was of crucial importance for one of the Committee's main objectives - namely, the use of sea-bed resources in the interests of mankind. An attempt might also be made to formulate a few general guidelines concerning resource evaluation and exploitation for inclusion in an international treaty establishing a régime. Finally, preliminary consideration might be given to certain questions, the settlement of which might be decisive in accelerating or retarding indefinitely the development of sea-bed resources beyond national jurisdiction.

He had already commented on the first point. As to the second, Malta did not favour the inclusion of detailed provisions for the evaluation and exploitation of sea-bed resources beyond national jurisdiction in the treaty establishing an international régime. Few mineral resources were likely to be found in commercially exploitable quantities in that area except manganese nodules. Those had not yet been exploited commercially and it would appear highly undesirable to incorporate detailed norms for their commercial development in an international treaty. Rather, it would appear preferable to create, under the treaty establishing an international régime, an equitably balanced organ to administer the provisions of the treaty and determine the entities entitled to participate in sea-bed resource evaluation and exploitation, and the rights and obligations of such entities. The Sub-Committee should therefore concentrate its attention on the nature of the organ to be created by the treaty or agreement establishing an international régime, the nature of the powers and responsibilities with which the organ would be invested and the formulation of the general treaty guidelines under which the organ would operate. He had little to say regarding the third point he had mentioned beyond suggesting that consideration should be given in due course to international agreements on the tax treatment of entities engaged in the exploitation of resources in the area subject to the international régime, and on the customs treatment of minerals originating in the area.

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Mr. YANKOV (Bulgaria) said that the Sub-Committee's terms of reference for its deliberations on the question under consideration were to be found in operative paragraph 2 (b) of General Assembly resolution 2467 A (XXIII) and operative paragraph 6 of resolution 2574 B (XXIV). In many ways the debate had been broader in scope and more penetrating than the Secretariat review contained in document A/AC.138/21, for national measures pertaining to the development of mineral resources on the continental shelf could not of themselves provide an adequate model for regulations to be applied at the international level. In that connexion, Bulgaria agreed that hasty decisions regarding feasible technical and economic requirements and rules should be avoided since, as the United States representative had pointed out, none of the existing resource management systems was entirely applicable to the mineral resources of the sea-bed beyond the limits of national jurisdiction. That did not mean, of course, that the Sub-Committee should not continue its work in that field with reasonable persistence and speed.

Certain questions should be taken into account in determining the technical and economic terms and conditions which would constitute the general framework for operational activities in the exploitation of sea-bed activities beyond national jurisdiction. In the first place, attention should be given to the important questions of efficiency of operation and equality of treatment for all parties. As the Australian representative had said, any régime for the exploration and exploitation of sea-bed resources beyond the limits of national jurisdiction should be effective, credible and impartial. Secondly, specific provision should be made to ensure the promotion of international co-operation in the matter in accordance with the provisions of operative paragraph 2 (b) of resolution 2467 A (XXIII). Co-operation would ensure the orderly development of sea-bed resources and prevent the unfair competition commonly practised by large monopolies. It would also prevent wastage of the area's mineral and biological resources and foster the exchange of know-how and dissemination of information. Thirdly, care must be taken to ensure that the other uses of the high seas were not interfered with and that the freedom of the high seas was not infringed. Fourthly, adequate safety regulations must be elaborated. It might be advisable, in that connexion, to seek the co-operation of the ILO and other competent

(Mr. Yankov, Bulgaria)

intergovernmental organizations. The Soviet representative's suggestion concerning early warning devices deserved special attention. Fifthly, attention must be given to the need to prevent pollution. There again it might be advisable to seek the assistance of organizations also concerned with that subject. Sixthly, scientific investigation and exploration should be encouraged. Seventhly, the question of liability must be taken into account. As a general principle, States should be liable for the activities of their nationals. Eighthly, provision should be made for measures ensuring observance of the rules agreed upon by States. Ninthly, the basic requirements and rules applicable to exploitation of sea-bed resources should be established through agreement between States embodied in general and universal international instruments. Finally, special provisions governing procedural matters and the settlement of international disputes would have to be worked out. Those were only preliminary suggestions since, as the Soviet representative had pointed out, detailed specific rules could be prepared only within the scope and nature of the régime.

The Sub-Committee would fulfil its task at the present session if it could reach general understanding concerning the magnitude and complexity of the item under consideration. At its summer session it could elaborate further on the main topics before it and thus be in a position to formulate recommendations in accordance with the provisions of resolution 2574 B (XXIV).

Mr. KOZLUK (Poland) said that his delegation was in agreement with the view that an appropriate international régime governing the exploration and exploitation of the resources of the sea-bed and subsoil thereof should be established in due course. As was mentioned before, there were certain fundamental conditions and standards which were vital irrespective of the type of régime to be adopted. They relate to such matters as the areas of title which can be registered or granted; periods of tenure of these titles, minimum exploitation requirements; method of transition from an exploration title to an exploitation title; minerals to be covered by a title; and conditions of renewal and procedures for cancellation. Since the problems of the sea-bed were of concern to all countries, the régime would also have to ensure that all States benefited from exploitation of the area. It would also be necessary, under the régime, to take account of the question of mineral deposits located partly within and partly outside the area of national jurisdiction. It should be noted, in that connexion, that the International Court of Justice, in its judgement concerning the North Sea Continental Shelf,

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(Mr. Kozluk, Poland)

had indicated that the unity of mineral deposits should be one of the elements to be taken into account by parties. Provision should be made for measures which would prevent pollution and interference with the natural ecology of the area. It would be important to ensure effective operational supervision of off-shore work in order to prevent unjustifiable interference with other uses of the marine environment and ensure proper resource management. To some extent, such supervision could be exercised by Governments under their national legislation but, in that case, there would have to be prior international agreement concerning minimum legislative standards and supervisory expertise. Liability for damage through pollution was another matter to which attention should be given. Poland agreed that States should bear international responsibility for activities on the sea-bed carried out under their sponsorship. It should be noted, however, that the question of liability for damage through pollution, and of international responsibility of States for activities on the sea-bed, went beyond the scope of the régime under consideration and should be studied further by the Legal Sub-Committee in collaboration with IMCO. Finally, in any régime a distinction should be made between preliminary investigations and explorations with a view to exploitation. The freedom of States to conduct scientific research must be guaranteed and operators engaged in exploration with a view to exploitation should be required to provide the international community with the most detailed possible scientific and technical data obtained through their work.

Mr. KHANACHET (Kuwait) said that in his statements to the Sub-Committee at its twenty-eighth and twenty-ninth meetings (A/AC.138/SC.2/SR.28 and SR.29), the United States representative had approached the question of rules and provisions governing the exploration and exploitation of sea-bed resources from the viewpoint of operators and had almost lost sight of the main purpose of the discussion - namely, to create a régime for the exploitation of resources for the benefit of mankind as a whole. A clear distinction must be maintained between the powers of the international machinery and the rules governing sea-bed exploitation. The machinery to be created should have all the necessary powers from the beginning, but the rules could be adjusted by the international machinery to meet changing requirements during successive stages of exploitation. Kuwait did not share the apprehension of the United States representative that it would

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(Mr. Khanachet, Kuwait)

be difficult to develop a large organization with the requisite world-wide expertise or that such an organization might become so large that it would be costly to maintain and cumbersome to manage (A/AC.138/SC.2/SR.28). The international machinery would be what the international community wanted it to be, and the community could prevent it from becoming cumbersome or unmanageable. Operators should not, of course, be denied security of tenure or reasonable remuneration but the international machinery should not register claims on a "first-come first-served" basis. Rather, it should take steps to ensure equitable geographical participation so as to permit representation of all economic and social systems. A balance should be maintained between the incentives to be given to operators, the equal opportunities to be given to all applicants and the need to ensure that the benefits of exploitation accrued to the international community as a whole. The international machinery should insist that operators' activities should include programmes for the training of nationals of developing countries. The United States suggestions concerning means of assigning rights, means of selecting areas to be explored or exploited, size of tracts to which exploitation rights would apply, the duration of rights and the relinquishment of part of the area after allowing time for exploration and exploitation could be examined by the Secretary-General in his further study on the machinery. The new international régime should avoid creating new monopolies or heralding a new era of colonial exploitation. As the Soviet representative had said, beyond national jurisdiction the interests of the international community must prevail. The Soviet representative had also said that the exploration and exploitation of the resources of the area should be undertaken on a rational and scientific basis (A/AC.138/SC.2/SR.29). In addition, the exploitation should be undertaken in such a way as to foster healthy development of the world economy and the balanced growth of international trade.

In order to assist the Secretary-General in his task of preparing a further study on international machinery, a group of delegations had prepared a working paper on the subject. The delegations concerned requested that the paper, which would eventually be circulated as a document of the Sub-Committee, be included in extenso in the Sub-Committee's report.

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Mr. ZEGERS (Chile) said he was convinced that the Sub-Committee had now reached a decisive stage in its work and that the formulation of recommendations would be a further step forward in its continuing task. It must examine the various aspects of what might be termed an "economic régime" and, within that context, consider a régime for exploitation. Also, as several delegations had already pointed out, it should within the same context study the valuable and interesting Secretariat review of government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21). On the one hand, it was considering the requirements of an economic régime, which was something much broader than a régime of exploitation. On the other hand, it was elaborating a new régime, containing new concepts, which would take account of national and international experience, but need not necessarily be based completely on that experience. Lastly, the Secretariat review referred to one single type of exploitation - i.e., the exploitation of hydrocarbons - and did not deal with the extraction of minerals such as Manganese nodules because no national exploitation had yet been undertaken in that regard. Consequently, it was necessary to consider all the existing documentation relating to the economic régime, such as the report of the Ad Hoc Committee (A/7230), the main Committee's last report (A/7622) - especially the report of the Economic and Technical Sub-Committee - the relevant debates on that report and on the international machinery, and the discussions on the question in the First Committee during the last General Assembly. The Sub-Committee should also refer to the deliberations of the Main Committee in the first week of the present session and to the various propositions which had been put forward, particularly by the United Kingdom and El Salvador. The Sub-Commitee in fact was certainly not starting from scratch. Even though its work could not be completed at the present juncture, it was important to move ahead.

In his view, the international régime would comprise a legal régime, consisting of principles and norms to be set forth in a treaty, and establishing some type of international machinery or agency to complement the principles and norms. The legal régime would apply to the area of the sea-bed and ocean floor beyond the limits of national jurisdiction which, in accordance with General Assembly resolution 2340 (XXII), was to be reserved exclusively for peaceful

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(Mr. Zegers, Chile)

purposes. The resources of the area were, moreover, to be used in the interests of mankind. The legal régime would therefore have some scientific and military aspects, as well as the purely economic legal ones. In addition, it would include the economic régime, and the latter in turn, would contain the régime of exploitation.

The first point on which agreement had been reached was the need to promote international co-operation for the exploration and exploitation of the immense wealth of the area, with due consideration for the uses of the high seas and the interests of third parties. On that point, the Sub-Committee's own report (A/7622) and the topics mentioned by the United States representatives contained many useful elements. Secondly, it was agreed that all States, particularly the less developed, must share in the proceeds from future exploitation of the area. But how were the proceeds to be distributed? There were two aspects to that problem, one relating to participation in the administration of the area - i.e., to the international machinery - and the other relating to participation in the resources. The latter was perhaps the most fundamental aspect of the Sub-Committee's work, and one which had not yet been tackled properly. The Brazilian delegation and his own had proposed that the Secretariat should prepare a study of procedures for enabling all States to benefit from future exploitation activity, which could be considered at the August session. Several methods of ensuring such participation had already been outlined. For example, the first and most obvious method was that the granting of exploration and exploitation rights should be subject to the payment of dues, and that the proceeds therefrom should go to the international community or should be spent on projects approved by it. Nevertheless, many other forms, methods and criteria would have to be examined and the references to the subject of participation in the Sub-Committee's previous report (A/7622) should also be taken into account. Furthermore, in 1969 it had been emphasized that the international community must arrange for the training of experts from the developing countries. In his opinion, the international machinery or agency should also arrange for some measure of participation by all States in the administration of the resources. It must guarantee the economic participation of all States, whether coastal or land-locked, safeguard

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the interests of third parties and protect other uses of the high seas. Although the Secretariat was to prepare a further study on international machinery for consideration in August, that was no reason why the Sub-Committee should refrain from studying the question at the current session, or from formulating tentative recommendations.

In devising measures to protect the special interests and needs of the developing countries, it would be essential to consider the complex subject of pollution, which was a matter of great concern to many Governments, as could be seen from the importance attached to the subject of the human environment. From the point of view of the developing countries, the question of pollution was linked to that of the conservation of their marine biological resources, which were often of vital importance to them. It was essential also to remember that the exploitation of minerals on land might be gravely affected by the exploitation of similar sea-bed resources, and that the consequences would be particularly serious for countries which depended on the export of specific raw materials - as Chile, for instance, depended on the export of copper.

It had also been agreed that all exploitation activity should be subject to the international régime, and that the Sub-Committee should formulate recommendations in the context of the régime to be set up. Consequently, it would not be appropriate to establish an interim régime, a possibility which had been discarded by the General Assembly. His delegation felt that the list of twenty topics suggested by the United States representative, although not exhaustive, constituted a useful basis for future work. Together with the interesting propositions made by the representatives of the United Kingdom and El Savador, the topics suggested by the United States representative would make it possible for the Sub-Committee to move forward in its work.

Mr. DEBERGH (Belgium) said that his delegation had been particularly impressed by the high standard of the debate during the current session. Although the exploitation of the area under discussion involved new and extremely complex problems, it had been possible not only to list the problems concerned and express them in clear terms, but also to consider possible solutions. He did not intend to discuss all the points which had been identified and isolated during

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(Mr. Debergh, Belgium)

the discussion, or in the Secretariat study; and he would therefore confine himself to a few general comments, and would in the coming months consider all the suggestions which had been made with a view to defining his delegation's position at the August session.

He noted that, in the valuable review prepared by the Secretariat (A/AC.138/21), the term "operator" was defined as any country, national or multi-national agency, private person or company, or any combination of such groups which might be associated for the purpose of solely or jointly prospecting, evaluating or exploiting mineral resources. The review also stated that in some cases an operator might be an administering authority. He would say that the operator might conceivably be the administering authority, but such a formula hardly seemed viable.

He agreed with the USSR representative that States should bear international responsibility for national activities in the area, no matter which agency carried them out. The French representative had also stated that, from the point of view of the United Nations, it seemed that only States - or States grouped in ad hoc or regional organizations - could submit applications on behalf of natural or juridical persons. His delegation also held the view that if the right of equal access to the area was to be ensured for all States, and if the area was to be exploited in the common interest - an objective which had also been mentioned by the USSR delegation - registration, and possibly also a concession or permit, should be required for all exploitation activities. The United States representative had also come to the conclusion that all exploitation should be registered or licensed or otherwise controlled and that all kinds of commercial exploratory operations should be registered or licensed in some manner. The Belgian delegation considered that it was essential to distinguish between scientific exploration and commercial prospecting. The former called for very exacting methods and accurate observations, but was also characterized by a disinterested approach and the publication of results. His delegation had suggested in the past that freedom of scientific exploration should be subject to two requirements - publication of the research programme, and dissemination of the results as soon as possible. Those requirements would, in his view, make it possible to draw a distinction between scientific exploration and commercial

(Mr. Debergh, Belgium)

prospecting. Prior publication of programmes was the general rule for oceanographers. For several years, IOC had been co-ordinating vast international research programmes; and the initial arrangements for the International Decade of Ocean Exploration, as part of a long-term and expanded programme of oceanic exploration, clearly demonstrated that international scientific co-operation was increasing. If a programme failed to satisfy the two conditions he had mentioned, it could be assumed that its purpose was something other than scientific exploration, and it should not therefore enjoy the freedom which should be accorded to scientific exploration.

One of the greatest merits of an international system of exploitation would be its simplicity. It had been suggested that a distinction should be made between norms, which would be included in the treaty establishing the régime, and rules, which would not be included in the treaty. He wondered whether the rules should in fact be defined by the administering authority. As the Canadian representative had rightly pointed out, it would be wise to restrict as far as possible the discretionary powers of an international agency, in order to avoid political pressures and allow the administering authority to operate in the most objective fashion possible.

The French representative had also suggested that no distinction should be made between prospecting and exploitation rights, and that a set of rules and regulations containing provisions which were not of a sufficiently general nature to be included in the treaty could be annexed thereto. Again, the United Kingdom delegation had stated that licence fees should be set at the level necessary to cover the running costs of the international body established to administer the rules, whereas the funds to be distributed to all States parties to the treaty, with particular reference to the developing countries, should proceed from royalties. All those suggestions merited careful consideration. The Sub-Committee should always remember that the international régime of exploitation must take account of the interests both of the operator and of all mankind. Accordingly, in order to promote exploitation, there must be economic incentives to encourage the operator to make the necessary investments. At the same time, it was in the interest of the international community that the world's stocks of minerals should be increased without any wastage of non-renewable resources, and that part of the financial proceeds from exploitation should be earmarked for international community purposes.

The meeting rose at 5.50 p.m.

SUMMARY RECORD OF THE THIRTY-FIRST MEETING

held on Tuesday, 17 March 1970, at 3.25 p.m.

Chairman: Mr. DENORME Belgium

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CONSIDERATION OF ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR AND THE SUBSOIL THEREOF BEYOND THE LIMITS OF NATIONAL JURISDICTION IN THE CONTEXT OF THE REGIME TO BE SET UP (General Assembly resolutions 2467 A (XXIII) and 2574 B (XXIV); A/7622, part three; A/AC.1/PV.1673-1683 and A/C.1/PV.1708-1710; A/AC.138/SR.17-24; A/AC.138/21 and Corr.1) (concluded)

Mr. PAVICEVIC (Yugoslavia) said that it was for the present generation to prepare an international régime to govern exploitation of the sea-bed. The existence of a generally acceptable régime would advance the interests of both developing and developed countries, lessen the differences between those groups of countries on other problems pertaining to the sea-bed and open the way to a solution of those problems. The régime should be equally attractive to both developing and developed countries. For their part, the developing countries desired a régime under which their interests would be protected and universally recognized. For the technologically more advanced countries, on the other hand, the régime should permit extensive exploitation work under specific donfitions. It should also embody instruments which would enable the less developed countries to participate, independently or in co-operation with others, in exploitation work. The establishment of an international régime would enable the developing countries to participate in the exploitation of the natural resources of the sea-bed, share in the benefits from exploitation of the area's resources, share in scientific and technological knowledge, acquire resources that would accelerate their economic development and improve relations with the developed countries. The régime should, in addition to regulating the rights and obligations of those directly engaged in the exploration and exploitation of the sea-bed - as well as their commitments to the international community - and in addition to ensuring the participation of the developing countries in the distribution of the proceeds of sea-bed exploitation, establish criteria for the distribution of that part of the area set aside for the international community - criteria in which account should be taken of the needs of the developing countries, the need for scientific research, the need to protect flora and fauna and the needs of the budget of the international machinery.

Interesting ideas had been discussed during the Sub-Committee's debate, but important matters, such as the question of international machinery and the principle that the sea-bed was the common heritage of mankind, had not been touched upon.

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(Mr. Pavicevic, Yugoslavia)

For the successful establishment of the international régime, the principle of the common heritage of mankind was particularly important, since it implied an equal right both to exploit the area and to share in the benefits from that activity. In addition, it meant a more equitable redistribution of the value of the riches of the area, of scientific information about the sea-bed and of technology and know-how, with a view to meeting the urgent needs and interests of the developing countries without in any prejudicing the interests of the advanced countries. The principal aim should be to ensure that the area was used in an orderly manner for the benefit of all. The Sub-Committee should therefore define and elaborate the concept of "benefit for all" from the legal, economic and other standpoints. For example, should the concept relate only to fees, taxes or royalties as a means of sharing in benefits, or should it embrace also the sharing of profits, scientific knowledge and technology, as well as participation in the administration of the area as a whole? The work to be done during the August session would be very much more fruitful if the Secretariat could prepare a study on that question, which would help the Sub-Committee to evolve the best possible régime of exploitation and to discuss usefully, in the light of the economic and technical aspects of the various systems of exploitation on land, all the specific proposals which had been made.

In conclusion, he wished to stress that the elaboration of an international régime was closely connected with the adoption of a declaration, and subsequently a treaty, on the principles which would form a basis for the régime. Another crucial element, from the point of view of the régime, would be the international machinery. Consequently he believed that more substantive discussions and negotiations on the question of the régime would take place at the next session, when the situation regarding the adoption of a declaration of general principles would become clearer and the Sub-Committee would begin its consideration of the question of international machinery.

Mr. TEJA (India) said that his delegation had noted the many valuable suggestions put forward and had been impressed not only by the high quality of the debate but perhaps even more by the spirit in which the subject had been approached.

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(Mr. Teja, India)

Quite obviously, a serious effort should be made to reach agreements that would safeguard the interests of all nations and particularly of those most in need of such protection. In addition, a comprehensive and viable agreement would require close consultations and extensive negotiations. Patience and perserverance must therefore be the watchwords for the Sub-Committee's future work.

It was evident that several delegations which had formerly been unable to see any merit in the idea of establishing an international machinery had now come to recognize the significance of international regulation, supervision and control for the conservation, exploration and exploitation of the sea-bed and its resources. Nevertheless, there were still many reservations - some explicit and others more tacit - with regard to the scope, functions and powers of the international machinery. A number of delegations argued, for instance, that the problems concerning the area under discussion should in some way be isolated from each other, and resolved in a piece-meal manner. His delegation, however, considered that all the problems relating to the high seas, the territorial and superjacent waters, the contiguous zones and the continental shelf, and the sea-bed and ocean floor beyond the limits of national jurisdiction were closely interlinked and therefore demanded an integrated approach; and it had accordingly supported the idea of clearly defined institutionalized arrangements for the régime. The intended machinery should not be designed merely for the registration of claims or the issuance of licences for exploitation. It should be given powers to regulate, supervise and control activities affecting the sea-bed, and should be authorized to set safety standards for development programmes, draw up its own budget, settle disputes between States, provide technical assistance to developing nations, devise appropriate ways and means of distributing revenues from its activity, adopt suitable measures to safeguard the interests of developing countries against price fluctuations, issue regulations against pollution and abuse of the oceans, encourage scientific exploration and in other ways serve the interests of mankind as a whole. In short, the machinery should be a practical manifestation of the principle that the sea-bed and the ocean floor were the common heritage of mankind.

(Mr. Teja, India)

Some of those points had also been stressed by other delegations, and it seemed that there was wide support for the idea of an international machinery which would form part of the international régime. Similarly, it was now more generally recognized that, beyond the limits of national jurisdiction, the interests of the international community must prevail and that States should bear international responsibility for certain aspects of the exploration, exploitation and use of the area. Undoubtedly, those and many other matters would soon be taken up in the course of informal negotiations. In that connexion, he wished to endorse the proposal that the paper circulated by the representative of Kuwait at the 30th meeting should appear as an annex to the Sub-Committee's report.

Lastly, he stressed the desirability of formulating concise, comprehensive and acceptable recommendations for submission to the General Assembly, and said that his delegation was prepared to co-operate fully in that task.

Mr. GOWLAND (Argentina) observed that, in 1969, substantial progress had been made both in clarifying the positions of many delegations on controversial matters and in outlining a solution to some difficult problems. He believed that, if the same spirit continued to prevail, it would be possible to resolve the problems in a realistic manner and take due account of the national and international interests at stake. His delegation had always taken the view that the nature of the national and international interests involved was so complex that they would have to be studied in the greatest detail.

The technical reports available to the Sub-Committee revealed that while the practice hitherto had merely been to adapt to the marine environment, the techniques employed on land, the world was now witnessing the first steps in the development of a new technology for exploiting the mineral resources of the sea. However, despite the new developments, he considered that, of all the resources of the sea-bed, only petroleum offered prospects of economic exploitation within the near future. All the information which had been gathered confirmed once again the need to examine the problems involved objectively and not to encourage hopes which might jeopardize the very important interests of coastal States.

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(Mr. Gowland, Argentina)

The competent authorities of Argentina were at present evaluating the material on the economic and technical conditions and rules for the exploitation for the resources of the area; and, when the interesting statements made by a number of representatives in the Sub-Committee had been studied as well, it should be possible to reach a decision on the technical and economic requirements of the régime which was to be finally established. In that regard, he hoped that the further study requested of the Secretary-General in General Assembly resolution 2574 C (XXIV) would be circulated in sufficient time to enable the Sub-Committee to complete its over-all review of the subject and comply with the General Assembly's instructions. There was an essential link between the adoption of the principles to govern the peaceful uses of the sea-bed and the establishment of an international machinery; and the Sub-Committee must prepare a declaration of principles which would be sufficiently comprehensive to achieve the objectives set out in General Assembly resolutions 2340, 2467 and 2574.

While the Secretariat review of government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21) was useful, he agreed with the observation of the USSR representative that it was incomplete because it failed to refer to the legislation of the socialist countries. The data it contained should be studied with great care, since the aims of States exploiting the resources of their continental shelf were completely different from the objectives of exploitation in the area beyond national jurisdiction. Although the document referred to the provisions of the 1958 Geneva Convention on the Continental Shelf, which affirmed that there must be no unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, it should be remembered that article 2 of the same Convention stated that the coastal State exercised over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources, and also that those rights were exclusive in the sense that if the coastal State did not explore the continental shelf or exploit its natural resources, no one might

(Mr. Gowland, Argentina)

undertake those activities, or make a claim to the continental shelf, without the express consent of the coastal State.

His delegation wished to reiterate its full support for the idea of international co-operation in promoting scientific knowledge of the sea-bed and the ocean floor, but it considered that freedom of scientific research should be conditional upon prior submission of research programmes and prompt publication of the results, in order to enable the international community to determine at all times whether the activity in question was strictly scientific. Furthermore, in accordance with existing international law, if scientific research was to be undertaken on the continental shelf within the jurisdiction of a coastal State, prior consent must be obtained from that State, which must be entitled to participate in the research from the very outset and to benefit from its results.

As stated in General Assembly resolution 2574 A (XXIV), the task of delimitation of the area would be facilitated by the establishment of an equitable international régime. Accordingly, before discussing the question of amending the existing law governing the continental shelf, it would be necessary to have a clear idea of the kind of international régime to be established. He awaited with great interest the report of the Secretary-General on the views of Member States concerning the desirability of reviewing the régimes of the high seas, the continental shelf, the territorial sea and the contiguous zone - a report which, in the light of operative paragraph 2 of General Assembly resolution 2574 B (XXIV), must certainly be taken into consideration. Lastly, he wished to endorse the proposal that the paper circulated by the representative of Kuwait should be incorporated in the report of the Sub-Committee.

Mr. GRABOVSKY (Union of Soviet Socialist Republics) said that his delegation, having studied General Assembly resolution 2574 B (XXIV) and document A/AC.138/21, wished to outline briefly the procedure for developing and protecting natural resources on the continental shelf of the Soviet Union.

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(Mr. Grabovsky, USSR)

The exploration, evaluation and exploitation of the area's resources raised a number of complex problems which called for careful scientific preparation and the use of various research techniques and equipment. The exploitation of mineral resources on the continental shelf in the Soviet Union was governed by the Decree dated 6 February 1968 of the Presidium of the Supreme Soviet and Resolution No. 564 of the Council of Ministers dated 18 July 1969, which formed the basis of the relevant rules and regulations. Registration was required for the exploration, evaluation and exploitation of natural resources on the continental shelf of the Soviet Union. Activities were registered by the Ministry of Geology, for the exploration and evaluation of mineral and other inorganic resources on the continental shelf; by the State Mining Inspectorate for the exploitation of mineral and other inorganic resources; and by the Ministry of Fisheries, in regard to sedentary marine fauna. The registration procedure was defined by the respective ministries and departments. Foreign juridical and physical persons, as well as Soviet organizations, were obliged to obtain permits in cases where permits were required by the legislation in force. Permits for erecting structures and other installations on the continental shelf for the exploration, evaluation and exploitation of its natural resources - and for the creation of surrounding safety zones - were issued by the competent authorities in accordance with the relevant rules. Organizations and persons conducting operations on the continental shelf of the Soviet Union were required to use its natural resources rationally, to prevent pollution of the shelf and the marine environment over it by radioactive substances and other waste or by-products, and to take measures to protect vegetable and animal life. They were also obliged to observe the rules established by the Soviet Ministry of Geology governing the exploration and evaluation of mineral resources on the continental shelf; the rules established by the State Mining Inspectorate, in agreement with the Ministry of Fisheries and other interested ministries and departments, concerning operational safety and the protection of mineral and other inorganic resources; and the rules established by the Ministry of Fisheries concerning the exploitation and conservation of sedentary marine fauna. Government inspection was carried out by the authorities of the Ministry of Geology, the State

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(Mr. Grabovsky, USSR)

Mining Inspectorate, the Ministry of Fisheries, the Central Directorate of the Hydro-Meteorological Services (in matters relating to the surficial deposits and superjacent waters of the continental shelf, including indications of chemical and radioactive contamination), and the various State health inspection services (in matters relating to hydrobiological and microbiological factors in areas where the water was used by the population). If those bodies discovered that the rules were being violated they issued mandatory orders for compliance with the rules, and also issued orders to halt activities and even instituted court proceedings in cases of gross violation or where human life, property or the natural resources of the shelf were threatened.

Exploration, development and exploitation of the resources of the continental shelf were conducted by State and co-operative agencies of the USSR. The advantages of that system were that planned operations by the State benefited the national economy as a whole, prevented pollution and abuse, eliminated the wasteful competition which was inherent in the capitalist system, and ensured the rational development of the area's resources for the benefit of the Soviet people.

The Soviet Union attached great importance to international co-operation. In that connexion, he referred to the provisions of the Declaration of 23 October 1968, on the Continental Shelf of the Baltic Sea, which laid down rules for the exploration and development of the resources of the Baltic continental shelf. The declaration had been signed by the German Democratic Republic, the Polish People's Republic and the Soviet Union, and it was hoped that other Baltic coastal States would accede to it.

The Soviet Union also attached great importance to the exploration of marine deposits of petroleum, gas, manganese ore, non-ferrous metals and other sea-bed resources. In the next five years petroleum output in the USSR would amount to 2,700 million tons, of which some proportion would come from sea-bed deposits. In 1969, therefore, the Soviet Union began undertaking operations in the seas off its coast.

If the extraction of mineral resources beyond the limits of national jurisdiction was to be profitable, research would have to be continued and new equipment developed; and attention would also have to be focused on problems

(Mr. Grabovsky, USSR)

relating to the industrial exploitation of resources at great depths. In his delegation's view, there was no need to act too hastily in regard to the exploitation of mineral resources beyond the limits of national jurisdiction, since in all probability economic exploitation of such resources would not begin for some decades.

The main aspect to be considered at the present stage was research. In 1969 the Soviet Union had carried out research on the best possible techniques and equipment for underwater mining. In order to ensure the successful exploitation of underwater minerals at great depths it was essential to solve a whole series of complex problems, relating to the construction of underwater mining and other industrial complexes. Although many countries had, in that connexion, carried out successful work, especially in regard to petroleum and gas extraction, there were as yet insufficient grounds for thinking that the development of resources beyond the limits of the continental shelf would proceed as rapidly as on the shelf itself. Experience showed that the more the resources of the continental shelf were explored and evaluated, the clearer the difficulties entailed in the exploitation of mineral resources at great depths became.

His delegation had not, in the Sub-Committee, mentioned international machinery. It felt that that topic, although important, would best be left for discussion at the August session, when the second part of the Secretary-General's report would be available and representatives would be in a better position to express their views.

Miss MARIANI (France) said that her delegation wished to comment further on some of the points to which the United States representative had referred at the Sub-Committee's twenty-seventh meeting (A/AC.138/SC.2/SR.27).

As to the size of tract to be held by an operator or State, it seemed difficult not to make provision for a delimitation of areas for prospecting and exploitation, particularly in the case of substances the exploitation of which called for the use of fixed equipment. In the case of substances exploitable by mobile equipment, all that seemed necessary was a notification of the area in which operators would be working. In delimiting areas for the first category of substance (exploitable by fixed equipment) several factors must be taken into account. The dimensions of such areas should be reasonable,

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(Miss Mariani, France)

and should be determined on the basis of prospecting and exploitation requirements. The areas would be assigned to States or groups of States and it would be up to States to divide them between the undertakings concerned. The exploitable area beyond the limits of national jurisdiction was so vast that it was still too early to express an opinion on the delimitation of areas which could be assigned to a single State. The ways and means of applying any limitations that might be determined would be very varied and would be based on several geographical, economic or other criteria. A system of weighted co-efficients could be applied, but the formula adopted must not result in a mapping out of the oceans contrary to the principle that the sea-bed and ocean floor and the subsoil thereof were the common heritage of mankind. The question of limitation of tracts was linked to that of duration of rights, the lapse of such rights and the need to prevent the "freezing" of entire areas. It should be noted, too, that effective delimitation of tracts would give rise to technical problems which would eventually have to be discussed.

In so far as conditions of production were concerned, account would have to be taken of the economic conditions of exploitation and of the possible effects of sea-bed output on the prices of primary commodities. That question must obviously be examined in the over-all context of the production of and trade in substances extracted from land as well as from the sea-bed and ocean floor and the subsoil thereof; it could not be limited to the framework of the régime to be established for the use of the resources of the sea-bed. It followed that, since the problem included the question of the organization of the commodity market, it did not lie wholly within the competence of the Sea-bed Committee. Nevertheless, the Committee should concern itself with the matter and take an interest in measures designed to reduce fluctuations in commodity prices.

In its statement to the main Committee at its twenty-third meeting, her delegation had said that provision should be made in rules and regulations - which would be binding on States - for measures relating to prospecting and exploitation activities, the prevention of unjustifiable interference with the other uses of the high seas, the safety of workers and equipment and the prevention of pollution and other damage to resources and the environment

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(Miss Mariani, France)

(A/AC.138/SR.23, p. 13). Highly technical norms and particular specifications would form the subject of measures adapted to each type of exploitation. There would thus be two types of rules and regulations, one general and the other special. The need to submit periodic reports on the technical conditions of activities undertaken would seem to be a corollary of the norms and obligations to be respected.

France had already suggested that scientific information and data acquired during mineral exploration and exploitation should be transmitted to IOC for publication. It seemed necessary to provide, however, that in cases where an undertaking incurred expense in obtaining information which proved to be of commercial value publication could be delayed for a specified period.

Attention should also be paid to the question of liability. It seemed necessary to envisage the conclusion of an international convention on civil liability for damage caused by pollution. The convention would be accompanied by a resolution on the establishment of an international indemnification fund for damage due to pollution by hydrocarbons.

There were various ways of determining the amount and means of payments to be made. There could, for instance, be a fixed payment on registration or issuance of the licence, a lump-sum payment for a specific period or a payment proportionate to benefits derived. In taking a decision on that question, the Committee must take account of economic realities and of the need to grant a reasonable proportion of the profit to the operator.

Her delegation had already referred to the need to provide that exploitation rights should lapse in the case of non-exploitation (A/AC.138/SR.23). Forfeiture of rights could be considered as a sanction for violation of obligations imposed on the prospector or operator, and was linked to the question of inspection and control. Consideration could also be given to the possibility of reducing an area assigned if such a step was justified by substantial changes in the conditions of exploitation. The area could be reduced, for instance, when a licence for prospecting was changed to one for exploitation or, if only one licence were granted for both operations, at the time of moving on from the prospecting to the exploitation phase. Subject to compliance with certain regulations, operators would, of course, always be able to abandon areas which proved to be unproductive.

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Some form of inspection and control, such as the submission of periodic work reports, would be necessary. Failure to submit reports within the stipulated time-limit would constitute a presumption of failure to comply with obligations entered into. The same would apply in case of non-payment of dues. In order that the inspection machinery would not be too unwieldy, the inspection of equipment should not be carried out at regular intervals, and the conditions in which it was carried out should be laid down in a convention. Officials of the country conducting the operations could take part in the inspection, to which the international machinery to be established could send observers.

There was obviously a need for some procedure for the settlement of disputes, based on systems recognized in international law. The functions of conciliation or arbitration might be entrusted to ad hoc international bodies.

Mr. JONSSON (Iceland) said that his delegation welcomed document A/AC.138/21, which was a useful basis for the Sub-Committee's work during its current session. It also attached great importance to the survey presented by the United States and to the statements made by the Canadian, Maltese and Soviet representatives. The Maltese representative had indicated that the boundaries between national and international jurisdiction would be established so far out at sea that the bulk of mineral resources would remain within national jurisdiction. He was aware that a number of delegations viewed the idea of wide national limits with apprehension; it should be stressed, however, that most of the sea-bed area would remain under international control and that the coastal States' interest in a relatively wide area of national jurisdiction was based on economic needs and their wish to preserve resources on which they might depend.

Most representatives had mentioned the need for safety and liability provisions. Recent disasters had made it clear how difficult it would be for an international administration to enforce operational standards throughout the world's high seas. Accidents were bound to happen, and not all damage could be repaired. His country, which relied on the fishing industry for 90 per cent of its exports, regarded pollution as a potential threat to its very existence, and felt responsible for protecting its fishing grounds. In

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(Mr. Jonsson, Iceland)

its view, therefore, relatively wider limits for sea-bed exploration and exploitation were necessary, and coastal States should also have the right to control activities in their adjacent waters, carry out repair and rescue operations beyond the limits of the national jurisdiction if necessary and have opportunities to approve or disapprove plans for sea-bed exploration and exploitation in their adjacent waters. His delegation therefore welcomed the United States representative's remarks on that point at the meeting held on 13 March 1970 (A/AC.138/SC.2/SR.29). Iceland's position in regard to the limits of the national jurisdiction was based on its willingness to bear the responsibilities of a coastal State in that respect, both in regard to the sea-bed and the superjacent waters. All the points he had mentioned should be taken into account in the formulation of rules governing sea-bed exploration and exploitation.

FORMULATION OF RECOMMENDATIONS TO BE SUBMITTED TO THE GENERAL ASSEMBLY ON ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION, IN THE CONTEXT OF THE REGIME TO BE SET UP

Mr. McKELVEY (United States of America) introduced his delegation's statement of objectives to be served by the international régime governing the exploration and exploitation of sea-bed resources beyond the limits of national jurisdiction, and asked that the statement be circulated as a working paper of the Sub-Committee.

The meeting rose at 4.45 p.m.

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SUMMARY RECORD OF THE THIRTY-SECOND MEETING

Held on Wednesday, 18 March 1970, at 3.20 p.m.

Chairman: Mr. DENORME Belgium

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FORMULATION OF RECOMMENDATIONS TO BE SUBMITTED TO THE GENERAL ASSEMBLY ON ECONOMIC AND TECHNICAL CONDITIONS AND RULES FOR THE EXPLOITATION OF THE RESOURCES OF THE SEA-BED AND THE OCEAN FLOOR, AND THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION, IN THE CONTEXT OF THE REGIME TO BE SET UP (concluded)

Mr. ARCHER (United Kingdom) requested that the working paper entitled "Propositions, with comments, on the nature and scope of an international régime", which his delegation had circulated to the main Committee during the first week of the session, should be considered as a working paper of the Sub-Committee.

The CHAIRMAN said that in the absence of objection, that request would be complied with.

Observing that no other delegation wished to speak on the item, he suggested that the Sub-Committee should examine its draft interim report to the main Committee.

It was so decided.

ADOPTION OF THE INTERIM REPORT TO THE MAIN COMMITTEE (A/AC.138/SC.2/L.5 and Annex A)

Mr. PROHASKA (Austria), Rapporteur, introducing the draft interim report to the main Committee (A/AC.138/SC.2/L.5), drew particular attention to paragraphs 6, 7 and 8. Annex A would not be the only annex; other annexes would contain the proposals made by various delegations during the debate, including those of the delegations of the Soviet Union, Kuwait, the United States and the United Kingdom.

The CHAIRMAN said that Tunisia should be added to the list of countries which had sent observers to the meetings.

The Rapporteur had mentioned five possible annexes to the report. Members should note, however, that all delegations were entitled to make suggestions or recommendations. Eventually the Sub-Committee would decide which of those suggestions or recommendations should be included in the report.

Members could continue consideration of the draft interim report in an official meeting, or at an unofficial meeting where the discussion could be less formal.

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Mr. PARDO (Malta) reminded members that at the thirtieth meeting he had suggested that the Sub-Committee should make the General Assembly aware that the question of delimitation of the area beyond national jurisdiction was of crucial importance for one of the Committee's main objectives - namely, the use of sea-bed resources in the interests of mankind. He had also suggested that the Sub-Committee should concentrate its attention on the nature of the organ to be created by the treaty or agreement establishing the international régime (A/AC.138/SC.2/SR.30). Neither of those suggestions were mentioned in the draft interim report or in Annex A.

The CHAIRMAN pointed out that the Maltese representative's first suggestion concerned the question of boundary which, in the opinion of certain members, the Committee was not competent to consider. There was, however, nothing to prevent the Sub-Committee from making a recommendation on the importance of the question. Indeed, in its report on its last session the Sub-Committee had referred to the importance of defining the limits of the area (A/7622, Part Three, para. 158 (k)). The Sub-Committee's mandate for the present session was contained in operative paragraph 6 of resolution 2574 B (XXIV) and it was with reference to that mandate that the list contained in Annex A had been drawn up. All suggestions beyond the scope of the strict mandate entrusted to the Sub-Committee for its present session should be handed to the Officers, and would serve as a basis for discussion at a future session.

Mr. PARDO (Malta) said that the nature of any recommendations which the Sub-Committee might be able to formulate would depend on certain assumptions. That fact must be brought to the attention of the General Assembly.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) questioned the need for an interim report, which would serve no practical purpose. At its August session the Sub-Committee could continue its review of the proposals made by delegations and - he hoped - reach some general conclusions. At present, not only was there no agreement on economic and technical conditions and rules for the exploitation of the resources of the sea-bed, but the Sub-Committee was also divided on the manner in which it should tackle the question. The draft interim report contained no reference to the fact that certain delegations had objected to the Secretariat review of Government measures pertaining to the development

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(Mr. Stashevsky, USSR)

of mineral resources on the continental shelf (A/AC.138/21) on the ground that national measures could not be applied to the area beyond national jurisdiction; and it also ignored the suggestion made by certain delegations that, until the question of the régime had been settled and boundaries delimited, it would be difficult to make recommendations concerning economic and technical conditions and rules for exploitation of the area. Admittedly, it would be very difficult to summarize in a short document all the points made during the discussion. It seemed, therefore, that the best course would be to dispense with the interim report.

The CHAIRMAN said that, in order to be able to comply with the General Assembly's instructions, the Sub-Committee must work methodically. That was why he had suggested at the beginning of the session that the Sub-Committee should use the Secretariat review contained in document A/AC.138/21 as a means of determining possible measures for the development of sea-bed resources beyond national jurisdiction (A/AC.138/SC.2/SR.26). His suggestion had been rejected. In March 1969, however, not one delegation had opposed the suggestion that the Secretariat be requested to prepare the review. Presumably, therefore, at that time all members had considered that the review would provide a useful basis for the Sub-Committee's work. It was absolutely essential to agree on a method of work if the next session was not to consist of yet another inconclusive general debate. He appealed to all members to co-operate in compiling a list of topics to be discussed at future sessions.

Mr. DEJAMMET (France) said he agreed with the Soviet representative that no useful purpose would be served by preparing a report reflecting all the points made during the debate. At the present stage, however, the aim was merely to clarify the situation so as to be able to make progress during the August session. To that end the Sub-Committee could maintain the list of topics prepared by the Rapporteur and contained in Annex A to the draft interim report. If that procedure were adopted, members could either endeavour to supplement the list or regard the list as corresponding merely to the proposals of those delegations which had submitted working papers to the Sub-Committee. His delegation favoured the latter approach. In short, the Sub-Committee should adopt a document which would contain, in an annex, a list of topics and proposals made by certain delegations.

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Mr. McKELVEY (United States of America) observed that it would be a grave mistake not to produce any report at all, and that it would be most useful to outline the matters which could be considered at the August session. However, he was not altogether satisfied with the present draft because it contained no reference to some of the points which had been discussed. It would be appropriate, for example, to point out that the Sub-Committee had recognized that existing national systems were not directly applicable to the area beyond the limits of national jurisdiction, and to note that the first task was to identify the problems which must be dealt with when formulating the relevant rules and provisions. It was true that the Secretariat review (A/AC.138/21) did not refer to national practices in the socialist countries. Nevertheless, in describing the pertinent legislation in the Soviet Union at the previous meeting, the USSR representative had touched on practically all the topics enumerated in annex A, which would certainly have to be examined, regardless of the type of régime to be set up. Lastly, the draft report could be amended to reflect the view that certain rules would not be included in the treaty establishing a régime, but would be elaborated by the Administering Authority.

Mr. PAVIČEVIC (Yugoslavia) said he considered that it was only possible to note what had occurred in the course of the debate and to include either in the main body of the report or in an annex, the specific proposals which had been made. The items listed in annex A might together represent a complete system of exploitation, yet he did not feel that they constituted the elements of a future régime based on the principle of the common heritage of mankind. His delegation could not accept an approach which might eventually prejudice the régime to be set up. The topics enumerated in annex A could be retained, but they should be regarded merely as proposals, and not as a list of elements for a generally acceptable régime of exploitation.

Mr. McKELVEY (United States of America) said that annex A to the report did not contain recommendations regarding any rules or provisions. Its sole purpose was to identify the topics which would need to be examined, regardless of the nature of the régime to be set up. With regard to the point raised by the representative of Yugoslavia, he noted that the principle of the common heritage of mankind would certainly be considered in connexion with, for example, such

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(Mr. McKelvey, United States)

items as the assignment of responsibility for the administration of conditions and rules and the definition of entities entitled to participate in sea-bed exploration and exploitation.

Mr. PARDO (Malta) said that he could not agree with the statement in paragraph 8 of the draft report that the issues which might usefully be considered in the context of the proposed international régime were set out in annex A. It had rightly been pointed out that there were two schools of thought - one being that the treaty establishing a régime should contain many provisions. The other view, however, was that a large number of rules would have to be established by the authority set up to implement the régime. If the intention was merely to list the subjects to be examined, but not necessarily included in a treaty, a statement to that effect should be included in the report.

Mr. de SOTO (Peru) said that he could not share the concern expressed by the representative of Malta. It would be most inappropriate for the report to state that the limits of national jurisdiction must be defined before a régime was set up. Some States believed that, if anything, the reverse was true. Moreover, General Assembly resolution 2574 A had requested the Secretary-General to ascertain the views of Member States on the desirability of convening a conference on the law of the sea to arrive at a clear, precise and internationally accepted definition of the area beyond the limits of national jurisdiction.

Mr. YANKOV (Bulgaria) also noted that the draft interim report contained no reference to certain points made in the debate. For example, it did not reflect the opinion that existing national measures could not serve adequately as a model for the international régime to be set up, nor did it state that the Sub-Committee was unable at the present stage to advance specific proposals for rules and conditions. Also, if the Sub-Committee confined itself to the consideration of the topics listed in annex A - as implied in paragraph 8 of the draft report - the scope of its discussions on the international régime would be unduly restricted. Again, the draft report did not mirror the different trends within the Sub-Committee, which had been correctly assessed by the USSR representative. He argued with the representative of France that the working

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(Mr. Yankov, Bulgaria)

papers submitted by delegations could be attached to the report and studied at a later date. However, the Sub-Committee should not try to arrive at general conclusions or to produce any general guidelines, because a number of delegations were not yet prepared to commit themselves.

Paragraph 9 referred to additional proposals which had emerged. The use of the word "additional" implied that the proposals concerning the topics listed in annex A were basic proposals and that the others were of secondary importance. His delegation could not agree to such a distinction, which might commit the Sub-Committee in advance to discussing certain topics and rejecting others.

The Sub-Committee's report should merely record what had actually taken place during the meetings, and should not attempt to provide a detailed list of topics for consideration or even an agenda for the next session.

Mr. LIVERMORE (Australia) said his delegation felt that a report would indeed be useful, and was pleased that the draft interim report was brief. However, the Soviet representative had pointed out that the views expressed on the approach to an international régime had revealed two different trends; and in the Australian delegation's view, the value of the Sub-Committee's work would be diminished if those trends were not reflected in the report.

The list of matters in annex A implied that the Sub-Committee was unanimous about the topics to be considered. Such unanimity, however, did not in fact exist. Referring to the French representative's observations, he felt that the report should be neutral and that all proposals should be considered on their merits.

At previous meetings there had been opportunities to submit amendments in writing to the Rapporteur. The Chairman had suggested informal consultations, but his delegation felt it might be helpful if delegations were given an opportunity to submit amendments in writing.

After a short procedural discussion in which the CHAIRMAN, Mr. TEJA (India), Mr. PARDO (Malta), Mr. GOWLAND (Argentina), Mr. STASHEVSKY (Union of Soviet Socialist Republics) and Mr. McKELVEY (United States of America) took part, it was decided that at the next meeting, which would be informal, the Sub-Committee would undertake a point-by-point study of the draft interim report, and that

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delegations wishing to do so could submit proposals in writing to the Rapporteur no later than the next day.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that although his delegation appreciated the account which had been given of United States experience in regulating resources development activities on its continental shelf, he could not support the idea, advocated by the United States delegation, of a convergence of the capitalist and socialist systems for the development of sea-bed resources. The list contained in annex A, although it had undoubted merits and reflected the views of a number of States, did not mention the type of exploitation system which the Soviet Union would adopt; and it could not therefore be regarded as expressing the views of all delegations at the current session, although some of its general provisions might be taken as "common denominators".

Since some common ground was discernible in the approach to an international régime, his delegation had submitted a six-point list of what it regarded as basic issues. It had no objection to the document being circulated as a reflection of the views of a certain group of delegations.

Mr. ARCHER (United Kingdom) said that the topics raised at the current session should be regarded only as tentative and preliminary; matters other than those mentioned in annex A might well be introduced later. It was more important to consider how the Sub-Committee should fulfil its mandate than to consider whether or not it should adopt a report, although a report seemed to be a convenient way of achieving this.

Mr. IMAM (Kuwait) said his delegation felt that, whenever specific proposals were made, the sponsors should be clearly identified in order to dispel any fear on the part of delegations that certain views might be attributed to them in error.

Mr. BRECKENRIDGE (Ceylon) said he agreed with the United Kingdom representative's remarks, and felt that an informal meeting would be useful. It might be more useful for the Sub-Committee simply to consider its programme of work and decide what it should do at the next session, rather than concern itself with the preparation and adoption of a report.

The meeting rose at 5.20 p.m.

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SUMMARY RECORD OF THE THIRTY-THIRD MEETING

Held on Friday, 20 March 1970, at 3.30 p.m.

Chairman: Mr. DENORME Belgium

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ADOPTION OF THE INTERIM REPORT TO THE MAIN COMMITTEE (A/AC.138/SC.2/L.5 and Annex A and revisions) (continued)

The CHAIRMAN invited the Sub-Committee to consider the draft interim report paragraph by paragraph, including the revisions to paragraphs 6 to 9 contained in the two texts submitted at the informal meeting on the previous day.

Paragraphs 1 to 5

Paragraphs 1 to 5 were adopted with drafting changes.

Paragraph 6

Mr. PROHASKA (Austria), Rapporteur, read out the proposed revised text of paragraph 6.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that, since the relevant General Assembly resolutions did not specify what kind of régime should be created to govern the development of sea-bed resources, his delegation proposed that the word "international" in the last sub-paragraph should be replaced by the word "appropriate".

Mr. McKELVEY (United States of America) said that, as it was recognized that national systems were inappropriate for the development of resources for the benefit of mankind as a whole, any appropriate régime was bound to be international. He therefore hoped that the Soviet delegation would not insist on its proposal.

Mr. ZEGERS (Chile) said that, as it was clear from paragraph 6 that national rules and practices were not directly applicable, he could not see how the word "international" at the end of paragraph 6 could give rise to any difficulty.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the Sub-Committee should be guided by the wording of the relevant General Assembly resolutions; he was not aware that the word "international" appeared - in connexion with the régime - in any Assembly resolution or any document of either Sub-Committee.

Mr. McKELVEY (United States of America) suggested that the words "under an international régime" might be replaced by the words "beyond the limits of national jurisdiction". /...

Mr. ZEGERS (Chile) pointed out that the régime was described as "international" in General Assembly resolution 2574 D (XXIV). In any case, he could not see any reason for regarding the word "international" as in any way unsuitable in the present context.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) suggested that, as a compromise solution, the words "international régime" could be replaced either by "appropriate international régime to be set up beyond the limits of national jurisdiction" or by "appropriate régime to be set up under international jurisdiction".

Mr. de SOTO (Peru) said he agreed that any appropriate régime was bound to be international. There was not in any case any reason why the Sub-Committee should use only words contained in General Assembly resolutions.

Mr. KOSTOV (Bulgaria) said he agreed with the Soviet representative that, while some delegations had reservations about describing the régime in advance as international, the replacement of the word "international" by the word "appropriate" should be acceptable to all delegations.

Mr. PAVICEVIC (Yugoslavia) suggested that, as a compromise, the words "international régime" might be replaced by "appropriate régime internationally agreed upon".

Mr. OWADA (Japan) said that revised paragraph 6 as it stood was quite acceptable to his delegation. As a compromise, however, he suggested that since the meaning of the words "beyond the limits of national jurisdiction" was already covered by the term "in this environment", one possible solution might be to repeat at the end of the last sub-paragraph the words used at the end of the first sub-paragraph - i.e., to replace all words after the phrase "in this environment" with the words "under the régime to be set up".

Mr. SULEIMAN (Libya) said that if the Sub-Committee amended the wording of paragraph 6 it would also have to amend the text of paragraphs 7 and 8, where the same difficulty would arise.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that, as his delegation had no wish to delay the Sub-Committee's work, it was prepared to agree that the text should be amended along the lines proposed by the Japanese and Yugoslav representatives. However, it felt that the last line of the last sub-paragraph should read "under an appropriate régime agreed upon in a universal international agreement".

Mr. BRECKENRIDGE (Ceylon) said he feared that the word "universal" in the Soviet representative's proposal might lead to further controversy.

Mr. ZEGERS (Chile) said that, as a compromise, the Sub-Committee might adopt the wording "under a régime to be set up in accordance with the resolutions of the General Assembly", which was only slightly different from the wording proposed by the Japanese representatives.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said he could not accept the Chilean representative's proposal. An international régime could not be established by a General Assembly resolution; such régimes were established by international agreements, treaties or conventions. He therefore appealed to the Chilean representative to accept the Japanese or the USSR formula.

Mr. ZEGERS (Chile) said that the idea underlying his proposal was not that the régime would be set up by General Assembly action, but that it would be established in accordance with the General Assembly resolutions. To make the matter clear, a comma could be inserted after the words "set up" in the wording he had proposed.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the insertion of a comma in the Russian version of the Chilean amendment would make no difference to the meaning.

Mr. McKELVEY (United States of America) said that, while he appreciated the Chilean representative's desire to reach a satisfactory solution, he did feel that the establishment of the régime would entail action beyond the limits of the wording of the General Assembly resolutions - possibly, the conclusion of a treaty or convention. The Chilean representative's proposal might therefore lead to

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(Mr. McKelvey, United States)

complications, and he himself preferred the wording "under an appropriate régime internationally agreed upon", as proposed by the Yugoslav representative.

The CHAIRMAN suggested that the paragraph, as so amended, might be adopted on the understanding that delegations could revert to it when translations in all the working languages were available.

Paragraph 6, as orally amended, was adopted.

Paragraph 6 (a)

Mr. PROHASKA (Austria), Rapporteur, read out two alternative texts of paragraph 6 (a), the first of which was supported by the Soviet delegation the second by the delegations of Malta and Kuwait.

Mr. LIVERMORE (Australia) said that his delegation preferred the first alternative. With regard to the second, it asked for some clarification of the phrase "institutional arrangements".

Mr. STELLINI (Malta) asked that his delegation be allowed to defer its reply to that question until the next meeting.

Mr. IMAM (Kuwait) said that the original wording, which his own delegation would have preferred, had been "institutional machinery". To meet the wishes of the Maltese delegation however, the words "institutional arrangements" had been substituted. His delegation also felt that the words "or might be left for determination by States" could have been omitted.

Mr. ZEGERS (Chile) said that the Rapporteur, in drafting the original paragraph, had tried to produce a neutral summary which would not pre-judge any delegation's position. In his delegation's view, all conditions and rules should be included in the treaty, and none should be left for determination by States, except perhaps for those dealing with certain economic and technical questions which might be determined by coastal States. His delegation preferred the second version of paragraph 6 (a), which was closer to the Rapporteur's draft and also left open the possibility of a series of additional treaties.

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Mr. PAVICEVIC (Yugoslavia) said that his delegation was not convinced that the Sub-Committee was required to take a decision on the substance of paragraph 6 (a) at the present stage of its discussions. He therefore suggested that consideration of that paragraph should be left in abeyance.

It was so agreed.

Paragraph 6 (b)

Paragraph 6 (b) was adopted.

Paragraph 7

Mr. PROHASKA (Austria), Rapporteur, read out two alternative texts of paragraph 7, the first of which was supported by the Soviet delegation and the second by the delegation of Ceylon.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the second version of paragraph 7 represented an attempt to determine not only what the Sub-Committee should do at its next session but how it should do it - namely, by adopting a draft resolution. Since the Sub-Committee's mandate was clearly stated in paragraph 6, his delegation saw no real reason for including paragraph 7 at all. If the Sub-Committee wished to include such a paragraph, the first alternative should be adopted, since the second went beyond the terms of operative paragraph 6 of General Assembly resolution 2574 B(XXIV) by which the Sub-Committee's mandate had been established.

Mr. de SOTO (Peru) suggested that the two versions of paragraph 7 should be amalgamated.

The CHAIRMAN suggested that the Rapporteur should be asked to amalgamate the two versions. It should be clearly understood that the paragraph reflected the views of certain delegations only.

Mr. FLEMMING (United Kingdom) pointed out that the first version was less specific than the second, which implied that the Sub-Committee would identify the most suitable solutions for the problems raised and recommend them to the General Assembly, through the main Committee, for adoption. That was much more than the Sub-Committee was likely to achieve in the near future. The last

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(Mr. Flemming, United Kingdom)

sentence of the second version was also more specific than any assertion made in the first. While he would not suggest that the paragraph be deleted he nevertheless preferred the first version. In any case, the distinction between the two versions should be maintained in the amalgamated text to be prepared by the Rapporteur.

The CHAIRMAN suggested that the Rapporteur should draft a revised version taking into account the comments made during the meeting.

It was so agreed.

Combined paragraphs 8 and 9

Mr. DIGGS (Liberia), supported by Mr. BRECKENRIDGE (Ceylon) and Mr. PAVICEVIC (Yugoslavia) suggested that in the penultimate line of sub-paragraph (a) the word "might" should be replaced by the word "will".

Mr. OWADA (Japan) said that the Liberian amendment implied that agreement had been reached on the type of machinery to be set up; but that was not the case. Nevertheless, since the words "several delegations" in the first line made it clear that the sub-paragraph did not reflect the views of all delegations, Japan could accept the amendment.

The CHAIRMAN supported by Mr. FLEMMING (United Kingdom), suggested that the difficulty might be settled by replacing the words "which will", as suggested by the Liberian representative, with the word "to".

Mr. DIGGS (Liberia) thought that the word "will", which implied a positive approach to the question, should be retained.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the question of machinery would not be considered until the August session. Therefore, his delegation regarded sub-paragraph (a) as expressing the views of certain delegations only.

The CHAIRMAN suggested that the Liberian amendment be adopted.

It was so agreed.

Mr. de SOTO (Peru) suggested that the words "along with any additional suggestions made subsequently" be inserted after the word "which" in the third line of sub-paragraph (b).

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Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that his delegation was not among those which had suggested the topics listed in annex A to document A/AC.138/SC.2/L.5, and it did not know what suggestions might be made subsequently. He proposed, therefore, that the words "in the view of those delegations" be inserted after the words "might be".

Mr. de SOTO (Peru) questioned the need for the words proposed by the Soviet delegation.

The CHAIRMAN suggested that the difficulty would be settled if, instead of adopting the Peruvian or Soviet amendments, the Sub-Committee were to insert the words "inter alia" after the word "might".

It was so agreed.

Mr. PAVICEVIC (Yugoslavia) suggested the deletion of the word "proposed" in the third line of sub-paragraph (b).

The CHAIRMAN suggested that the Yugoslav amendment be accepted, and that the words "to be set up" be inserted after the word "régime" in the penultimate line.

It was so agreed.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) proposed that the word "usefully" be inserted before the word "considered" in sub-paragraph (c).

It was so agreed.

Mr. BRECKENRIDGE (Ceylon) proposed the deletion of the letters (a), (b) and (c) at the beginning of the three sub-paragraphs.

It was so agreed.

Combined paragraphs 8 and 9, as amended, were adopted.

Additional paragraph

Mr. ZEGERS (Chile) recalled that, at the informal meeting held on the previous day, the Brazilian delegation and his own, supported by those of Cameroon, Peru and Trinidad and Tobago, had proposed the insertion of the following additional paragraph: "It was stressed that it would be necessary to

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(Mr. Zegers, Chile)

consider alternative sets of methods and criteria for the allocation of financial proceeds and other benefits derived from the international zone among the members of the international community. In this regard, it was agreed by the Sub-Committee that the Secretary-General should present a paper on this subject in time for the August session."

Mr. PAVICEVIC (Yugoslavia) proposed the insertion - at the end of the first sentence of the Chilean text - of the words "taking into account General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV)", since those resolutions affirmed the principle of participation by all mankind in the benefits to be derived from the area.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the proposed paragraph did not reflect the unanimous view of the Sub-Committee. The international régime had not yet been defined and exploitation activities would not be undertaken in the area for many years. Hence, it was premature to speak of the allocation of financial proceeds. Moreover, such a study, if carried out, would not be factual, since it could not be based on any existing data. Accordingly, the paragraph should contain a sentence reading: "Other delegations took the view that, in practice, the preparation of such a study was not essential for the fulfilment of the Sub-Committee's mandate."

Mr. ZEGERS (Chile) observed that the Sub-Committee's mandate was to study economic and technical conditions for the exploitation of the resources of the area - exploitation which would be undertaken for the benefit of mankind as a whole. Consequently, it was essential to consider methods and criteria for the allocation of the financial proceeds. It would be difficult to carry out that task without a study prepared by the Secretary-General. Moreover, a request for a study did not commit delegations in advance. It might be possible to start the paragraph with a phrase such as "Many delegations thought it was necessary...", then to include the view of the USSR delegation in a sentence which would begin with the words "Some other delegations felt..." and finally, to say: "The Sub-Committee nevertheless decided to request the Secretary-General to prepare such a study."

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Mr. KOSTOV (Bulgaria) said that he shared the concern which had been expressed by the USSR representative. It was not necessary at the present stage to request the Secretary-General to prepare a study of the type proposed. Furthermore, it was not appropriate to use the expression "It was agreed" when, in fact, there were differing views within the Sub-Committee.

Mr. DEJAMMET (France) noted that, in the absence of a consensus, it was impossible to ask the Secretary-General to prepare the study in question. Nevertheless, the report could stress that some delegations considered it desirable to examine the question of the distribution of financial proceeds and that some aspects of that question might be included in the further study on international machinery called for in General Assembly resolution 2574 C (XXIV).

Mr. ZEGERS (Chile) said that he was deeply discouraged by the lack of unanimity regarding the need for a system which would ensure that all mankind could share in the benefits to be derived from the area. Many delegations considered that the proposed study was indispensable; but now it appeared that some form of veto was being exercised. Perhaps the best course would be to have a short recess, in order to hold consultations on ways of overcoming the present difficulties.

Mr. CABRAL de MELLO (Brazil) said that he too was discouraged by the opposition to the Chilean proposal. The preparation of a study would not prejudge the positions of delegations. On another occasion, the USSR delegation had questioned the usefulness of the study on international machinery, but had not objected to its preparation; and it was now widely recognized that the study on international machinery had been of great value. With regard to the suggestion of the French representative, he noted that it was not for the Secretariat to decide which matters should be included in the studies it was requested to undertake.

Mr. McKELVEY (United States of America) agreed that the international community's participation in the proceeds of exploitation was a primary objective of the international régime. On the other hand, the resources of the Secretariat were limited, and it was essential that the studies which had already been

(Mr. McKelvey, United States)

requested of it should be completed by August. He therefore suggested that the Sub-Committee should refer in its report to the importance of the subject, and state that it anticipated the need for the study in question, though the latter would not be required for the next session.

Mr. ENGO (Cameroon) said that he firmly supported the Chilean proposal. The Secretariat had not given even the slightest indication that too much work was being requested of it, and he considered that the study would provide much valuable information which could serve as a basis for future discussion on a most important topic. Participation in the exploitation of the area beyond the limits of national jurisdiction would help to bridge the gap between the wealthy and poor nations and would greatly facilitate the task of assisting the developing world. In his view, the arguments against using the resources of the area for the benefit of mankind as a whole were inadequate.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) reiterated his view that it would be premature to request an additional study at the present time. In fact, the Secretary-General had not yet completed his further study on international machinery. Moreover, the proposal for yet another study had only been made in the final stages of the Sub-Committee's work, and not during the substantive discussion, at the present session.

Mr. ENGO (Cameroon) said that some delegations, while paying lip-service to the principle that the resources of the sea-bed were to be used for the benefit of mankind as a whole, immediately expressed reservations when it came to the question of determining how the principle was to be implemented. To say that the question had not been discussed was not entirely true. His delegation had several times said that the developing countries should be the first to benefit from sea-bed resources, since they would in that way be provided with a means of bridging the gap between themselves and the rich countries. Some delegations had contended that, if the Secretariat undertook the study, it would have to shelve other priority work. In the opinion of the developing countries, however the question of benefits was one of the utmost priority and should be the subject of a Secretariat study. It should be noted, in that connexion, that the Secretariat had at no time pleaded excess of work.

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Mr. ZEGERS (Chile) said that the question of benefits had been raised at the twenty-second session of the General Assembly, at previous sessions of the Committee and, by the Brazilian representative (A/AC.138/SR.19, p. 4) at the current session. In so far as the relevance of the question to the Committee's work was concerned, he pointed out that the Committee had been requested to submit recommendations for consideration by the General Assembly at its twenty-fifth session. It was difficult to see how the question of the allocation of benefits could be omitted from any recommendations which might be made. In order to be able to fulfil its mandate, the Sub-Committee would have to have the proposed Secretariat study by August.

The meeting rose at 6.15 p.m.

SUMMARY RECORD OF THE THIRTY-FOURTH MEETING

Held on Monday, 23 March 1970, at 3.35 p.m.

Chairman: Mr. DENORME Belgium

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ADOPTION OF THE INTERIM REPORT TO THE MAIN COMMITTEE (A/AC.138/SC.2/L.5/Rev.1) (concluded)

Mr. PROHASKA (Austria), Rapporteur, introduced the revised text of the draft interim report (A/AC.138/SC.2/L.5/Rev.1). Paragraph 10 had, in error, been marked as having been adopted.

Paragraph 7

Mr. PARDO (Malta) observed that the alternative wordings of paragraph 7 were not mutually exclusive. If all words after the word "questions" in the first paragraph were deleted, together with the first line of the second paragraph, the two texts could very well be combined.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that, if that solution were adopted, it would be advisable to delete the words "would require institutional arrangements or" in the second paragraph.

Mr. PAVICEVIC (Yugoslavia) said that, if the USSR proposal was accepted, the text would be too vague, and the two paragraphs should be eliminated altogether. The only alternative would be to make the text more specific by inserting the phrase "or would come within the competence of the international machinery".

Mr. McKELVEY (United States of America) said that it would be better to retain the combined formulation, since it identified the different possibilities, but did not indicate a preference for any of them. However, the possibilities could be made even clearer by inserting the word "international" before the words "institutional arrangements".

Mr. PARDO (Malta) said that the term "institutional arrangements" did not necessarily mean machinery. Thus, the formula proposed by the United States representative did not prejudice the position of any delegation and was completely acceptable.

Mr. LIVERMORE (Australia) agreed that the paragraphs should be combined, and that the United States representative's proposal improved the text. However, the word "would" in the penultimate line of the second paragraph should be replaced by the word "might".

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Mr. KHANACHET (Kuwait) said he had no objection to the combined version of the paragraphs, provided it was understood that "international institutional arrangements" meant international machinery; otherwise, he would support the Yugoslav representative's suggestion for the elimination of both paragraphs. He could not accept the Australian representative's proposal, and felt that the word "would" should be retained.

Mr. PAVICEVIC (Yugoslavia) said that he would not insist on the deletion of the paragraphs. However, he thought that the last three lines of the second paragraph should be amended to read: "... specified and in what detail in the treaty establishing the régime and which of them would be elaborated in an international régime, which of them would come within the competence of an international machinery and which of them would be determined by States".

Mr. TEJA (India) said that he had intended to make a proposal along similar lines. The phrase "would require institutional arrangements" in the existing text of the second paragraph could be expanded to read "would require international machinery or other institutional arrangements".

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that that proposal did not reflect the views expressed in the Sub-Committee during the debate. No final decision had yet been taken on the question of international machinery and the functions to be assigned to it. He doubted whether it would be possible at the August session to clarify which provisions would be incorporated in the régime and which would be determined by an international machinery. At the present stage, there was no common approach to that problem. Accordingly, he proposed the deletion of the phrase "would require institutional arrangements or" and the insertion of a statement as follows: "Some delegations considered that the Sub-Committee should also specify which of the possible alternatives would require international machinery or other institutional arrangements".

Mr. McKELVEY (United States of America) said that the intention was to identify alternatives, regardless of whether they appealed to delegations. Consequently, it would be useful to insert the word "alternative" before the word "questions" in the third line of the first paragraph.

Mr. PAVICEVIC (Yugoslavia) said that, if the aim was to draw a distinction between national and international competence, reference must be made to international machinery. Accordingly, his delegation had no objection to the Indian representative's formula, as developed by the USSR representative.

Mr. ALO (Nigeria) said that the Sub-Committee appeared to have lost sight of the point made by the representative of Malta, which was that the term "international institutional arrangements" might cover the positions of all delegations. It could be agreed that, for the purpose of drafting the report, all delegations were entitled to their own interpretation of the meaning of the term.

The CHAIRMAN suggested that the problems raised by paragraph 7 should be discussed in informal consultations, and that the Sub-Committee should proceed to consider paragraph 10.

It was so agreed.

Paragraph 10

Mr. KLEIN (Czechoslovakia) said that his delegation would accept the first part of the first sentence of the text as it appeared in document A/AC.138/SC.2/L.5/Rev.1, but thought that the reference to a draft resolution prejudged the issue and that the paragraph should therefore end with the words "the issues raised".

Mr. BRECKENRIDGE (Ceylon) suggested that the point made by the Czechoslovak representative might be met by replacing the words "and incorporate them" by the words "with a view to their incorporation".

Mr. KLEIN (Czechoslovakia) said that, if that change were made, his delegation could accept the whole paragraph.

Mr. PARDO (Malta) proposed that the word "further" in the fourth line be replaced by the word "systematically".

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Mr. ZEGERS (Chile) thought it would be better to say "further and systematically".

Mr. STASHEVSKY (Union of Soviet Socialist Republics) supported that proposal. He also suggested that the word "Committee" in the first line should be replaced by the word "Sub-Committee".

The CHAIRMAN said that the word "Committee" had originally been used because one member had pointed out that terms of reference had been established by the General Assembly for the Committee and not for the Sub-Committees. However, since there was a reference at the end of the first sentence to a draft resolution to be recommended by the Committee to the General Assembly, he felt that the word "Sub-Committee" could be used in the first line.

Mr. PAVICEVIC (Yugoslavia) proposed that a new phrase reading "and taking into account the study undertaken by the Secretary-General pursuant to General Assembly resolution 2574 C (XXIV)" should be inserted in the first sentence after the words "General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV)".

Mr. STASHEVSKY (Union of Soviet Socialist Republics) said that the paragraph with the various amendments which had been proposed was no longer acceptable to his delegation. In particular, it was premature at the present stage to specify that recommendations to be made by the Sub-Committee or the Committee in August should be made in a particular form.

The CHAIRMAN pointed out that the paragraph began with the words "It was felt", which indicated that the view recorded had not been held by all delegations.

Mr. PARDO (Malta) said that if the Chairman's interpretation of the phrase "It was felt" was correct, it would appear that the Sub-Committee was not agreed even on the need to study further and systematically the most suitable alternative solutions to the issues raised. If that was true, its deliberations seemed to have little point.

The CHAIRMAN said that if there were no objection, he would request the Rapporteur to produce a final text of the paragraph, taking into account all the suggestions which had been made.

It was so agreed.

The meeting was suspended at 4.50 p.m. and resumed at 5.45 p.m.

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Paragraphs 7 and 10

The CHAIRMAN read out the following agreed text for paragraph 7:

"The Sub-Committee also recognized that when considering economic and technical conditions and rules for activities of exploration and exploitation of the resources of this area, it would also have to study the alternative questions as to which economic and technical conditions and rules might need to be specified and in what detail in the treaty establishing the régime, and which of them might require international machinery or international institutional arrangements or might be left for determination by States. In this connexion, it was stressed by some delegations that consideration of such alternatives would not prejudice their future position with regard to international machinery or international institutional arrangements".

Mr. TEJA (India) said that the first sentence as read out by the Chairman was acceptable to his delegation and to a number of other members of the Group of 77. With regard to the second sentence, he took it that that consideration of any of the three alternatives mentioned in the first sentence would not be regarded as prejudicing the position of any delegation.

Mr. ALO (Nigeria) said that his delegation would have preferred the insertion of the word "an" before the phrase "international machinery" wherever it occurred, and the deletion of the word "future" from the second sentence.

Mr. BRECKENRIDGE (Ceylon) said that in his delegation's view, the second sentence could have stated that consideration of all three alternatives would not prejudice the position of delegations on any one of them.

Paragraph 7, as read out by the Chairman, was adopted.

Mr. PROHASKA (Austria), Rapporteur, read out the following agreed text to replace the first sentence of paragraph 10:

"The Sub-Committee proposes at its next session in August 1970, keeping in mind the concurrent studies of the main Committee and of the Legal Sub-Committee pursuant to General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV), and taking into account the study undertaken by the Secretary-General pursuant to General Assembly resolution 2574 C (XXIV), to study further systematically and identify the most suitable alternative solutions to the issues raised.

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(Mr. Prohaska, Austria)

"It was felt that this study should be made with a view to incorporating the most suitable alternative solutions in a draft resolution to be recommended by the Committee to the General Assembly."

The last sentence of the original text would remain unchanged.

Paragraph 10, as read out by the Rapporteur, was adopted.

Additional paragraph

Mr. PROHASKA (Austria), Rapporteur, read out the text of an additional paragraph which had been prepared as a result of the discussions which had taken place on 20 March, and had been circulated as a conference room paper.

Mr. de SOTO (Peru) pointed out that the paragraph should refer not only to "possible criteria" but to "possible criteria and methods".

The additional paragraph, as amended, was adopted.

Mr. BRECKENRIDGE (Ceylon) proposed that the additional paragraph be inserted before the present paragraph 10, which should be renumbered accordingly.

It was so agreed.

Mr. BAUM (Co-ordinator, Ad Hoc Unit for Marine Sciences and Technology, Resources and Transport Division) said that the Secretariat was, as always, fully at the disposal of the Sub-Committee and would undertake anything within its limited capability to meet the requests made of it. He was sure that the Sub-Committee realized the difficulties which would have to be overcome in preparing the requested study on criteria and methods for the sharing by the international community of proceeds and other benefits derived from the exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction. Some of the most relevant assumptions on which such a paper would have to be based had not yet been agreed upon. It was therefore extremely difficult to predict the extent of the activities which might take place in the undefined area beyond national jurisdiction, and it would be very risky to make any hypotheses about the form of those activities, and the proceeds and revenues to be derived from them. Because of the time factor - in particular, the time required for translation into the working languages - it would not be within the Secretariat's power to produce any thorough paper for the August session. In addition, the Secretariat was already engaged in preparing a study in depth of the international machinery, as well as a paper on the prevention and control of marine pollution which might be caused by exploration and exploitation activities

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(Mr. Baum)

on the ocean floor beyond the limits of national jurisdiction. The preparation of those two studies, which were to be completed in time for the August session, already strained the limited resources of the Secretariat.

However, in addition to those studies, the Secretariat was ready to produce a very brief paper enumerating ways and means for the international community as a whole to share in the benefits stemming from economic activities of the ocean floor and the sub-soil thereof. The paper would be a modest first attempt and there would therefore be some considerable omissions, but he hoped that the paper would serve some useful purpose in providing material for the discussions in August.

Annexes

Mr. PROHASKA (Austria), Rapporteur, said that in Annex C, Nigeria should be deleted from the list of co-sponsors, and that the title of Annex A should start with the words "List of topics suggested by some delegations to be studied...". The existing wording for the remainder of the title would be retained.

Mr. ZEGERS (Chile) noted that Annex E contained a working paper presented by the United Kingdom containing propositions on the nature and scope of an international régime. He recalled that during the discussion the representative of El Salvador had suggested amendments to the United Kingdom propositions; and he suggested that those amendments should be added to the report as Annex F.

The CHAIRMAN said that if there were no objection, and if the representative of Chile could prepare a text in the form of a working document, the proposal could be accepted in principle.

It was so agreed.

The draft report as a whole, as amended, was adopted.

Mr. PARDO (Malta) recalled that, according to the agreed text of paragraph 10, the Sub-Committee was to study further systematically and identify the most suitable alternative solutions to the issues raised. He

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(Mr. Pardo, Malta)

believed that it would be advantageous at the August session to focus attention on one or two points - for example, the assignment of responsibility for the administration of provisions and rules and the definition of entities entitled to participate in sea-bed exploration and exploitation. Discussion of the remainder of the points listed in the annexes could be postponed. It would thus be possible for the Sub-Committee to arrive at positive decisions with regard to a limited sector of its work.

The CHAIRMAN suggested that delegations be given time for consultations on the matter raised by the Maltese representative. If necessary, the Sub-Committee could be reconvened at a later date to take a formal decision on the matter.

It was so agreed.

The meeting rose at 6.5 p.m.
