UNITED NATIONS

GENERAL ASSEMBLY

Distr.
GENERAL

A/AC.138/SC.III/SR.20-32
12 December 1972

ENGLISH
Original: ENGLISH/FRENCH

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

SUB-COMMITTEE III

SUMMARY RECORDS OF THE TWENTIETH TO THIRTY-SECOND MEETINGS

held at the Palais des Nations, Geneva,
from 20 July to 16 August 1972

Chairman:	Mr. van der ESSEN	Belgium
Rapporteur:	Mr. IGUCHI	Japan

The list of representatives appears in documents A/AC.138/INF.7 and Corr.1-3, A/AC.138/INF.7/Add.1 and Corr. 1 and 2, A/AC.138/INF.7/Add.2 and Corr.1, and A/AC.138/INF.7/Add.3-5.

GE.72-27414

CONTENTS

ABBREVIATIONS

CMEA	Council for Mutual Economic Assistance
FAO	Food and Agriculture Organization of the United Nations
GESAMP	Joint Group of Experts on the Scientific Aspects of Marine Pollution
GIPME	Global Investigation of Pollution in the Marine Environment
IAEA	International Atomic Energy Agency
ICSU	International Council of Scientific Unions
IGOSS	Integrated Global Ocean Station Systems
IMCO	Inter-Government Maritime Consultative Organization
IOC	Intergovernmental Oceanographic Commission (of UNESCO)
LEPOR	Long-term and Expanded Programme on Oceanic Research
ODAS	Ocean Data Acquisition System(s)
SCOR	Scientific Committee on Oceanic Research (of ICSU)
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization
WMO	World Meteorological Organization

SUMMARY RECORD OF THE TWENTIETH MEETING

held on Thursday, 20 July 1972, at 3.30 p.m.

Chairman: Mr. van der ESSEN Belgium

ORGANIZATION OF WORK

The Chairman declared open the proceedings of the Sub-Committee III of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, which had been requested to consider questions concerning the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research, and to prepare draft treaty articles thereon. Delegations would first hear a statement on the work of the United Nations Conference on the Human Environment by Mr. Baum, Head of the Ocean Economics and Technology Branch in the Department of Economic and Social Affairs of the United Nations Secretariat.

STATEMENT BY THE REPRESENTATIVE OF THE DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS

Mr. BAUM (Department of Economic and Social Affairs), speaking as Assistant Director, Ocean Economics and Technology Branch, said that he would attempt to refer only to those actions taken at the United Nations Conference on the Human Environment held at Stockholm in June 1972 which would be expected to have an important bearing on the work of the Committee and of Sub-Committee III, especially in regard to the preservation of the marine environment and the problems posed by marine pollution. He would deal in particular with the Declaration of the United Nations Conference on the Human Environment and the Action Plan for the Human Environment, 1/ which, in some instances, referred explicitly to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and to the forthcoming Conference on the law of the sea.

The Declaration was an historic document. It consisted of 26 principles, preceded by a preamble, in paragraph 6 of which the Stockholm Conference stated inter alia that "a point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences", and that "to defend and improve the human environment for present and future generations has become an imperative goal for mankind", to be pursued together with the fundamental goals of peace and of world-wide economic and social development.

The principles embodied in the Declaration stressed that the natural resources of the earth in the broadest sense must be safeguarded through careful planning or management, and that the capacity of the earth to produce vital renewable resources must be maintained, restored or improved. The principles went on to describe the measures to be taken and the obligations to be observed by States in regard to the discharge of

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1/ See "Report of the United Nations Conference on the Human Environment, held at Stockholm, 5-16 June 1972" (A/CONF.48/14) (to be issued as a United Nations publication) part one, chapters I and II. (The decisions of the United Nations Conference on the Human Environment relating to the preservation of the marine environment and to marine pollution were subsequently circulated in Sub-Committee III under the symbol A/AC.138/SC.III/L.17).

toxic substances or of other substances and the release of heat harmful to the environment, the pollution of the seas in all its aspects, the strengthening of the economic potential of developing countries and the need to mitigate the economic consequences of environmental measures, and the rights and duties of States in the exploitation of their resources. In the fight against marine pollution, States were called upon to co-operate to develop further the international law regarding liability and compensation for the victims of pollution, and also to display a co-operative spirit in all matters relating to the environment.

The Action Plan adopted at Stockholm gave considerable prominence to the problems of marine pollution. Recommendation 86 in the Plan was of particular relevance for the Sub-Committee. He quoted extracts from that recommendation, and also referred to recommendation 92, to the effect that Governments should collectively endorse the general principles for the assessment and control of marine pollution set forth in paragraph 197 of the document entitled "Identification and control of pollutants of broad international significance" 2/ as guiding concepts for the Conference on the law of the sea and the IMCO Conference on Marine Pollution scheduled to be held in 1973.

States were called upon also in recommendation 92, to take note of the three principles relating to the rights of coastal States, which had been discussed but neither endorsed nor rejected by the Intergovernmental Working Group on Marine Pollution, which had held its second session at Ottawa in 1971. 3/

The parts of the Action Plan dealing with marine pollution might provide a basis for the Sub-Committee's deliberations; the 23 principles mentioned in sub-paragraph (a) of recommendation 92, which Governments were recommended to endorse, formulated in general terms the rights and obligations of States in regard to the preservation of the marine environment. States were invited to co-operate in the appropriate international forums in ensuring that exploration and exploitation activities on the sea-bed and the ocean floor beyond the limits of national jurisdiction did not result in pollution of the marine environment.

If delegations so desired, the Secretariat would attempt to reproduce, for the use of the Sub-Committee, those recommendations in the Action Plan which were of direct concern to its work.

Mr. BEESLEY (Canada) said that, since the Committee's second 1971 session, the international community had passed an important milestone which was bound to give a new impetus to the Committee's work. That milestone was the successful conclusion of

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2/ A/CONF.48/8. The text of the 23 principles also appears in annex III of the report of the Stockholm Conference (A/CONF.48/14).

3/ See the report of the Intergovernmental Working Group on its second session (A/CONF.48/IWGMP.II/5), paras. 12 and 13. The text of the three principles is also given in the foot-note to sub-paragraph (a) of recommendation 92, reproduced in document A/AC.138/SC.III/L.17 (circulated subsequently).

the United Nations Conference on the Human Environment at Stockholm. The Canadian delegation believed that the results of that Conference had a direct bearing on the Committee's work, and on that of the Conference on the law of the sea, to which the Committee's work must soon lead. The results of the Stockholm Conference to which the Canadian delegation was referring were the Declaration of the United Nations Conference on the Human Environment, the statement of objectives concerning the marine environment, the general principles relating to the marine environment, the three principles relating to the rights of coastal States, and the draft convention on ocean dumping. The Canadian delegation suggested that all those documents should be submitted to the Committee as soon as possible as official documents of the Stockholm Conference.

The Declaration on the Human Environment adopted by the Stockholm Conference was not merely a plea for co-operative action, or a message or an educational vehicle; it was a basic charter, laying the foundation for the future development of international environmental law. The Canadian Government accepted the legal principles embodied in the Declaration as reflecting existing rules of customary international law. The principles of the Declaration which, in the Canadian view, were of direct concern to the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor were principles 21, 22 and 7. Principle 21 of the Declaration provided that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources, pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of, areas beyond the limits of national jurisdiction." It should be noted that the first element in that principle stressed the rights of States, while the second element made it clear that those rights must be limited or balanced by the responsibility to ensure that the exercise of rights did not result in damage to others. The Canadian delegatin believed that that balancing of rights and responsibilities was fundamental, since it was essential to reconcile national interests and those of the international community. Moreover. the responsibility not to damage the environment of other States had been recognized by the landmark decision in the Trail Smelter case and in the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere in Outer Space and under Water. 4/ The Canadian delegation considered that that existing rule of customary international law should be the starting point for the Committee's work in developing a régime for the protection of the marine environment, including in particular coastal areas.

Principle 22, a corollary of principle 21, affirmed that States should co-operate "to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction." There again, the Trail Smelter case gave support to the view that, under existing customary law, the polluting State must pay for any extra-territorial damage caused by activities under its control or jurisdiction. It had, however, been recognized at the Stockholm Conference that international law in that field required further development, since the right to compensation raised difficult questions, particularly with regard to compensation for damage suffered in areas beyond the limits of any national jurisdiction. There, as elsewhere, action was needed at both the bilateral and multilateral levels.

4/ United Nations, Treaty Series, vol.480 (1963), No.6964, p.45

In saying that it recognized those two principles as rules of customary international law, the Canadian Government was stating a reality and not merely expressing a pious intention. In a communiqué published on 13 July 1972, the Canadian and United States Governments had explicitly reaffirmed their support for principle 21 of the Declaration on the Human Environment as the basis for their discussions on problems relating to the maritime transport of oil. In the communiqué, the two Governments acknowledged that the application of the principle to the environmental questions which might arise between the two countries necessarily involved principle 22 regarding co-operation between States in the conclusion of arrangements concerning compensation for the victims of pollution. Those two principles were of particular importance with respect to activities along the border and the coasts of the two countries. The Governments of Canada and the United States of America were working out arrangements for the settlement of disputes relating to the environment, so as to ensure prompt and appropriate compensation for damage to either side by the activities of the other. In the two precedents established by the Trail Smelter and Gut Dam cases, Canada had recognized its obligation to pay compensation for damage caused in the United States by activities within Canada.

The Canadian delegation regretted that the Stockholm Conference had not adopted another principle which, in its view, flowed necessarily from principle 21 - namely the duty of States to inform one another concerning the possible environmental impact of their actions upon areas beyond their jurisdiction. That principle had not been rejected by the Conference, but had been referred to the General Assembly for further consideration. The Canadian Government, which believed that the principle expressed an existing duty of States under customary international law, hoped that an acceptable text would be found for it.

Another principle adopted by the Stockholm Conference which explicitly concerned the marine environment was principle 7, to the effect that States should "take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea." That principle reflected not only the duty of States to protect the marine environment, but also contained a definition of marine pollution. It was therefore obviously of fundamental importance for the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and of Sub-Committee III. The Canadian delegation considered that it was the duty of the Sub-Committee to formulate rules and measures to give effect to that principle.

The second instrument to which the Canadian delegation wished to refer, since it related to the work of the Sub-Committee, was the statement of objectives concerning the marine environment adopted by the Intergovernmental working Group on Marine Pollution and reproduced in paragraph 11 of its report on its second session.

The statement of objectives read as follows:

"The marine environment and all the living organisms which it supports are of vital importance to humanity, and all people have an interest in ensuring that this environment is so managed that its quality and resources are not impaired. This applies especially to coastal area resources. The capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources are not unlimited. Proper management is required and measures to prevent and control marine pollution must be regarded as an essential element in this management of the oceans and seas and their natural resources".

The importance of that statement, which contained the points on which Canada had always insisted in the Committee and elsewhere, could not be over-emphasized. In 1971, the Canadian delegation had stated at the 63rd plenary meeting of the Committee that the law of the sea had reached a stage where it must become environmentally oriented as well as commercially oriented and resource-oriented. It had also pointed out that the future law of the sea must reflect the interests of the coastal State, and must be based on resource-management concepts. Those ideas had been included in the statement of objectives of the Intergovernmental Group on Marine Pollution, which had been endorsed by the Stockholm Conference in its recommendation 92. The essential concept of ocean-space management applied, of course, not only to marine pollution, but to such other aspects of the law of the sea as fisheries and scientific research, and was therefore of importance to the work of the Committee as a whole.

Thirdly, the Canadian delegation wished to comment on the 23 general principles for the assessment and control of marine pollution suggested by the Intergovernmental Working Group and recommended to Governments by the Stockholm Conference. Principle (1) represented a particular application to the marine environment of principle 21 of the Declaration on the Human Environment. Its emphasis on the duty not to pollute areas where an internationally shared resource was located brought out clearly the need for the law of the sea to protect community interests as well as to accommodate national interests. That necessary balance between national interests and those of the community was basic to the Canadian delegation's approach to the issues of the law of the sea.

Principle (2) recognized the need for both national and international measures, under agreed international arrangements, for the prevention of marine pollution. Principle (3) recognized that marine pollution problems were part of a complex set of problems concerning the human environment as a whole. In view of their peculiar characteristics, marine pollution problems could best be dealt with in the context of the law of the sea, while taking into account the totality of environmental problems. With regard to the choice of the forum to deal with marine pollution problems, the most appropriate criterion might be the extent to which a given form of pollution was directly caused by some use of the sea itself. In that connexion, sufficient attention had not yet been given to the question as to which sources of marine pollution could be effectively dealt with by the Conference on the law of the sea.

Principle (4) stressed the obligation of States to enforce all the existing national and international regulations on marine pollution, which they were not always equally energetic in doing.

Principle (5) affirmed the joint responsibility of all States for the preservation of the marine environment beyond the limits of national jurisdiction, without specifying what those limits were or prejudging the question. It should therefore be read in the light of the recognition of the particular interests of coastal States and in conjunction with principle (2) regarding national and international measures for the prevention of marine pollution.

The Canadian delegation was glad that in principle (6) the special problems developing States faced in carrying out their duties to protect the marine environment were recognized and that the duty of technologically developed countries to assist other countries was affirmed. It was clearly necessary to go much further in elaborating and later implementing that principle.

Principle (7) was in fact a restatement of principle 21 in the Declaration on the Human Environment; like principle 21, it affirmed the duty of States to compensate the victims of pollution damage outside the limits of the polluting State's jurisdiction as a result of activities under its jurisdiction. The Canadian delegation considered that international agreements would have to be worked out providing for compensation to be payable in cases where damage was caused by States or by international organizations or agencies and establishing tribunals to settle disputed cases.

The development of the internationally agreed rules and standards referred to in principle (8) was fundamental to the approach of the Canadian delegation, which had emphasized that marine pollution could effectively be attacked only by a combination of global, regional and national rules and standards. As an extension of principle (8), principle (9) recognized the existence of regions which, for geographical and ecological reasons, formed a natural entity and an integrated whole and in which concerted action by the States concerned was essential.

With regard to the international guidelines and criteria to be developed according to principle (10), the Canadian delegation considered that it was primarily the responsibility of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor to provide the policy or overall legal framework for marine pollution control measures at the international level. However, the principle also recognized that a multi-disciplinary and multi-agency approach was required for a comprehensive plan for the protection of the marine environment. Principle (11) and principle (12) were closely linked with principles (8) and (9).

Principle (13) reflected the concern of many States, including Canada, that effective provision should be made to guard against what might be called the transfer or export of pollution problems. It stressed that national and regional measures for the prevention of marine pollution must be consistent with global measures. Principle (14) emphasized the importance of establishing national, regional and global review mechanisms to ensure that new threats to the marine environment could be promptly identified and that national legislation or multilateral agreements could be speedily amended to provide against such new dangers.

Principle (15) recognized that the problems of marine pollution could not be solved by the development of international law alone, but necessitated active co-operation among States and international organizations in the scientific and technological fields. It was particularly important, therefore, that the Committee should take into account the need for a multi-disiplinary approach and for the extra-legal expertise which other forums must bring to the solution of problems of the law of the sea such as those concerning marine pollution, scientific research and fisheries. While the legal strategy was essential, it could not alone resolve all the issues which were bound to arise. Principle (16) was simply a further development of principle (15).

Principle (17) represented a particular application of what the Canadian Government considered to be the existing customary rule against extra-territorial damage resulting from activities within the territory of a State. The Canadian delegation considered that the principle should not be limited to the responsibilities of the coastal States, but should apply with equal or greater force to States whose vessels operated on the high seas or within the territorial waters of other States. It should also be noted that principle (17) did not prejudice the right of the coastal State to protect its territory from the damage which might result from activities in adjacent areas of other States. The Canadian delegation would revert to that point in connexion with the three principles concerning the rights of coastal States which it had proposed at the second session of the Intergovernmental Working Group on Marine Pollution.

Principle (18) recognized that pollution incidents might result from the exploration and exploitation of continental shelf resources. As the Canadian delegation and stated in Sub-Committee III in 1971 (10th meeting), it would be necessary to establish international standards with respect to the anti-pollution measures which coastal States were obliged to undertake in regard to the exploitation of sea-bed resources, even within the limits of their national jurisdiction. A number of States had already taken such national measures and their experience should be of assistance in working out an agreement on safety measures for the exploitation of sea-bed resources beyond the limits of national jurisdiction.

Principle (19) reaffirmed the need for parallel and co-ordinated action at the national and international levels; the Canadian delegation thought that the measures adopted for the protection of the international sea-bed area should, in any case, represent the minimum measures to be adopted by States in areas within their national jurisdiction.

Principle (20) constituted an essential first step in tempering the traditional freedom of navigation with a view to the protection of the marine environment in general and the coastal environment in particular. In the Canadian delegation's view, a further essential step would be to provide for the rights of coastal States where internationally agreed rules or standards had not been complied with or had not been established; he would revert to that question when dealing with the three coastal jurisdiction principles which had been referred to the Committee.

The right of intervention by coastal States on the high seas, as recognized in principle (21), represented another existing rule of customary international law. That principle had been enunciated by the Institute of International Law at its Edinburgh meeting in September 1969 and was recognized in the 1954 International Convention for the Prevention of Pollution of the Sea by Oil, as subsequently revised, with respect to accidents involving oil pollution. Further evidence that it had achieved the force of a customary rule of law was provided by the Torrey Canyon case, and that rule had been incorporated in British legislation in advance of the entry into force of the Convention. The right of intervention was limited by the fact that the coastal State could intervene only after a maritime accident had occurred; what was needed above all, therefore, was to prevent such incidents from occurring, and the Canadian delegation would return to the subject of the preventive action which could be taken by a coastal State.

Principle (22) expressed a legitimate concern to avoid an unnecessary proliferation of international agencies and to make the best possible use of those which already existed, including the new environmental secretariat which the Stockholm Conference had decided to establish.

The Governments of Canada and the United States of America had already begun to implement principle (23). In a joint communiqué issued in July 1972, they had indicated that progress had been made in developing joint contingency plans for the water boundary areas between the United States and Canada in the event of a spill of oil or other noxious substances, that a plan had also been prepared for the Great Lakes, and that other proposals for the Atlantic and Pacific coasts were being studied. The Canadian delegation hoped that arrangements of that type between countries would set a pattern for co-operation that would give global effect to the principles endorsed by the Stockholm Conference.

The Canadian delegation recalled that in November 1971 it had submitted to the Intergovernmental Working Group on Marine Pollution, at its second session at Ottawa, three principles relating to the rights of coastal States (reproduced in paragraph 12 of the Working Group's report on that session), drafted in terms similar to those proposed by the Spanish delegation. The three principles had been approved by a number of delegations; other delegations had disagreed with them, and others again had thought that the Intergovernmental Working Group was not the appropriate forum for their discussion.

The first of the principles represented a logical extension of the ideas contained in the statement of objectives he had quoted earlier, and in the 23 principles approved by the Stockholm Conference, with regard to the interests and obligations of coastal States. If it was recognized that rights must be balanced by responsibilities, then surely it must also be recognized that responsibilities must be balanced with the necessary rights and powers.

In practical terms, the first principle meant that coastal States had, or should have, the right to establish zones of specialized jurisdiction in areas adjacent to their territorial sea for the prevention of pollution of the coastal and marine environment in general, taking into account the degree of danger and special circumstances which might be involved. The Canadian delegation thought that the Conference on the law of the sea would have failed to provide the necessary accommodation of national and international interests if it did not give effect to that principle of the exercise of rights and responsibilities beyond the traditional limits of the jurisdiction of States. As it had stated in connexion with principle 20 of the Declaration on the Human Environment, the Canadian delegation believed that, to give practical effect to that principle, it was essential that the coastal State should have the right to prohibit vessels not complying with internationally agreed rules and standards - or, where there were none, with its own reasonable national rules and standards - from entering areas where it exercised jurisdiction for the protection of the environment. It was for that reason that it had proposed its second principle, since it believed that the concept of "innocent passage" should be modernized and its application extended to areas adjacent to the territorial waters.

The third principle reflected the general Canadian approach to the whole range of problems of the law of the sea and to marine pollution in particular. The Canadian delegation did not attach particular significance to the terminology used in drafting the three principles; what was fundamentally important was that the necessary recognition of the rights of coastal States should be combined with provisions protecting the vital interests of the international community and that the rights of coastal States should accordingly be exercised on the basis of internationally agreed rules and standards and subject to appropriate procedures for the settlement of disputes.

Before concluding, the Canadian delegation wished to comment briefly on one further important result of the Stockholm Conference - namely, the decision in recommendation 86 to refer the draft articles of a convention on ocean dumping 5/ (and the accompanying annexes to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean

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5/ A/CONF.48/8/Add.1, sect.B.

Floor), for consideration and comment, before they were sent for further consideration, and if possible for adoption, to a conference of Governments to be convened by the United Kingdom before November 1972. In the Canadian delegation's view, the draft articles and their annexes represented the basis for an effective convention on ocean dumping, both from an environmental and from a jurisdictional point of view. Canada had long advocated a convention which did not merely shirk dumping problems by exporting them from one area to another, but which genuinely sought to prevent and control dumping. The draft articles would in fact forbid the dumping of highly toxic substances and greatly restrict the dumping of other substances, under a regulated system. The final decisions on questions of jurisdiction had been left to the future Conference on the law of the sea, since no options in that regard had been closed; but even in their existing form the draft articles laid a basis for an accommodation of interests which might have implications going far beyond the framework of the proposed convention. They did not merely provide the basis for another flag-State convention, enforceable only by flag-States against their own ships (although the concept of flag-State jurisdiction, which was always highly essential, had not been abandoned), but for a convention which could also be applied by coastal States parties against ships "under their jurisdiction." That new conception coincided with the view, constantly upheld by Canada, that jurisdictional problems should be solved by a universal approach analogous to that accepted by all States with regard to slavery and piracy. The Canadian delegation had been particularly pleased, therefore, when the Australian delegation had added to the draft convention a reference to its enforcement by States not only against ships under their jurisdiction but also by States against ships in areas under their jurisdiction. It was encouraging that the Stockholm Conference had approved the draft articles and their annexes, and he hoped that the Governments represented on the Committee would co-operate in taking further measures to ensure their implementation.

The Canadian delegation hoped that Sub-Committee III would discuss the results of the United Nations Conference on the Human Environment, which represented the basis for the legal principles which the Sub-Committee had been instructed to formulate. In that connexion, he wondered whether the Sub-Committee should not fairly soon consider setting up a working group to examine all the ideas put forward during the Conference and any other principles or concepts which delegations might suggest for inclusion in the draft treaty articles. He would be glad if other delegations would make known their views in that respect. The Canadian delegation would have preferred to submit at the present session a complete draft convention on marine pollution, but there had not been time to revise the texts already prepared in the light of the results of the Stockholm Conference; it therefore seemed more appropriate for the Sub-Committee to consider those results and for the various delegations to propose detailed draft articles. The Canadian delegation hoped that the excellent work done at Stockholm, which had come up to everyone's expectations, would inspire the delegations represented in the Committee to display the same spirit of co-operation, goodwill and diligence during the coming weeks. It understood that the Secretariat would shortly distribute a document recapitulating all the recommendations made at Stockholm; it would perhaps be desirable at that time to decide on the setting up of a drafting group. The Sub-Committee could perhaps devote the first part of the session to considering questions relating to marine pollution and then go on to deal with scientific research. The latter questions had not yet received the attention they deserved and the Canadian delegation intended to submit a working document containing a set of principles on the subject at a later stage.

MR. KOVALEV (Union of Soviet Socialist Republics) stressed the importance which his delegation attached to the solution of problems concerning the protection and improvement of the environment. However, for reasons well known to all, the USSR had not attended the Stockholm Conference and had therefore not participated in the elaboration of its decisions; the Soviet Government had declared officially that it reserved its right to determine its attitude at a later date to the documents and decisions of the Stockholm Conference. The presence of the Soviet delegation at meetings of Sub-Committee III, whose programme of work related to several questions which had been discussed at the Stockholm Conference, should not be interpreted as implying any change in the USSR position.

MR. ZEGERS (Chile) said that he had listened with interest to the statements of the representative of the Department of Economic and Social Affairs and the Canadian representative. In view of the importance of those statements, which had acquainted the Sub-Committee with the results of the Stockholm Conference, he hoped that the first of these statements would be circulated as a Sub-Committee document and that the statement of the Canadian representative would be reproduced as fully as possible in the summary record of the present meeting. The documents and decisions of the Stockholm Conference could serve as a basis for the Sub-Committee's work on marine pollution, but the Sub-Committee would also have to consider additional documents which might be submitted on questions which had not been dealt with at Stockholm, such as the rights of the coastal State.

He agreed that the question of marine pollution should be considered first, but did not think it necessary to set up a working group immediately. The establishment of such a group should depend on the progress made in the discussion.

The Sub-Committee should play a major centralizing role in the campaign against marine pollution, and he agreed with the delegation of the USSR that universality was essential in regard to that question. That problem was of a universal nature and did not admit of fragmentation. It was therefore logical that the Sub-Committee should be fully informed of the results of the Stockholm Conference. It was also essential that the 1973 Conference on Marine Pollution being organized by IMCO should co-ordinate its work with that of other organizations and that the Sub-Committee should receive the report of the Preparatory Committee for the Conference which had met during 1972. It was regrettable that the intergovernmental meeting on ocean dumping, held at Reykjavik, had not been held under the auspices of the United Nations and that an intergovernmental convention for the prevention of marine pollution was to be elaborated and opened for signature outside the United Nations framework.

In the field of scientific research, the Sub-Committee should likewise receive the reports of the meeting of the Executive Council of IOC which had been held at Hamburg in July 1972 under the auspices of UNESCO and IOC; perhaps a representative of UNESCO or IOC could inform the Sub-Committee of the results of those meetings and provide it with the relevant documents, together with the documents of previous meetings. That would facilitate the Sub-Committee's task in the field of scientific research and transfer of technology. In the Chilean delegation's view, the Sub-Committee should divide its time equally between marine pollution and scientific research.

Mr. ROSSIDES (Cyprus) stressed the need for the protection of the marine environment, and for steps to combat the danger of marine pollution. The Sub-Committee should consider that question with the utmost urgency, and try to achieve concrete results at the current session. The Secretary-General of the United Nations Conference on the Human Environment had spoken of the need for a global approach to the question, and for action at the international and the regional levels alike. In view of the dangers threatening the coastal States of certain seas, such as the Mediterranean, it was essential to take action immediately. Otherwise, it would be too late. The best course therefore would be to set up a working group to elaborate draft articles on the most important and dangerous aspects of the question, such as the release of heat into the sea and the discharge of toxic and radioactive substances and petroleum products. The Sub-Committee should also encourage the conclusion of regional agreements. The Mediterranean countries, in particular, might draft a convention on the lines of the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, signed at Oslo on 15 February 1972. 6/

Mr. JAIN (India) agreed with the Canadian representative that preventive measures were required to combat marine pollution. There was, however, one important aspect of that question which must always be borne in mind. The developing countries certainly attached great importance to the question but felt that the Sub-Committee, in elaborating measures to combat marine pollution, should take care to ensure that such measures were not prejudicial to the economic or industrial development of the under-developed countries, since for those countries development was the overriding concern. The question of responsibility raised by the Canadian representative should be examined in that context.

The CHAIRMAN noted that a number of delegations had stressed the urgency of the problem of marine pollution and the need to elaborate treaty articles on the subject. There had been some differences of opinion about the setting up of the working group. It seemed that the best course would be to engage first in a brief exchange of views, after which the Sub-Committee might set up a working group to prepare draft articles. It had been suggested that half the session should be allocated to the problem of scientific research; in any case, it would be better to start by considering the question of marine pollution, since the Sub-Committee already had before it a number of documents on that question.

He would therefore suggest that the Sub-Committee should first consider the following documents: the Declaration on the Human Environment, certain articles of which directly concerned marine pollution; the 23 general principles for the assessment and control of marine pollution; and the three principles relating to the rights of coastal States, which had neither been endorsed nor rejected but referred to the Sub-Committee for consideration. Any new articles that might be submitted could also be discussed. After spending a certain time on the exchange of views - which might be completed, say, at the end of the following week - the Sub-Committee could establish the proposed working group. The number of meetings would depend on the number of speakers. The general debate could start at the beginning of the following week.

6/ A/AC.138/SC.III/L.9

In reply to the Chilean representative's questions, he said that the statement of the representative of the Department of Economic and Social Affairs could be circulated as a Sub-Committee document, 7/ and the report of the Hamburg meeting would be made available to the Sub-Committee.

Referring to the Indian representative's observation, he said that, in elaborating rules, all delegations would undoubtedly bear in mind the need to protect the developing countries' interests.

Mr. ZEGERS (Chile) said he approved the Chairman's suggestion that the question of marine pollution should be considered first. However, it was essential not to neglect the question of scientific research and the transfer of technology, which the Committee had not had time to consider at its first 1972 session. The Sub-Committee might consider the two questions simultaneously or allocate half its meetings to the consideration of each of them.

He had no objection to the Sub-Committee discussing the three documents mentioned by the Chairman, on the understanding, however, that other proposals might be submitted, particularly concerning the rights of Coastal States. His delegation intended to submit proposals on that subject.

The CHAIRMAN said that if the Sub-Committee began its consideration of the question of marine pollution on the following Monday, it could devote the following week to the question of scientific research and the transfer of technology, while the working group it was to establish would in the meantime be elaborating draft articles on marine pollution.

Mr. BEESLEY (Canada) asked them when the documents on marine pollution would be circulated, as it would be difficult for the Sub-Committee to begin its work without them. He also asked how many meetings were planned for Sub-Committee III, which would need some time to consider the results of the Stockholm Conference and other related questions. It was essential also to set aside enough meetings for discussing the question of scientific research. It might perhaps be better to adopt a fairly flexible method and in the event of there not being enough speakers on the question of marine pollution, to decide that delegations wishing to speak on scientific research could do so even in the following week.

Referring to the question raised by the Indian delegation, he said that all delegations were sympathetic towards the problems of the developing countries. That question had been discussed at Stockholm, and everyone realized that the new rules to be elaborated must not be allowed to create any further difficulties for the developing countries.

The CHAIRMAN said that most of the documents on marine pollution were to be provided by the secretariat of the United Nations Conference on the Human Environment. The secretariat of the Committee had not yet received them, but would make every effort to have them circulated as soon as possible.

7/ Subsequently circulated under the symbol A/AC.138/SC.III/L.16

Mr. BAUM (Department of Economic and Social Affairs) said that the Secretariat was in a difficult position because it had not yet received the Stockholm Conference documents, which were perhaps not yet available in their final form. Nevertheless, he hoped to be able to circulate the documents, in an unofficial version in three working languages, at the beginning of the following week.

The CHAIRMAN said he hoped that the Sub-Committee would have no objection to beginning its consideration of the question of marine pollution on the basis of unofficial documents and accordingly he suggested that it should start its consideration of the Stockholm Conference documents the following week. If there were not many speakers on the subject, the Sub-Committee might, as the Canadian representative had suggested, take up the question of scientific research.

The meeting rose at 5.35 p.m.

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

held on Tuesday, 25 July 1972, at 11.5 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Marine pollution (A/AC.138/SC.III/L.15-17)

The CHAIRMAN invited the Sub-Committee to resume its consideration of the question of marine pollution and drew attention to the documents before the Sub-Committee, in particular the document entitled "Decisions of the United Nations Conference on the Human Environment (5-16 June 1972) relating to the preservation of the marine environment and marine pollution" (A/AC.138/SC.III/L.17), containing extracts from decisions in the report of the Stockholm Conference 8/ relevant to the programme of work of Sub-Committee III.

Mr. VALDEZ ZAMUDIO (Peru) said that the Stockholm Conference had been an event of outstanding importance both for international relations and for the protection of the human environment, which was being increasingly threatened by the consequences of indiscriminate economic and technological growth.

Before discussing the results of the Conference, he wished to pay a tribute to the Secretary-General of the Conference, the Chairman and other officers of the Third Committee of the Conference, and the Secretary of that Committee and his staff for the work they had accomplished.

With regard to the question of marine pollution, dealt with in paragraph 233 of the Third Committee's report to the Conference, 9/ Peru had strongly supported the draft recommendation contained therein and had maintained, against the views of the representatives of the major seafaring powers, that all matters relating to marine pollution had to be examined by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, which had the task of preparing draft articles on the law of the sea.

His delegation had some comments to make on the draft articles of a convention for the prevention of marine pollution by dumping prepared at the intergovernmental meeting on ocean dumping held at Reykjavik in April 1972 and submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor "for information and comments", in accordance with sub-paragraph (d) of recommendation 86 of the Stockholm Conference (see A/AC.138/SC.III/L.17, sect. B).

In the first place, only 29 countries had participated in the Reykjavik meeting, 11 of them developing countries, including only 2 from Latin America - Argentina and Mexico. The draft articles prepared at the meeting had thus been considered by only a small minority of the countries of the world.

8/ A/CONF.48/14.

9/ A/CONF.48/CRP.14.

The draft articles made no distinction whatever, with regard to the measures to be taken, between developed seafaring Powers and developing countries with only the beginnings of a merchant fleet. They made provision for the prohibition of dumping of all substances - other than those authorized by the articles - for all parties to the convention, without taking into account their relative capacity to pollute, thereby imposing an unfair burden upon developing countries, whose contribution to marine pollution was insignificant.

The draft articles had, in addition, the defect of making no reference to all the zones of the sea under national jurisdiction; article III mentioned only the high seas, the territorial sea and bays. The coastal State's right to adopt measures of its own was hardly recognized in the draft articles, and article VII recommended in fact that such measures should be taken through regional channels.

The preamble to the draft articles acknowledged the "vital importance to humanity" of the marine environment and its living resources and declared that "all people have an interest in assuring that the environment is so managed that its quality and resources are not impaired". In that connexion, the position of his country was that, while it was indeed in the interests of all mankind that the marine environment and its living resources should be properly managed, it was not mankind that should be responsible for that management, as that preamble appeared to suggest. That management was a sovereign prerogative of the coastal State, which should exercise its jurisdiction in the matter in the light of generally recognized and accepted scientific and socio-economic criteria.

His delegation recognized that, as stated in the same preamble, the capacity of the sea to assimilate wastes and render them harmless and its ability to regenerate natural resources was not unlimited. That capacity, however, should continue to be utilized; any renunciation of that utilization of the marine environment could imperil other resources that might be endangered even more by the effects of pollution.

In connexion with paragraph 234 of the report of the Third Committee of the Stockholm Conference, the Peruvian delegation had been one of the sponsors of an amendment intended to improve the constitutional structure of the Intergovernmental Oceanographic Commission of UNESCO. The aim of that amendment had been to replace the existing rigid structure of that Commission by a more flexible one which would make it an effective joint mechanism for the Governments and the United Nations specialized agencies concerned. That amendment had been well received by all the delegations and, after a discussion, the Third Committee of the Stockholm Conference had arrived at a formulation which called for the improvement of the constitutional, financial and operational basis on which IOC was operating.

The draft recommendation in paragraph 239 set forth 23 general principles for the assessment and control of marine pollution, which had been approved in 1971 at the second session of the Intergovernmental Working Group on Marine Pollution, held at Ottawa. That Working Group had also discussed but had neither endorsed nor rejected three principles relating to the rights of coastal States. The Peruvian delegation had supported those three principles, but with reservations, because they did not adequately safeguard the position of the coastal State. His delegation would therefore submit to the Sub-Committee at the present session some modified proposals on the subject.

To conclude on the question of marine pollution, he wished to lay particular stress on the joint statement on nuclear weapon tests submitted to the Third Committee of the Conference by Canada, Ecuador, Fiji, Japan, Malaysia, New Zealand, Peru and the Philippines and to the draft resolution on the same subject submitted by New Zealand and Peru and approved by the Committee by 48 votes to 2, with 14 abstentions. It was later adopted by the Conference at its 16th plenary meeting as resolution 3 (I) on "Nuclear weapons tests". 10/

The complex question of the international organizational implications of the Action Proposals, the subject-matter of a document submitted to the Third Committee of the Conference, 11/ had been discussed at length at the Conference.

In the Peruvian delegation's view, that document had certain negative and contradictory aspects. In particular, it did not refer to intergovernmental regional institutions but only to the regional economic commissions of the United Nations. The Peruvian delegation had therefore proposed and obtained the inclusion in Conference resolution 1 (I), entitled "Institutional and financial arrangements" 12/ of a reference to the significant role to be played by the other intergovernmental regional bodies.

The same document suffered from another defect. It stated, in paragraph 2b of the draft recommendation in paragraph 8, that the Governing Council for Environmental Programmes would "provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system". His delegation had pointed out that the term "environmental programmes" could cover practically all the activities of the United Nations family and had endeavoured to obtain the deletion of the reference to "direction", since it felt strongly that the passage should have referred only to "co-ordination".

There was also an element of contradiction in the document, in that it did not place sufficient emphasis on the future role of the specialized agencies in the matter. That lack of emphasis was totally at variance with the numerous references to IAEA, WHO, FAO, WMO, IMCO, GESAMP and IOC, contained in the draft recommendation in paragraph 233 of the report of the Third Committee, which he had mentioned before.

His delegation was of the opinion that the United Nations had to serve as the main international centre for all activities relating to the human environment and that United Nations machinery should be strengthened in order to perform that function. It was not necessary to create a super-organization but rather to make full use of the resources of the existing specialized agencies and regional organizations.

The CHAIRMAN said that at the meeting to be held on Friday 28 July the Sub-Committee would have the opportunity to hear what the Chairman of IOC had to say concerning structural arrangements for dealing with problems relating to the marine environment.

10/ See the report of the Stockholm Conference (A/CONF.48/14), sect. IV.

11/ A/CONF.48/C.3/CRP.30/Add.2.

12/ See the report of the Stockholm Conference (A/CONF.48/14), sect. III.

Mr. METALNIKOV (Union of Soviet Socialist Republics) said that on 11 May 1971 the Secretary-General of the United Nations had received a message from 2,200 scientists from 23 States addressed to the 3,500 million inhabitants of "planet Earth" and warning of a grave danger threatening mankind. On that occasion, the Secretary-General had rightly said that a very delicate balance of physical and biological phenomena existed on the planet, which must not be upset by the ever faster scientific and technological progress which was being made. Among the elements affecting the biosphere, the most important was modern industry and in particular industrial waste, which found its way into the atmosphere, seas and rivers.

Was it really inevitable that human beings should lose the natural environment in which they had lived for so many thousands of years? Was it inevitable that technological progress should lead to ecological calamity? He did not think so. The development of science and technology bore in itself the potential and, in some cases, the actual capability of preventing the menace of pollution of the biosphere, and of the world ocean in particular. However, many specialists argued that the pollution of the human environment was an inevitable result of the headlong advances being made in technology and their application to development. Indeed, industrial production was growing so fast that it was not yet able to make itself harmless at the same time. Moreover, output would continue to grow as the world's population - which some estimated would reach 6,000 million in 20 to 30 years' time - increased. Thus, there was very little time in which to neutralize the dark side of expanding production.

So far, relatively little had been accomplished, but States should not neglect any measures to protect the oceans, rivers, soil, flora, fauna and the inhabitants of the planet from the "ricochet effects" of technological progress, since the advances of science and technology themselves undoubtedly afforded opportunities for action to preserve nature and protect the living resources of the planet. Any difficulties encountered or expenses incurred were as nought in relation to the greatness and universality of the goal, for the harmful effects of certain technological processes reached beyond national frontiers and geographical boundaries.

Scientists were asking what should be done. Should they passively wait for international understandings or should they act within the existing framework in a way which could reduce the present level of danger now? Scientists were in agreement that various scientific and technical possibilities could be exploited to eliminate the existing contradictions between rapidly expanding production and its obsolescent technology. A number of sciences should be mobilized, including chemical science, which taught that dirt did not exist in nature; dirt was merely a chemical compound in the wrong place. The general principle should be not to dump waste, but to utilize it or to learn how to break down the compound into the elements of Mendeleyev's table.

If initial principles could be worked out for the activity of States to prevent, for the time being, the pollution of the individual parts of the biosphere, for example the world ocean, that would considerably facilitate the future task and enable States themselves, first on a regional and later on an international basis, to make real progress towards the solution of what was a most important, universal objective of all mankind.

The Soviet Union was paying great attention to the implementation, both at the national and international levels, of measures to prevent the pollution of the marine environment. That approach had been reflected in the decisions taken at the Twenty-Fourth Congress of the Communist Party of the USSR and in the speeches made by its leaders at that Congress, which laid down guidelines for action to be taken in that field.

Many measures had already been put into effect or were planned in the Soviet Union in order to comply with the provisions of the International Convention for the Prevention of Pollution of the Sea by Oil (the 1954 IMCO Convention, as amended in 1962, 1969 and 1971). In many oil-loading ports, such as Batumi, Tuapse, Novorossisk, Klajpeda, Ventspils and Nakhodka, there were already coastal installations for cleaning oil-polluted waters. Similar installations were being erected at Odessa. In 1971, some 15 million tons of oil-polluted water had been cleaned by those installations. Most ships of the USSR's merchant marine and fishing fleet subject to the provisions of the International Convention had been fitted with oil/water separators, whose operations were strictly supervised.

On the basis of the IMCO recommendation relating to such devices, the USSR had worked out acceptance tests to determine their compliance with the provisions of the Convention and IMCO's specifications.

Many ports already had shore-based or floating facilities for removing oil-polluted water from ships, floating devices for skimming accidentally dumped oil products and waste from the surface of the water, purification stations, etc.

Ships and coastal installations of the merchant marine had been provided with "Directives on the prevention of pollution of the sea by oil", containing the text of all the basic provisions and requirements of the Convention and a description of methods of avoiding pollution of the sea by oil during navigation, based on the Soviet Union's own experience and that of foreign countries.

All newly built ships were provided with devices for purifying water or storage tanks for the collection of oil-polluted water, waste and garbage, for subsequent transfer to shore-based or floating cleaning plants. In general, Soviet vessels transferred their used oil to shore-based regenerating stations but some was used by them as fuel. To prevent any oil-polluted water from being dumped from ships accidentally into harbours, the current practice was to seal the oil-cleaning system on board ships.

Compliance with measures to prevent oil-pollution was checked by specially appointed persons or groups of persons, or by the water, health and fisheries control authorities. Crews and all others concerned were required to study the requirements of the International Convention, which were also a subject of study in merchant marine schools.

An Inter-Agency Council for the Protection of the Baltic Sea from Pollution had been established to co-ordinate the activities of all agencies, services, organizations, enterprises, ministries and administrations relating to the Baltic.

The water-control authorities patrolled territorial waters in special cutters, scanned the sea from aircraft to detect pollution, systematically checked ships to ensure that they correctly logged oil operations, and calculated the amount of used

oil and the quantity and quality of oil-polluted water and residue transferred to port installations. Persons guilty of polluting the sea by oil were liable to various penalties such as administrative penalties and fines, while malicious offenders were tried by the ciminal courts.

In view of the capital role of the water economy in the life of human beings and in the development of every branch of the economy, in December 1970 the Supreme Soviet of the USSR had adopted the "Basic Principles of the Water Legislation of the USSR and the Union Republics". That comprehensive law included measures for the protection of the country's water resources from pollution and exhaustion as an integral part of the water economy.

In order to reduce the amount of fresh water consumed by industrial enterprises and to prevent their dumping waste water into rivers, water-recycling was planned for the largest water-consuming industries, along with a system of combined water use by enterprises. Rationalization of the use of water in industry would also be achieved by reducing the standard volumes of water used per unit of output, introducing improved technological processes, including "dry" processes, and eliminating water loss in non-production activities.

After describing the vast water requirements of the Soviet economy and giving details of the country's water-supply system, he pointed out that in spite of the great increase in the amount of waste water over the past decade, pollution of water-courses had been arrested and in many rivers the quality of water had been improved. As a result of the planned economic system in the Soviet Union and the fact that all natural resources belonged to the nation as a whole, it was possible to achieve a rational utilization of those resources, and to restore and increase them.

Of great importance for the rational use of water and its protection from pollution had been a number of measures and decisions taken by the Soviet Government in recent years concerning, inter alia, the prevention of pollution of the Caspian Sea, Lake Baikal and the Volga and Ural rivers.

All such measures led in the final analysis to the reduction of the pollution of the human environment and, above all, of marine pollution, since the rivers ultimately found their way into the ocean.

At the international level, the Soviet Union was co-operating on a broad scale in scientific research relating to marine pollution with the Baltic members of CMEA and other countries on the Baltic such as Finland and Sweden. Soviet scientists were participating actively in the work of GESAMP. The Soviet Union was also preparing to take part in the international research programme on marine pollution under the auspices of IOC, a subsidiary body of UNESCO. For a number of years the USSR had participated in IMCO's work on the preparation of the International Convention for the Prevention of Pollution of the Sea from Ships.

One of the important results of the recent top-level discussions between the Soviet Union and the United States of America had been an agreement on co-operation in the preservation of the human environment. The agreement covered, inter alia, prevention of air and water pollution, the protection of nature and the establishment of nature reserves, the prevention of marine pollution, and the improvement of the human environment in towns. In particular, the two countries would endeavour to improve technology and develop non-polluting techniques.

Soviet experts had taken an active part in the second session of the Intergovernmental Working Group on Marine Pollution at Ottawa in November 1971 and in the intergovernmental meeting on ocean dumping in London in May 1972, but he regretted that the organizers of the Stockholm Conference had not respected the principle of universality. As a result that forum had not been sufficiently representative. Agreement on the Baltic Sea had also been hampered by similar neglect.

His delegation believed that the campaign against marine pollution should be based on scientific knowledge of its evil effects and that it was most important to study the processes relating to such pollution. There was no doubt that broad international co-operation was essential if there was to be a comprehensive understanding of what marine pollution involved. With regard to the risk of duplication of efforts, he stressed the need to strike a balance between the competence of the Committee and that of other organizations.

His delegation devoted great attention to the Committee's documentation and in view of the urgency of the problem of marine pollution, had prepared a draft resolution entitled "Measures for preventing the pollution of the marine environment", which he hoped would eventually be adopted by the General Assembly at its twenty-seventh session. He read out the text of the draft resolution. 13/

Mr. FATTAL (Lebanon), referring to the report on the preparatory work for the International Conference on Marine Pollution to be convened by IMCO in 1973 (A/AC.138/SC.III/L.15), said that his delegation was concerned at the possibility that the IMCO Conference would pre-empt the Committee's competence in the matter.

The CHAIRMAN said that the question raised by the representative of Lebanon might best be answered at the meeting which was to be held on Friday 28 July, when the representative of IMCO would make a statement. In any event, the question of a conflict of competence was not one that he could settle.

Mr. ROSSIDES (Cyprus) said that, despite the warning of the former Secretary-General of the United Nations, U Thant, that mankind had only 10 years to take positive action to protect the environment, not enough progress had been made in the two years that had already elapsed and the problem was becoming ever more serious. The time had come for all countries to make a radical change in their approach. In the past, technology had been geared to economic growth at any price. Such a policy could be pursued no longer and it was imperative that technological efforts should be channelled towards saving the environment. Bodies set up by the United Nations could certainly help to improve the situation but they could not do enough on their own. Sacrifices were needed on the part of all States if the crucial problem of environmental pollution was to be solved.

Mr. JAIN (India) said that his delegation attached great importance to the decisions taken by the United Nations Conference on the Human Environment at Stockholm. He referred the Committee to principles 8, 9, 10, 11, 12, 20 and 23 (see A/AC.138/SC.III/L.17, sect. A), of which he read out the last four because of their special importance for the developing countries. He also read out recommendations 93 and 94 (ibid., sect. B), to which his delegation also attached considerable importance.

In conclusion, he promised to give careful study to the draft resolution submitted by the Soviet Union.

13/ Subsequently circulated under the symbol A/AC.138/SC.III/L.19.

Mr. BEESLEY (Canada) paid a tribute to the representative of Peru for his valuable statement, which, through its broader approach to the problem of marine pollution, complemented the Canadian position, which was more legal in approach.

He reminded the USSR representative that Norway and Canada had already prepared in 1971 a draft resolution on the subject of marine pollution 14/ and suggested that the delegations concerned should hold consultations on the subject. With regard to the principle of universality, he expressed the hope that the USSR delegation would adopt a positive attitude to the conclusions of the Intergovernmental Working Group on Marine Pollution at its second session, held at Ottawa in November 1971, since the USSR had been represented there. Although his delegation regarded the adoption of a resolution as an important step forward, it hoped that it would be possible to go further and to discuss principles and even drafting points for an international instrument.

After referring to the need to differentiate between the land environment and the marine environment, he suggested that the Conference on the law of the sea should be asked to concentrate essentially on marine-based rather than land-based pollution, although it should not disregard the latter. It was true that the principles enunciated at the Stockholm Conference dealt largely or solely with land pollution. However, the link between the two forms of pollution could be seen in principles 21 and 22 of the Declaration on the Human Environment.

His delegation understood the position of India but hoped that there would be no departure from the 23 general principles for the assessment and control of marine pollution approved by the Stockholm Conference, since they were not incompatible with the Indian position.

The meeting rose at 1 p.m.

14/ A/AC.138/SC.III/L.5 and Add.1.

SUMMARY RECORD OF THE TWENTY-SECOND MEETING

held on Wednesday, 26 July 1972, at 10.50 a.m.

Chairman: Mr. van der ESSEN Belgium

In the absence of the Chairman, Mr. Espinosa Valderrama (Colombia), Vice-Chairman, took the Chair.

GENERAL DEBATE (continued)

Marine pollution (continued) (A/AC.138/SC.III/L.15-17, A/AC.138/SC.III/L.19)

The CHAIRMAN reminded representatives that it had been agreed that the ensuing debate would focus on the decisions of the United Nations Conference on the Human Environment relating to the preservation of the marine environment and marine pollution (A/AC.138/SC.III/L.17).

After drawing attention to two important new documents which had just been circulated, one a working paper submitted by the Canadian delegation entitled "Principles on marine scientific research for the third Conference on the law of the sea" (A/AC.138/SC.III/L.18) and the other a draft resolution on measures for preventing the pollution of the marine environment submitted by the Union of Soviet Socialist Republics (A/AC.138/SC.III/L.19), he invited the representative of IMCO to address the Sub-Committee.

Mr. MENSAH (Inter-Governmental Maritime Consultative Organization) introduced an IMCO document which provided information on IMCO's activities pertaining to ships' routing, traffic separation schemes, areas to be avoided by certain ships and related questions. 15/ The work was being carried out in close co-operation with Governments and national agencies, institutes, companies and other interested concerns and derived from IMCO's responsibility, under the Convention on the Inter-Governmental Maritime Consultative Organization, 16/ for the adoption of the highest practicable standards in matters concerning maritime safety and efficiency of navigation. IMCO also, of course, had the experience and expertise to fulfil its task.

IMCO was well aware of the close relationship between its work on navigational safety and the question of marine pollution, which had become obvious since the 1967 Torrey Canyon disaster. The question had grown in importance as cargoes of oil and toxic substances increased each year and were carried over longer and longer distances. No system for preventing pollution of the seas could be successful unless it took account of, and placed emphasis on, the prevention of accidents to ships carrying oil and other hazardous cargoes. If a giant tanker were in collision with a small cargo vessel or even a pleasure craft, the level of pollution could be enormous. Consequently, IMCO's accident prevention programme and its traffic separation schemes were of direct relevance to the work of Sub-Committee III. He expressed IMCO's willingness to assist the Sub-Committee to the best of its ability and subject to its limited resources.

15/ IMCO, document Misc (72) 8.

16/ United Nations, Treaty Series, vol.289 (1958), No.4214, p.48.

The Sub-Committee would be interested to know that IMCO's traffic separation schemes had been adopted after considerable discussion with Governments and with shipping and commercial interests. Agreements were reached after debates and compromises and usually took the form of a large consensus. He stressed that they were recommendations, whose adoption Governments had the right to consider, in accordance with the principle of national sovereignty. It was now felt, however, that the importance of the problem was such that adoption of its recommendations by all States was becoming urgent. In order to save time, the previous system, by which an intergovernmental IMCO resolution became valid only after domestic legislation had been enacted, was expected to give place to a simpler system whereby a resolution of IMCO's Assembly would become binding on Governments as soon as they had completed their own constitutional procedures. It should, of course, be clearly borne in mind that IMCO never attempted to put forward proposals as to which State had sovereignty or control over a given area of the seas. Its concern was confined exclusively to maritime safety.

Turning to the question of IMCO's competence in the matter of marine pollution, he assured the Sub-Committee that his agency had no wish to pre-empt the competence of Governments or other organizations and was careful to avoid the risk of duplication of efforts. In reply to suggestions that IMCO was not empowered under the Convention which established it to deal with marine pollution prevention activities, he informed the Sub-Committee that such a restrictive view was not shared by the 75 Governments of member States of IMCO and that IMCO had in fact come into existence in circumstances closely connected with the problem. Although the Convention establishing IMCO had been adopted in 1948, it had not come into force until 1959. In the intervening period, the 1954 International Convention for the Prevention of Pollution of the Sea by Oil had been adopted, and the International Conference on Pollution of the Sea by Oil that had adopted that Convention had assigned the function of depositary to the Government of the United Kingdom, on the understanding that that function would pass to IMCO when the latter body came into being. Since the Governments that were represented at the 1954 Conference were the very same as those that had drawn up the Convention establishing IMCO, it seemed clear that they believed that functions relating to marine pollution could be properly exercised by IMCO in accordance with its Constitution. At present, Governments represented in IMCO and many others had proceeded on the assumption that it was both desirable and right that IMCO should deal with marine pollution, particularly when it resulted from the use of the marine environment by ships. Governments of States members of IMCO had recognized that pollution of the sea by ship-borne oil and other cargo had to be controlled not only as part of the control of the technical operations and practices of world shipping but also as a major part of the objective of promoting the highest practicable standards in matters concerning maritime safety. It would be impossible to deal with the technical requirements for ships and cargoes at sea - and strike the necessary balance between the demands of safety and efficiency and the demands of economic operation - without also dealing with the problem of pollution arising from the operation of ships and the handling of cargo, since the fuel used to propel most ships and much of the cargo carried by ships were capable of presenting pollution hazards of various degrees to the sea and its resources.

Since IMCO was the only United Nations body whose terms of reference were confined to maritime matters, it had a special responsibility to other users of the marine environment, as well as to the coastal States, to take all practicable measures to reduce to the barest minimum the level of pollution of the sea caused by ships. The impact of marine pollution was enormous, and he gave the Sub-Committee various examples of its adverse effects inter alia on exploration, meteorological investigation and fishing. The problem was so serious that the Governments represented in IMCO had recognized that it would be irresponsible and morally wrong if they failed to take action to prevent ships from polluting the seas and that the legalistic argument that there was no specific reference to marine pollution in IMCO's Constitution could not be used in defence of inaction.

In conclusion, he assured the Sub-Committee on behalf of the Secretary-General of IMCO that the IMCO secretariat would keep in close touch and hold consultations with the Sub-Committee and other bodies dealing with matters of marine pollution, so as to avoid the risk of duplication or overlapping.

Mr. DABIRI (Iran) said that the present session was particularly important, in that it followed immediately upon the United Nations Conference on the Human Environment, held at Stockholm in June.

The Stockholm decisions and recommendations on the protection of the marine environment were of great importance and his delegation was grateful for the explanations given on the subject at the 20th meeting of Sub-Committee III by the representative of the Department of Economic and Social Affairs (A/AC.138/SC.III/L.16). In view of the great interest which his Government took in the prevention of marine pollution, he would like to make some general comments on the decisions taken at the Stockholm Conference on the preservation of the marine environment and marine pollution (A/AC.138/SC.III/L.17).

It would be recalled that, during the general debate on marine pollution at the second 1971 session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, his delegation had urged that the main preoccupations of the Committee should be adequately reflected in the final decisions of the United Nations Conference on the Human Environment. It had also expressed the hope that the work of that Conference would not prejudice in any way the course of the Committee's work on the marine environment.

An examination of document A/AC.138/SC.III/L.17 showed that his delegation's concern had been taken into account by the Stockholm Conference. The Declaration and the recommendations adopted by that Conference not only did not invade in any way the terms of reference of the Committee but constituted valuable materials for the work on the preparation of draft articles which Sub-Committee III was called upon to undertake in the near future. Most of the principles contained in the Declaration of the United Nations Conference on the Human Environment constituted rules to guide the actions of States and international organizations on the prevention of environmental pollution, including marine pollution.

The Conference had rightly stressed, in its recommendation 87 (see A/AC.138/SC.III/L.17, sect.B), the importance of research and monitoring at both the national and the international levels. In that connexion, he referred to the decisions taken by his Government as a contribution to the knowledge of environmental problems and the exploration of means of solving them. The statement made on that subject by his delegation at Stockholm had been well received by other delegations to the Conference.

He noted with interest the report on the preparatory work for the International Conference on Marine Pollution to be convened by IMCO in 1973 (A/AC.138/SC.III/L.15). His delegation appreciated the work thus undertaken by IMCO.

He also wished to mention, among the intergovernmental activities which had taken place since the first 1972 session, the intergovernmental meetings on ocean dumping which had been held at Reykjavik in April 1972 and in London in May 1972. Although those meetings had not been held under United Nations auspices, they nevertheless constituted important steps in the process leading to the third Conference on the law of the sea. He would stress, however, the need to prevent an unnecessary proliferation of meetings and to ensure that the meetings held should supplement one another.

Lastly, he wished to refer to the procedure to be followed by the Sub-Committee. His delegation supported the proposal that, after spending a few meetings on the discussion of the Stockholm documents on the prevention of marine pollution, and of the subject of scientific research, the Sub-Committee should engage in the formulation of draft articles on the two subjects.

Mr. PERAKIS (Greece) said that the maritime interests of his country were many and varied. It was interested not only in shipping but also in such matters as the protection of the coastline. Its position was also very close to that of other developing countries, since, like many ancient countries, Greece had not reached a very high level of development. His delegation was firmly convinced that the degradation of the environment was proceeding at such speed that, unless common action was taken, all concerned would suffer separately.

In connexion with the very clear statement just made on behalf of IMCO, he could give the assurance that the work in IMCO measured up to high professional standards and was carried out in a democratic manner. Participation in IMCO had never been restricted; for example, the Legal Committee, in which he himself had had the honour to participate, was an open committee which any member State could join. All the activities of IMCO were carried out at the technical level and every effort was made to avoid duplication, to make full use of all the efforts of other agencies and to observe all United Nations decisions.

That being said, he wished to make some comments in connexion with the relevant decisions of the Stockholm Conference. His first point was that the subject matter was in itself very complex and, in his delegation's view, it could not be dealt with comprehensively in a conference on the law of the sea. By way of example, he would mention some of the problems which could arise. First, there was the possibility of pollution resulting from the accidental discharge of harmful substances. Secondly, there was the case of dumping or wilful discharge. Thirdly, the problem arose of the right of intervention on the high seas against a vessel committing acts which threatened the marine environment. Fourthly, there was the important question of civil liability on the part of the wrongdoer.

His delegation welcomed the submission by the USSR of a draft resolution on measures for preventing pollution of the marine environment (A/AC.138/SC.III/L.19). In order to advance the work of the Sub-Committee, however, his delegation felt that a working group should be established for the purpose of formulating rules that would serve as guidelines to conferences convened not only by the United Nations but also by such bodies as IMCO and UNCTAD. The draft to be framed by that working group would have to conform strictly with the principles set forth in the Declaration on the Human Environment, in particular principles 7, 8, 9 and 10 (see A/AC.138/SC.III/L.17, sect.A). In that connexion, he fully agreed with the Indian representative (20th meeting) that efforts to save the environment should not lead to the stifling of human activities.

Also with reference to the statement made on behalf of IMCO, he wished to stress that IMCO had devised procedures which would enable both States and individuals to behave in a manner consistent with the evolution of technical problems.

In October 1972, a conference would be held in London to adopt new regulations for the prevention of collisions at sea. The work of that conference had a direct bearing on pollution control. It was sufficient to think of the disastrous consequences both for human welfare and for animal life of a collision between two supertankers.

One essential feature of any regulations to be introduced was that they should have a built-in system for keeping them up to date. Such a system was essential, in order to avoid serious problems arising from new developments.

He also wished to stress the need to face problems from the strictly professional angle, while of course having due regard to the instructions of Governments. There was general agreement on the object to be pursued, which was the preservation of the environment. Provided rules were formulated that were generally acceptable, the question of who established them was not of primary importance.

For its part, his delegation hoped that the forthcoming Conference on the law of the sea would be able to devise rules which would serve as guidelines not only to conferences directly sponsored by the United Nations but also to all other conferences, while at the same time providing useful guidance for national legislation.

Mr. ZEGERS (Chile) said that the documentation which the Secretariat had made available to the Sub-Committee was, in his view, sufficiently complete to enable it to move ahead with its work.

Referring to the document submitted by the representative of IMCO to the Sub-Committee and to the important introductory statement made by that representative, he proposed that the statement should be circulated as a Sub-Committee document, since, although he did not entirely agree with the views expressed in it, it provided an over-all view of IMCO's competence vis-à-vis the third Conference on the law of the sea.

He would refer at a later juncture to the International Conference on Marine Pollution to be convened by IMCO in 1973 and to the statement made by the representative of IMCO but wished to make a few preliminary comments on IMCO's competence forthwith. IMCO was a specialized agency of the United Nations responsible for maritime safety. IMCO had been concerned with the question of pollution and its technical studies in that field had been very useful, but the fact should not be overlooked that it was only a technical body. The legal and political body which should be dealing with the over-all problems of marine pollution was the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. He drew attention to that point because IMCO was preparing for its forthcoming Conference in 1973 a draft Convention consisting of articles covering all aspects of the prevention of marine pollution from ships (with the exception of the ocean dumping of shore-generated waste). He had no objection to that procedure, but wished to point out that such a convention would have to be subsequently considered and revised by the appropriate United Nations body, as it saw fit. That body might be the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor or the Conference on the law of the sea, if it took place after the IMCO Conference.

The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Committee wished the statement by the representative of IMCO to be circulated as an official document.

It was so decided.17/

17/ The full text of the statement of the representative of IMCO was subsequently circulated under the symbol A/AC.138/SC.III/L.21.

Mr. McKERNAN (United States of America) suggested that the very interesting and important comments by the representative of IMCO, particularly those dealing with traffic separation schemes and perhaps also the IMCO document he had submitted describing the activities of IMCO pertaining to ships' routing, traffic separation schemes, areas to be avoided by certain ships and related questions, should also be put before Sub-Committee II. In his view, the traffic separation schemes would be particularly relevant to its deliberations on navigation through straits and in the vicinity of straits.

The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Committee wished the text of the statement by the representative of IMCO and the IMCO document submitted to Sub-Committee III to be made available to Sub-Committee II.

It was so decided.

Mr. VALDEZ ZAMUDIO (Peru) said that he fully agreed with the representative of Chile that the body responsible for all aspects of marine pollution was the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. The number of bodies which were dealing with different aspects of marine pollution made it virtually impossible for developing countries to be represented at all the meetings, as was witnessed by the very small representation of those countries at the intergovernmental meetings on ocean dumping at Reykjavik in April 1972 and in London in May 1972. In his view, matters should be so arranged that all the political and legal aspects of the question were within the exclusive competence of the Committee, which could, of course, carry out its work with the technical co-operation of other bodies such as IMCO.

Mr. MASSINI EZCURRA (Argentina) said that he would like to have confirmation from the Secretariat that document A/AC.138/SC.III/L.17 contained all the decisions of the United Nations Conference on the Human Environment relating to marine pollution.

He would also like to know what procedure the representative of the Soviet Union envisaged for the consideration of draft resolution A/AC.138/SC.III/L.19.

Mr. METALNIKOV (Union of Soviet Socialist Republics) said that his delegation was ready to engage in consultations on its draft resolution with any delegation that wished to do so. After those consultations had taken place, he would inform the Secretariat of the results and the procedure which he proposed should be followed for the further consideration of the draft resolution.

Mr. STEINER (Secretary of Sub-Committee III) stated that all the recommendations of the United Nations Conference on the Human Environment relating to marine pollution were set out in section B of document A/AC.138/SC.III/L.17.

Mr. FATTAL (Lebanon), referring to the comments made by the representatives of Chile and Peru, said that, while he did not consider it was proper for the Sub-Committee to discuss IMCO's competence, he would like to know whether two conferences would be held on the same subject in 1973 and whether there would be two general multilateral conventions on the same subject.

The CHAIRMAN asked whether any other delegations wished to comment on the question of the respective competence of IMCO and the Committee. If not, the views expressed would be reflected in the summary record of the meeting, so that the plenary Committee could, in the light of the statements made in Sub-Committee III, go into the matter if it so wished.

Mr. VALDEZ ZAMUDIO (Peru) said that one way of circumverting the difficulty would be for IMCO to hold a purely technical conference and transmit the relevant documents to the Committee to serve as a basis for its preparation of draft articles.

Mr. McKERNAN (United States of America) said it was his understanding that the representative of IMCO would address the Sub-Committee on the following Friday on the subject of the preparations for the Conference to be organized by IMCO in 1973. He suggested that the Sub-Committee should not discuss the question further until it had heard his statement.

The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Committee agreed to that suggestion.

It was so agreed.

The meeting rose at 12.10 p.m.

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

held on Friday, 28 July 1972, at 10.50 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued) Marine pollution (continued) (A/AC.138/SC.III/L.15-17, A/AC.138/SC.III/L.19-21)

Before inviting the Sub-Committee to continue its general debate on marine pollution, the CHAIRMAN suggested that the time had come to set up a working group on marine pollution and that, in line with the procedure followed by Sub-Committee I, consultations should be held with the heads of the various regional groups, who would designate the regular members of the working group, on the understanding that any member of Sub-Committee III who so wished could participate in the group's discussions. If there was no objection, he would take it that the Sub-Committee agreed to adopt that procedure for establishing the working group.

It was so agreed.

Mr. SASAMURA (Inter-Governmental Maritime Consultative Organization) drew attention to the report on the preparatory work for the International Conference on Marine Pollution to be convened by IMCO in late 1973 (A/AC.138/SC.III/L.15), submitted at the request of the Sub-Committee. The 1973 Conference was being convened pursuant to resolution A.176 (VI) adopted by the IMCO Assembly in 1969. Under resolution A.237 (VII) adopted by the IMCO Assembly in 1971, the main objective of the Conference would be to achieve by 1975 if possible, but certainly by the end of the decade, the complete elimination of wilful pollution of the sea by oil and other noxious substances and the minimization of accidental spills. That objective was consistent with recommendation 86 of the United Nations Conference on the Human Environment, held at Stockholm in 1972 (see A/AC.138/SC.III/L.17, sect. B).

Since its inception, IMCO had been the depositary of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil. That Convention had been constantly reviewed by the technical bodies of IMCO and amendments had been made to it in 1962, 1969 and 1971. Still further improvement was, however, necessary in order to achieve the main objective of resolution A.237 (VII), and the 1973 International Conference on Marine Pollution would therefore be called upon to extend the requirements of the 1954 Convention.

Substantial progress had already been made by IMCO's committees and sub-committees in the preparation of the draft convention to be submitted to the Conference. The draft would cover the various aspects of the prevention of marine pollution mentioned in paragraph 4 of document A/AC.138/SC.III/L.15, and the prevention of pollution by oil or other noxious substances which could arise from tank-washing and ballasting operations.

In its recommendation 92 (ibid.), the Stockholm Conference had recommended that the 23 general principles for the assessment and control of marine pollution approved by the Conference should be endorsed as guiding concepts for the IMCO Conference. Those

principles, together with three further principles relating to the rights of coastal States (ibid., recommendation 92, foot note), considered by the Intergovernmental Working Group on Marine Pollution at its second session, were being taken into account by the IMCO technical bodies in the preparations for the Conference. IMCO had received most valuable assistance from GESAMP in the identification and hazard rating of noxious substances transported by ships. A list of hazard ratings for some 200 substances had been prepared by the Ad Hoc Panel of GESAMP Experts and would enable the IMCO Sub-Committees to identify pollutants other than oil and to devise appropriate control measures.

The IMCO Sub-Committees were fully aware of the work being done elsewhere on the control of marine pollution, and the draft IMCO convention would contain a clear statement that its provisions did not apply to pollution by the ocean dumping of land-generated wastes and by sea-bed exploration and exploitation activities. The final text of the draft convention was expected to be ready early in 1973 and should be circulated to Governments at least six months before the Conference. The forthcoming preparatory work would include 11 weeks of meetings for five subsidiary bodies of IMCO between September 1972 and March 1973.

Apart from the consideration of that technical convention, the 1973 IMCO Conference would be called upon to consider the extension of the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (the 1969 IMCO Convention). The IMCO Council had recently agreed to include that item in the agenda of the Conference and the relevant preparatory work was being carried out by the IMCO Legal Committee. The new instrument would give to coastal States the right to intervene, or to take preventive action, to safeguard their coasts from pollution following accidents involving noxious or hazardous substances other than oil.

The Conference would take place in London from 8 October to 2 November 1973. It would be a diplomatic conference, so that not only States members of IMCO but all States Members of the United Nations or members of one or more specialized agencies, as well as all interested international organizations, would be invited to participate.

Mr. CAPURRO (United Nations Educational, Scientific and Cultural Organization), speaking on behalf of UNESCO and IOC, described the results of the meeting of the Executive Council of IOC at Hamburg in July 1972. The agenda for that meeting indicated the growing responsibilities of IOC in the scientific aspects of marine affairs and the increasing participation of the specialized agencies in the discharge of those responsibilities. 14 resolutions had been adopted in relation to IOC programmes, involving six broad areas. In the area of marine pollution, covered by the Long-term and Expanded Programme of Oceanic Research (LEPOR), IOC activities had considerably increased. It would be recalled that the Action Plan for the Human Environment of the Stockholm Conference had recommended additional tasks for IOC.

In relation to the Global Investigation of Pollution in the Marine Environment (GIPME), which was one of the major LEPOR programmes, an international co-ordination group had been established consisting of seven scientific experts on marine pollution representing States and six designated by FAO, IAEA, IMCO, the United Nations, UNESCO and WHO.

With regard to marine pollution monitoring, IOC had recognized that a programme could be developed as a function of the Integrated Global Ocean Station System (IGOSS) for physical properties and for some chemical properties. That concept, too, had been endorsed by the Stockholm Conference. The joint IOC/WMO Planning Group for IGOSS had been encouraged to continue its work on an IGOSS pilot project on marine pollution monitoring, which was being implemented.

The Executive Council of IOC had noted the steps being taken to develop an international instrument for the control of ocean dumping. A conference of Governments was to be convened on that subject by the United Kingdom Government in consultation with the Secretary-General of the United Nations before November 1972, and IOC had indicated its willingness to provide scientific expertise and services with respect to ocean dumping.

The second area covered by the resolutions of the IOC Executive Council related to IGOSS. The first meeting of the Joint IOC/WMO Planning Group for IGOSS had noted satisfactory progress, particularly with regard to the IGOSS pilot project for the exchange of bathythermographical data (BATHY pilot project). The need had been stressed to develop training programmes for technicians, observers, analysts, programmers and forecasters.

The third area covered by the IOC Executive Council resolutions was that of training, education and assistance, recognized as integral parts of every major IOC programme. The needs of the developing countries should be satisfied by establishing training and education as a major component of all IOC operational activities. Detailed instructions had been given concerning IOC assistance in reviewing and co-ordinating the marine-science training programmes of international organizations and close co-operation with all the divisions of UNESCO and of other specialized agencies engaged in education and training in pure and applied marine science.

Courses in data management were being given in the United States of America and those courses were expected to be continued; in addition, UNESCO was extending financial assistance to facilitate the participation of scientists of developing countries in the Caribbean and adjacent region in an education and training cruise on board the oceanographic ship Discoverer. The contribution from member States to the IOC Trust Fund for educational and training purposes also played an important role in that programme.

The fourth area was that of information services, data management and related services. A draft plan for the establishment of an Integrated Scientific Information System on Aquatic Sciences was being prepared with the co-operation of FAO. In addition, in accordance with IOC resolution VII-25, endorsed by recommendation 91 of the Stockholm Conference (see A/AC.138/SC.III/L.17, sect. B), a Joint Task Team on Interdisciplinary and Interorganizational Data and Information Management and Referral had been formed. Those two activities should help to solve the problem of handling the impressive amount of data that would be collected as a result of the IOC programmes under preparation and should ensure that the information would be available to the whole oceanographic community. The Permanent Service for Mean Sea Level (PSMSL) would continue to receive UNESCO assistance during 1973/1974 and increased additional support was being sought.

The fifth area was that of the amendments to be made to the IOC structure to enable it to handle its growing responsibilities. An ad hoc working group of 11 representatives had been set up to produce proposals on that question; the group had met at Hamburg immediately after the Executive Council meeting and was expected to meet again in January 1973.

The last major area dealt with by the IOC Executive Council resolutions was that of developments relating to the enlarged Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. Considerable interest in those development had been shown during the discussions held on General Assembly resolutions 2846 (XXVI) on the question of the creation of an intergovernmental sea service and 2881 (XXVI) concerning the progress made and other matters before the Committee. Developments in the Committee were of great interest to IOC because of their relevance to the preparation of the Ocean Data Acquisition Systems (ODAS) Convention. In that regard, the summary report of the first Preparatory Conference of Governmental Experts to formulate a draft convention on the legal status of ODAS had been distributed.18/

Lastly, he assured the Sub-Committee that UNESCO and IOC were prepared to meet any requests which the Committee might make to them to assist it in carrying out its duties.

Mr. BALLAH (Trinidad and Tobago) said that he wished to place on record his deep gratitude to IOC for the fine work it was doing in the fields of marine pollution and scientific research. It had always devoted attention to the subject of training, education and assistance for developing countries in matters relating to the marine environment. Countries in the area from which he came were very dependent on the tourist industry and marine pollution could be very detrimental to that industry. The Committee should also be grateful to IOC for its work, for if developing countries were to take decisions on matters which affected their national interest in ocean space, they should do so with a full knowledge of all the data concerning the nature and extent of their resources and pollution.

Although IOC had made considerable progress in implementing its resolution VII-31 on training, what was really required was the establishment of institutions in developing countries, with a view to the training of their nationals, the collection of information and the transmission of advice to their Governments. The latter function was particularly important for developing coastal States. He felt that not only IOC and UNESCO but also the Committee should be concerned with the question of the training of scientists in all aspects of marine research.

He asked that the statement made by the representative of UNESCO on behalf of IOC should be issued as an official document of the Sub-Committee.

18/ SC-72/CONF.75/8.

Mr. ZEGERS (Chile) said that IOC was doing important work in the fields of scientific marine research and marine pollution. He endorsed the statement made by the representative of Trinidad and Tobago concerning the training of nationals in developing countries. Steps should be taken to increase the number of training centres in those countries. IOC's co-operation programmes in the field of scientific research were of great importance. The development of the oceanographic survey was not only of world-wide interest, but also of special value to developing countries. He was glad to have the assurance that UNESCO and IOC would continue to provide the valuable assistance which they had hitherto rendered to the Committee. The assistance which IOC provided was of a technical nature, which was consistent both with its function and with the terms of reference of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction. In that context, he considered that the Preparatory Conference of Governmental Experts to formulate a draft convention on the legal status of ODAS, which had been held in Paris in January and February 1972, had rightly decided that it was not competent to take any action on that draft convention, since the legal aspects of scientific research had been referred to the Committee. When the latter considered the draft convention, it would be very useful if IOC could provide background material on the IGOSS.

He supported the request made by the representative of Trinidad and Tobago that the text of the statement made by the representative of UNESCO on behalf of IOC be circulated as an official document of the Sub-Committee.

Mr. CAPURRO (United Nations Educational, Scientific and Cultural Organization) said that the text of his statement would be available to members of the Sub-Committee in English and Spanish at the beginning of the following week.

The IGOSS project was one of the most important projects of IOC, the purpose being to facilitate its oceanographic research programmes. It had been under way for a number of years and much information existed. He would be glad to provide information, when the Sub-Committee required it, on the scope of the project and the progress made with it.

The CHAIRMAN asked whether, in view of the financial implications, the representatives of Trinidad and Tobago and Chile were prepared to withdraw their requests that the statement made by the representative of UNESCO should be issued as a Sub-Committee document.

Mr. BALLAH (Trinidad and Tobago) said that he would not insist, but he would like the statement to be reproduced as fully as possible in the summary record.

The CHAIRMAN said that due note had been taken of that request.

Mr. OGISO (Japan) said that during the preparatory stage of the United Nations Conference on the Human Environment it had been repeatedly pointed out that the sea, which was an essential element for the ecological order of the planet, was dying. Many scientists forecast that unless definite steps to prevent marine pollution were taken immediately, the process of the deterioration of the marine environment could never be reversed. It was because of growing world-wide concern that so much attention had been

focused on the subject of marine pollution at the Stockholm Conference. In its Declaration on the Human Environment, a specific paragraph had been devoted to the prevention of marine pollution and the Conference had also laid down general principles to be followed by all States with a view to preserving the marine environment. In his view, the Declaration on the Human Environment and the general principles for the assessment and control of marine pollution approved by the Conference could usefully serve as a starting point for the work of drafting treaties for the control and prevention of marine pollution. His Government, well aware of the importance of the sea from the ecological point of view and of Japan's dependence on the sea as a source of foostuffs, intended to make a very positive contribution to the work on which the Sub-Committee was about to embark, so that new treaties on marine pollution could be adopted at the earliest possible date.

He wished to make a few observations concerning the approach which should be adopted in connexion with the drafting of treaties. The concept of the joint responsibility of States was embodied in the general principles for the assessment and control of marine pollution, particularly in principle (8), and it was obvious that close co-operation between States was essential for the prevention and control of marine pollution. Principle (13) clearly indicated that action to prevent and control marine pollution (particularly direct prohibitions and specific release limits) should be such that it did not merely transfer damage or hazards from one part of the environment to another. Hence, the world ocean should be treated as an integrated whole and the division of oceans by coastal States with a view to protecting their own environment, while ignoring the environment of other States, could not be a solution to the global problem of marine pollution. Thus, the adoption of a unilateral approach to the preservation of the marine environment would make it impossible to eliminate marine pollution. What was required was a global framework in which rules and standards to be internationally agreed upon would be observed by all States in every part of the ocean.

A number of delegations had asserted that, in order to combat marine pollution effectively, it was essential to allow coastal States to establish a pollution zone beyond their territorial waters in which they could exercise special authority for the prevention of pollution that might cause damage to the land or marine environment under their sovereign authority. His delegation entertained grave doubts as to the validity and effectiveness of such an approach. The idea of partitioning the ocean space for the prevention and control of marine pollution was incompatible with the basic framework envisaged in the general principles, in which global standards and rules were to be applied to every part of the ocean and observed by all States. With a zonal approach, there would inevitably be dichotomy in the mode of control inside and outside a given zone, whereas marine pollutants knew no boundaries. Furthermore, if each coastal State was authorized to set up its pollution zone in accordance with its own policy and standards, the enforcement of individual national legislation might well result in a state of confusion on the high seas. In addition, coastal States would find it hard to resist the temptation to extend their coastal zones as far as possible for the more effective prevention and control of marine pollution. But however extensive the zone, they would still have difficulty in eliminating pollution whose source was outside the zone.

In his delegation's view, the most clear-cut solution for the elimination of pollution was the control of the pollutants at their source. The Sub-Committee should, therefore, try to agree upon a set of rules and standards in the form of a treaty to be applied universally to control the sources of pollution, regardless of their location. For that purpose, it was necessary to work out a co-ordinated regional and global approach, which would also provide the basis for mutual assistance in data acquisition, exchange of information and monitoring. In that connexion, he drew attention to principle (9) of the general principles, relating to regional co-operation.

It had been proposed that, as a corollary to the zonal approach, coastal States should have the right to prohibit the entry into its pollution zone of any vessel which did not comply with certain standards set by the coastal State concerned. His delegation, on the contrary, considered that a set of common rules and standards should be developed and applied universally to all vessels. International traffic would be seriously obstructed if a vessel engaged in international transport was subjected to different rules and standards in different parts of its operations.

He wished to stress the importance of ensuring freedom of navigation. The time when nations separated by the sea had to pursue a policy of autarky had passed. It had been freedom of navigation that had made possible the closer relationships between nations. Once pollution zones had been recognized, coastal States might carry out inspections and arrest foreign ships arbitrarily. In saying that, he was not suggesting that freedom of navigation should be given preference over the preservation of the marine environment. He believed that freedom of navigation and the prevention of marine pollution could both be ensured by agreeing on universal rules and standards to be applied by each State to its own vessels. In that respect, principle (20) of the general principles, relating to ship design, construction and operating procedures, was pertinent.

Turning to the question of the mechanism whereby universal rules and standards on marine pollution could be effectively enforced on the high seas, he said that the principle of flag-State jurisdiction should continue to be applied until such time as detailed enforcement regulations concerning judicial proceedings and punitive measures could be standardized.

Referring next to the problem of liability, he observed that legal issues relating to liability for marine pollution were very complicated but something had to be done, since, without a liability régime, the legal framework for the protection of the marine environment would be incomplete. In that connexion, he referred to principle 22 of the Declaration on the Human Environment, and said that his Government would co-operate closely with other Governments in the development of international rules of law relating to liability and compensation for marine pollution. The question of liability was no exception to the need to find multilateral solutions. The International Convention on Civil Liability for Oil Pollution Damage (the 1969 IMCO Convention) and the supplementary Convention of 1971 could serve as a starting-point for the further development of rules of law in that area.

In conclusion, he wished to refer to the question of land-based pollution. The Sub-Committee had hitherto concentrated its attention on pollution which originated in the sea. However, principle (3) of the general principles for the assessment and

control of marine pollution had recognized the importance of land-based sources of pollution. While it was true that measures for the prevention and control of land-based pollution should be taken primarily at the national level, it would be well to try to agree on very basic guidelines for rules to prevent and control land-based pollution in the sea, in order to reduce the lack of uniformity in national legislation.

Sir Roger JACKLING (United Kingdom) requested that the statement by the representative of IMCO should be produced as fully as possible in the summary record of the meeting. The work of IMCO was of the greatest value to the international community, as was that of IOC in contributing to man's knowledge of the seas and in the fight against marine pollution.

His Government was committed to fight the pollution of the seas and to move as rapidly as possible towards practical agreements. Every day, 300 to 400 ships passed through the Straits of Dover and the inhabitants of the United Kingdom knew what it was to live under the constant threat of massive and damaging pollution. That was why it was anxious that practical, immediate action should be taken simultaneously with and, when necessary, in advance of the efforts of the Committee to review the adequacy of existing international law in that context and to decide whether new legal norms were needed. His Government welcomed the call by the United Nations Conference on the Human Environment to States to take early action to adopt effective national measures for the control of all significant sources of marine pollution, including land-based sources, and to concert their actions regionally and where appropriate on a wider international basis. That was why his Government had consistently supported IMCO's work and would participate actively in its International Conference on Marine Pollution in 1973. The Committee's concern to develop concepts and a framework of law should not be allowed to inhibit practical action meantime.

The Sub-Committee had agreed that one of its first tasks in the process of developing a framework of law in relation to marine pollution was to consider the general principles for the assessment and control of marine pollution recommended to Governments by the United Nations Conference on the Human Environment as guiding concepts for the Conference on the law of the sea. His delegation agreed with the broad tone and direction of those principles, but looked on them, in their present form, as guiding concepts only. They were not cast in the language of international treaties and they did not constitute a convention. The recommendation which had been made concerning them was that Governments should collectively endorse them as guiding concepts for the Conference on the law of the sea and the IMCO International Conference on Marine Pollution. There was, however, nothing to prevent the Committee from drawing on them in its work of preparing for the Conference on the law of the sea and drafting fresh texts incorporating the same concepts.

In that process, three points should be borne in mind. First, the Sub-Committee should be very cautious in altering the specialized language dealing with pollution, such as that concerning "best practicable means" for controlling pollution, or "primary protection standards and derived working levels". Secondly, it was necessary to consider in particular the ways in which those principles could best be developed within the broader context of maritime law. Thirdly, as a preparatory committee, the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor should present issues, where there was a choice, to the Conference on the law of the sea and not prematurely foreclose options that that Conference might wish to keep open.

Apart from the 23 general principles to which he had been referring, there were also the three additional principles relating to the rights of coastal States, proposed by the Government of Canada, but neither endorsed nor rejected by the Intergovernmental Working Group on Marine Pollution at its second session. His Government had hitherto preferred not to take up a position on those three principles and agreed with the decision of the Stockholm Conference to refer them to the Conference on the law of the sea, on the ground that they raised fundamental issues of maritime law.

In response to the criticism expressed by the representatives of Chile and Peru (22nd meeting) to the effect that the preparatory work for a global convention for the prevention of marine pollution by dumping had not been sufficiently representative, especially as far as developing countries were concerned, and also that it was proceeding without sufficient regard to the United Nations bodies concerned, he referred the Sub-Committee to the statement made by his country's Secretary of State for the Environment at the Stockholm Conference, in which the oceans had been placed first in the list of eight subjects on which the United Kingdom wanted immediate international action. He then quoted part of that statement, laying particular stress on the words "if the industrialized countries agree to control their dumping, it must surely be of benefit to all". Countries that were not ready to participate in efforts to control dumping had no reason to fear if others forged ahead.

The second criticism to which he was responding appeared to be due to the feeling on the part of some Governments that action to control dumping now would in some way prejudice either later action to control other forms of marine pollution, or international agreements on the basic principles of maritime law. But the facts were that potentially hazardous pollutants entering the oceans of the world were increasing steadily, that they could, if unchecked, threaten the productivity of the oceans and the well-being of all mankind, and that the direct dumping of poisonous wastes in the high seas was at present largely uncontrolled. That was why his Government was convinced that action to control dumping was urgently needed and should be taken at the international level by all States engaged in dumping. Such action had indeed been taken recently to control dumping in the north-east Atlantic - it would benefit all other nations, harm none and should be followed up by global action. The agreement was, of course, no more than a first step in a continuing process of international action to protect the sea and there was no reason why it should be prejudicial to other action to be taken at the Conference on the law of the sea.

Because of its strong interest in the topic, his Government had offered the facilities of London for a meeting to be held in October/November 1972 for the purpose of completing the draft articles of a convention, the drafting of which had been begun at the second session of the Intergovernmental Group on Marine Pollution in 1971 at Ottawa and improved at the intergovernmental meetings on ocean dumping held at Reykjavik in April 1972 and in London in May 1972. He welcomed the support for the London meeting expressed by the representative of Canada (20th meeting) and said that, after consultations with the United Nations Secretariat, letters of invitation would be sent out.

In his view, the Sub-Committee should not now debate the desirability of controlling marine pollution, which was beyond dispute, but should rather consider the draft articles within the broader context of international law and forward its comments

to the forthcoming meeting in London. It should ensure that those articles were compatible with the principles that would be recommended to the Conference on the law of the sea and thus that the legitimate desires of nations represented in the Committee not to prejudice the further development of the law of the sea were fairly expressed, while at the same time ensuring that their interests were protected. Such a commentary would be very useful to the London meeting and would prevent wasted effort.

Mr. CAUCI (Malta) agreed with the representative of Canada that the Sub-Committee should concentrate its attention on draft articles for a convention on marine pollution. The urgency of the problem was beyond question and the Sub-Committee had a duty to propose realistic, comprehensive and constructive solutions. It should give a lead of universal scope and application, which would serve as a broad guideline to inspire regional efforts. If it failed, there was a danger that a series of piece-meal conventions with little in common would be concluded - a development that would tend to compartmentalize the marine environment rather than preserve its essential unity. In that connexion, he referred the Sub-Committee to the lead given by the Council of Europe. In his view, the Sub-Committee should co-ordinate the activities of the various institutions and agencies that were concerned with the problem, with a view to avoiding a costly dispersion of effort.

He warned against an attitude of complacency inspired by the number of resolutions passed, documents prepared, studies carried out, etc. A recent FAO publication on pollution in Europe told a different story. Indeed, there was extremely heavy pollution in the area within a 200-mile radius of Lake Geneva. Within 200 miles of Lake Victoria, on the other hand, the situation would be different, and it was impossible not to recognize the relationship between national legislation and desirable international standards.

The Soviet delegation had referred to modern technology as a useful ally in fighting pollution. But supertankers and underwater oil storage tanks - impressive examples of modern technology - would hardly inspire confidence in the minds of dwellers in coastal areas.

He informed the Sub-Committee about a recent Conference of Mediterranean States held in Malta. It had adopted a number of unanimous recommendations - in harmony with the principles agreed at the Stockholm Conference - concerning, inter alia, regional co-operation in the prevention and monitoring of pollution in the Mediterranean traffic lanes, traffic separation schemes, regional co-operation on fisheries and the protection of under-water archaeological treasures.

Despite its modest means, Malta, which, because of its proximity to busy sea-lanes, was often at the receiving end of pollution, had not been inactive. In collaboration with UNDP and private financial resources, his Government had set up an Ocean Institute, which envisaged a multi-disciplinary approach to its studies and work, and would co-operate with other institutes in Mediterranean countries to strengthen marine studies and activities in the region.

Mr. REPETTO (Chile) said that, in the belief that the only effective solution to the problem of marine pollution lay in a combination of measures taken at the world, regional and national levels, his Government had recently established a special commission to study pollution in Chile, which was working actively to prepare an integrated programme to solve the problem in its own territory.

His delegation agreed with the general view expressed in the Sub-Committee that marine pollution was becoming increasingly serious and that there was an urgent need to preserve - or rather restore - the marine environment. It agreed with the conclusion of the Stockholm Conference that land-based pollution formed a single entity with marine pollution, but it felt that the oceans of the world constituted a physical and legal entity whose pollution problems should, together with other problems relating to the sea, be dealt with by the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and by the Conference on the law of the sea for which it was preparing.

His delegation, which recognized that pollution had been the price paid by the developed countries for development, insisted that the campaign against pollution should not become a brake on the development of the developing countries and that a formula should be found that would ensure that the latter countries did not have to pay so high a price as to hold back their development.

The prevention of pollution in coastal waters was naturally a responsibility of the State that exercised jurisdiction, but the most pressing need was to draw up universally applicable norms that would preserve the marine environment from all forms of pollution in the area beyond national jurisdiction, parts of which, according to the explorer Thor Heyerdhal, had been irreparably damaged.

After reminding the Sub-Committee of the responsibilities of the Committee under General Assembly resolution 2750 C (XXV) in connexion with marine pollution, which would be an important topic at the Conference on the law of the sea, together with scientific research and the transfer of technology, he turned to the involvement in the problem of various other United Nations bodies and intergovernmental organizations. Moreover, he regretted to say, some groups of States were preparing agreements on the subject outside the framework of the United Nations. Notwithstanding the explanations given by the representative of the United Kingdom, his delegation maintained its reservations about the convention on ocean dumping being prepared outside the United Nations. It believed that the draft articles on ocean dumping should be given their final form within the framework of the Conference on the law of the sea. He reiterated his delegation's view that it was wrong for a limited group of countries to take up a problem of world-wide importance that was on the agenda of truly international bodies.

His delegation held that IMCO was a technical body that could only deal with marine pollution in terms of its relation to navigational safety. Its role was to prepare background documents for the preparation of general, legal and political principles in the appropriate fora, namely the United Nations, and the Conference on the law of the sea. When that process was complete, it would lie with technical bodies, particularly IMCO, to draft the detailed regulations, and to work out the practical application. If IMCO took up political matters, it would be pre-empting the competence of the Committee and that of the forthcoming Conference on the law of the sea.

His delegation could support the three principles relating to the rights of coastal States submitted by the Canadian delegation to the Intergovernmental Working Group on Marine Pollution at its second session, if they were amended to make it clear that such rights arose from the exercise of the national sovereignty of the coastal State. The Canadian proposals as amended and the 23 general principles agreed at the Stockholm Conference could serve as a basis for the work of the working group to be established by the Sub-Committee to deal with the preservation of the marine environment. The same could be said of the draft resolutions submitted by the Soviet Union (A/AC.138/SC.III/L.19) and Canada and Norway,[19] and the one India intended to submit. In conclusion, he expressed his delegation's full support for the views expressed on behalf of the developing countries by the representative of Sri Lanka at the Committee's first 1972 session.

Mr. FATTAL (Lebanon), supported by Mr. VALDEZ ZAMUDIO (Peru), expressed his concern that the IMCO International Conference on Marine Pollution scheduled for 1973 might duplicate the work of the Conference on the law of the sea and that no attempt had been made to ensure that the two Conferences were complementary. He did not feel that his doubts had been dissipated by the statements of the representative of IMCO.

The CHAIRMAN expressed the iew that only the United Nations General Assembly could settle the question raised by the representative of Lebanon.

Mr. ZEGERS (Chile) expressed agreement with the representative of Lebanon and with the Chairman. He felt that the General Assembly had in fact already taken its decision, in its resolution 2750 (XXV), which provided the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor with its terms of reference and endowed it with both a right and a duty to deal with the problems now under discussion. What the Committee should seek to do was to make its work as effective as possible and to collaborate positively with IMCO.

The meeting rose at 12.55 p.m.

19/ A/AC.138/SC.III/L.5 and Add.1.

SUMMARY RECORD OF THE TWENTY-FOURTH MEETING

held on Monday, 31 July 1972, at 11.55 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Marine pollution (continued) (A/AC.138/SC.III/L.15-17, A/AC.138/SC.III/L.19-21)

Mr. VALDEZ ZAMUDIO (Peru) said he wished to refer to two specific points. In the first place, with reference to the United Kingdom representative's statement at the 23rd meeting, his delegation fully shared the United Kingdom Government's concern about the dangers of contamination and pollution due to the intentional or accidental dumping of noxious and dangerous substances into the sea. Understandably, the United Kingdom was especially concerned about such dumping of petroleum products, approximately 25 per cent of which passed through the English Channel, with consequent risk to the coastal States. Peru, too, was particularly concerned about maintaining the purity of the marine environment, since it was a country which lived by the sea and its products: Peruvian fisheries held first place in the whole world, with a total catch of 10-12 million tons a year, representing approximately 16-18 per cent of the world total and 32 per cent of the country's revenue in foreign currency; it had over 1,400 fishing vessels with a total storage space of some 200,000 metric tons, employing over 15,000 fishermen, and its 105 industrial plants for the processing of fish products employed over 6,000 workers.

The United Kingdom representative had stated that if the industrialized countries succeeded in controlling their dumping operations, all the countries of the world would benefit; to that it might be added that the countries which would benefit most would be those which made the widest use of the pollutants carried by sea and which produced the bulk of waste products. The United Kingdom representative had gone on to say that countries which were not prepared to participate in efforts to control marine pollution should not consider themselves to be endangered by measures which other countries might take; in that connexion, what was lacking in developing countries was not the will to participate in those efforts, but the possibility of doing so. Intergovernmental meetings on the subject had become so frequent that developing countries such as his own found it impossible for economic reasons to attend certain meetings on marine pollution.

His delegation fully agreed with the United Kingdom that control of dumping required urgent consideration at the international level and that the problem could not be solved unless all States discharging waste took effective measures to achieve such control. Nevertheless, such consideration should take place within the framework of basic, universally-accepted principles and with due respect for the rights of all States and the opinions they expressed in the Committee. Fragmentation of problems of the law of the sea and the proliferation of independent regional agreements could lead to great confusion and to difficulties in subsequent harmonization and co-ordination. The law of the sea should serve as the general framework, within which regional or international conventions could be prepared to regulate special cases pertaining to specific areas or regions.

Secondly, he wished to introduce the document submitted by his delegation entitled "Proposed amendments to the definition of marine pollution and the general principles for the assessment and control of marine pollution which are the subject of recommendation 92 of the United Nations Conference on the Human Environment" (A/AC.138/SC.III/L.20). The definition endorsed by the Stockholm Conference failed to cover a highly important aspect of marine pollution, that of the discharge of solid wastes, since those materials were not covered by the term "substances or energy". Car bodies, refuse from building materials, containers and receptacles and other solid wastes could nevertheless adversely affect fishing activities and could poison or impair the quality of fishing products, leading to a decline in their price and even to their withdrawal from the market; rejection of those products by consumers was very difficult to combat and overcome. That was why his delegation suggested in paragraph 1 of its amendment that the words "or materials" be inserted after the words "substances or energy" and the words "deterioration in the quality of marine fisheries products" after the words "impairment of quality for use of sea water" in the definition given by the United Nations Conference on the Human Environment, held at Stockholm in June 1972, in the document entitled "Identification and control of pollutants of broad international significance" 20/.

Secondly, it proposed in paragraph 2 of its amendment that the words "in so far as they are able" should be inserted in principles (18), (19) and (20) of the general principles for the assessment and control of marine pollution approved by the Intergovernmental Group on Marine Pollution at its second session. Thirdly, although Peru agreed with the spirit of principle (22), it considered that reference should be made to the jurisdiction of coastal States and had therefore proposed in paragraph 3 of its amendment two additions to that end. Finally, the third of the 3 principles relating to the rights of coastal States proposed by the Canadian delegation at the same session of the Intergovernmental Working Group, which had neither been adopted nor rejected, should be amended in accordance with paragraph 4 of the Peruvian proposal.

Mr. JAIN (India) said that, now that the Sub-Committee was preparing to set up a working group to formulate draft articles on the preservation of the marine environment, his delegation wished to suggest some elements of guidance for that group. It had been decided that the subject should be considered on the basis of four documents: the Declaration on the Human Environment adopted by the Stockholm Conference, the 23 general principles for the assessment and control of marine pollution, the IMCO International Conventions for the Prevention of Pollution of the Sea by Oil and on Civil Liability for Oil Pollution Damage, and the draft articles of a convention for the prevention of marine pollution by dumping prepared by the Intergovernmental Working Group on Marine Pollution at its second session and by successive intergovernmental meetings. Although those documents were important, his delegation would like to submit that some of them were too general and others too limited for the new working group's purposes; thus, the IMCO Conventions were confined to the prevention of pollution by oil only, the draft articles on ocean dumping referred only to the dumping of pollutants. The Stockholm Declaration and the general principles, though important for the purpose of providing guidelines, needed to be supplemented by more specific provisions.

In making proposals for specific provisions of a draft convention, Sub-Committee III should take into account the procedures adopted by Sub-Committees I and II. Thus, Sub-Committee I had appointed a working group on the régime of the sea-bed which was

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20/ See A/CONF.48/8, para. 197.

adapting the general principles on the question to the provisions of a convention, with the Chairman of the working group acting as special rapporteur, and Sub-Committee II was finalizing a list of topics to be considered by the comprehensive Conference on the law of the sea to be held in 1973. Sub-Committee III should take similar action and lay down as terms of reference for its working group the preparation of a list of specific topics to form the basis of concrete proposals concerning the articles of a convention or conventions on the preservation of the marine environment.

His delegation would submit that the list of topics should begin with a definition of marine pollution and an undertaking by the parties to do their best to prevent marine pollution from all sources; since marine pollution could best be prevented at its origins, it was important to identify those various sources, both on land and in the sea. Land-based sources would include the discharge of pollutants, including industrial and agricultural wastes, and sewage disposal through rivers and tributaries, outfalls, pipelines and extended outlets, from barges and vessels in rivers and from land run-off, and pollutants carried by currents and winds from land to sea. Marine-based sources would include oil discharge from ships and spills caused by collisions between vessels carrying oil and other polluting substances, as well as ocean dumping by ships and aircraft, discharge of pollutants other than oil from ships, ship sewage and garbage, radioactive pollution by nuclear ships and submarines, particularly in closed and semi-closed areas of the sea, military uses of the ocean, and marine pollution arising from or likely to arise from exploration and exploitation of the resources of the sea-bed and the ocean floor. It was also important to identify the entities most affected by marine pollution, which were the fish and other living resources of the sea, and ports and other coastal areas.

Measures for the preservation of the marine environment would include the control and prevention of discharges of oil and other pollutants from ships and other sources, measures to prevent collisions between vessels carrying oil and other pollutants, standards for the design, construction and equipment of ships carrying those substances, the control and management of the carriage of dangerous cargoes, and traffic separation schemes. The IMCO Convention for the Prevention of Pollution of the Sea by Oil and IMCO activities with regard to the routine of ships and to traffic separation schemes could be most helpful in that connexion. As far as ocean dumping was concerned, reference could well be made to the draft articles formulated by the intergovernmental meetings.

Another important item on the list would be national legislation and appropriate action at the national level for controlling and preventing marine pollution at the source. That aspect might be dealt with differently in different countries, depending on individual situations and specific problems. Apart from compliance with universal standards and criteria, measures taken at the national level might include the control and management of the use of certain polluting agents in industry and agriculture, the discharge and dumping of pollutants, including sewage, garbage, and industrial, domestic, agricultural and radioactive wastes into rivers, tributaries and coastal marine areas, the adoption of appropriate permit, licence or registration systems in connexion with such activities, and criteria for the issue of licences and permits, the monitoring, detection and measurement of pollution in conjunction with a reporting system, the licensing of the exploration and exploitation of off-shore areas, and financial assistance as an incentive to municipalities and industries with regard to marine pollution control and prevention. Each nation should be left to determine whether there should be sanctions for breaches of national regulations. It should be noted that a number of countries had already adopted legislative and other measures with regard to some of the activities he had enumerated.

The list would also refer to scientific and technological problems such as monitoring, research and the collection of information concerning the incidence, extent and routes of marine pollution, the identification of pollutants, and determination whether they were present in dangerous proportions.

His delegation considered it important to include an item on the special or exclusive authority of the coastal State with regard to the adoption of anti-pollution measures in its internal waters, territorial sea and adjoining coastal waters, and with regard to the prevention and elimination of pollution in those areas.

The list should also include questions of legal liability and responsibility for damage by marine pollution, the granting of compensation to victims and to the coastal States which took measures to prevent or eliminate pollution and the special responsibility of the flag-State in cases of pollution caused by ships. A system should be devised to establish the responsibility of countries whose agencies or nationals were engaged in ocean dumping or were causing pollution by other means, or from whose territories or areas of national jurisdiction the pollution originated. The idea of establishing a compensation fund for damage by pollution, along the lines of the 1971 IMCO Convention entitled "International Convention on the Establishment of an International Compensation Fund for Oil Pollution Damage", might also be considered. The question of compensation arose only when pollution had occurred, but it was important to take preventive measures before such occurrence, or at any rate before it assumed dangerous proportions. Appropriate provisions should therefore be included for world-wide or regional machinery with adequate technical know-how and equipment, to be available whenever and wherever preventive measures had to be taken or pollution had to be eliminated.

Another item to be taken into consideration was international co-operation and regional arrangements for the monitoring, detection and measurement of marine pollution, scientific research and data collection, including the collection of information and statistics on the production and use of toxic and other polluting agents, the exchange, dissemination and co-ordination of scientific information and data, the co-ordination of the activities of international organizations and agencies concerned with marine pollution, the co-ordination of national planning and policies, environmental forecasting, and other measures. Reference should also be made to methods and machinery for formulating internationally agreed guidelines, criteria, rules and standards for instruments and techniques, to codes of practice and procedures for the prevention and elimination of marine pollution, for the standardization of methods and techniques and for the formulation of standards for discharges of polluting substances. It was an open question whether or not that machinery should also relate to the administration and/or supervision of the adoption and implementation of those guidelines, criteria, standards and so forth. Moreover, with regard to the institutional aspects of the question, the working group might consider whether or not any additional international machinery should be provided to supplement the functions of IOC, IMCO and FAO in their specific areas of interest.

Finally, an extremely important topic for inclusion in the list was the provision of financial and technical assistance, education and training for the developing countries, to enable them to adopt and apply marine pollution measures and standards, to combat pollution if it occurred and to raise revenues for those purposes. His delegation had already expressed the view that standards and prohibitions should not be such as to nullify or seriously hamper other priorities and goals of the developing countries, such as increasing production and raising the standard of

living. A distinction must be made between the standards, criteria and prohibitions to be applied by the developing countries and those to be applied by the developed countries, since actual pollution was a more pressing problem for the latter than for the former; on the other hand, the contrary was true where protection from pollution was concerned. Indeed, the introduction of "uniform absolutes" for both categories of countries might lead to serious distortions, particularly since it was difficult to set such absolute limits, even for the human environment.

Although that list of topics for the consideration of the working group was not exhaustive, his delegation considered that it might be adopted on a provisional basis, to be supplemented, modified and refined as necessary. The working group might also consider whether there should be a single comprehensive convention on the preservation of the marine environment, or several conventions dealing with different aspects of the problem.

Mr. ANDERSEN (Iceland) said that there was universal agreement that pollution had reached frightening proportions and that it was vital to reverse that development before it was too late. It was with that in mind that the Icelandic delegation had whole-heartedly approved of the action taken at the United Nations Conference on the Human Environment. His delegation supported the Declaration on the Human Environment, the 23 general principles for the assessment and control of marine pollution, the three principles relating to the rights of coastal States and the draft articles on ocean dumping.

The preparatory work that had been done for the Stockholm Conference should be carried further. His delegation therefore welcomed the offer by the United Kingdom Government to act as host to a conference, later in 1972, to deal with the question of dumping, on the basis of the work already done in 1971 by the Intergovernmental Working Group on Marine Pollution and in 1972 at the intergovernmental meetings on ocean dumping at Reykjavik and London. The Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor had been invited to comment on the results so far achieved by those meetings and his delegation considered that the working group set up by Sub-Committee III should take such action as was necessary to facilitate the conclusion of a convention at the conference to be held in London at the end of 1972 and to ensure a global approach to the solution of the urgent problem of dumping.

The representative of Peru had said at the 21st meeting of Sub-Committee that the intergovernmental meeting on ocean dumping held at Reykjavik in April 1972 had not been representative of the general views because of relatively small attendance at that meeting. In fact, the meeting had been convened to carry further the work that had been done by the Intergovernmental Working Group on Marine Pollution at Ottawa in 1971 and all States Members of the United Nations and members of the specialized agencies had been invited to participate. The articles drafted at Reykjavik had been further considered at the intergovernmental meeting in London in May 1972. He hoped that they would be thoroughly discussed by the Sub-Committee or its working group, so that a convention could be signed before the end of 1972. It was surely desirable that the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor should make use of work done in other fora, if it was conducive to the taking of effective measures to prevent marine pollution.

Mr. VALLARTA (Mexico) said that the Declaration of the United Nations Conference on the Human Environment undoubtedly contained many principles which were relevant to the Sub-Committee's work. In particular, he drew attention to principle 22 (see A/AC.138/SC.III/L.17, sect.A), under which the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor, as a body responsible for the development and

codification of international law, had a specific task to perform with respect to liability for, and compensation to the victims of, damage caused within the maritime jurisdiction of third States or in the international marine environment.

Before referring to the relevant decisions of the Stockholm Conference, he wished to indicate some basic principles of international law which were pertinent to the question. According to modern doctrine, in order to be able to establish the liability of a State for damage to the marine environment of third parties, an act or omission which violated a norm of international law had to be proved; it was also necessary to identify the State to which the act or omission could be imputed, including among the omissions a lack of due diligence in protecting third parties against the acts of private individuals under its control or jurisdiction; lastly, damage or prejudice had to have been caused as a result of the violation of international law.

It was of interest for the Sub-Committee's work to note that the codification of norms on liability for damage resulting from acts committed in violation of international law was not enough, since much of the damage caused to the marine environment was the result not of unlawful acts but of accidents which occurred in the course of activities which were lawful.

In order to resolve the problem, it would be well to consider the theory of the created hazard, which held that anyone carrying on a lawful but dangerous activity was liable for damages and compensation to the victim in the event of an accident, even where there was no question of blame or negligence. As the unlimited application of that theory would discourage many lawful but dangerous activities which were necessary in today's world, it was normally applied cautiously and was usually marked by compulsory insurance against accidents. That was so in the case of the Convention on damage caused by foreign aircraft to third parties on the surface, 21/ signed at Rome on 7 October 1952, and the 1963 Vienna Convention on Civil Liability for Nuclear Damage, 22/ as well as other instruments. As a precedent for absolute liability without compulsory insurance, the Convention on International Liability for Damage caused by Space Objects (see General Assembly resolution 2777 (XXVI), annex) could be cited, although it was to be hoped that the development and codification of the norms relating to liability and compensation for damage in the marine environment would afford the victim greater protection. The possibility of applying the theory of the created hazard might also be considered in certain cases where insurance against accidents was not compulsory, particularly where the party causing the damage was a developed State and the victim a developing State or an inhabitant thereof.

He had voiced the preceding considerations in order to justify consideration of the question of the requirement of compulsory insurance for uses of the ocean which were so dangerous that they warranted application of the theory of the created hazard. Insurance systems were not equally developed in all the economic systems of the world and therefore it was a question which should be studied.

Among the principles submitted to the Committee by the Stockholm Conference were 23 general principles for the assessment and control of marine pollution, drafted at Ottawa in November 1971 by the second session of the Intergovernmental

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21/ United Nations, Treaty Series, vol. 310 (1958), No. 4493, p.182.

22/ See United Nations Juridical Yearbook, 1963 (United Nations publication, Sales No.: 65.V.3), chap.IV, 5, p.148.

Working Group on Marine Pollution, of which principle (18) was in harmony with his idea. It stated that coastal States should ensure that adequate and appropriate resources were available to deal with pollution incidents resulting from the exploration and exploitation of sea-bed resources in areas within the limits of their national jurisdiction.

What was more, the fact that the international community itself had become the owner of the sea-bed and the ocean floor beyond the limits of national jurisdiction would oblige the Committee to consider that community as a subject of international law, especially as there would soon be international machinery to represent it; therefore, it would be necessary to consider the international community as a potential causer or victim of damage or impairment. That point deserved special attention. At the national level, some Governments set up bodies to represent society in legal matters, and perhaps something of the same sort could be done at the international level to give the international community proper representation.

The very first of the general principles declared that every State had a duty to protect and preserve the marine environment and, in particular, to prevent pollution that might affect areas where an internationally shared resource was located. That duty did not consist only in abstaining from creating pollution. The question was worth considering from the point of view of the liability of a State for damage caused by individuals within its jurisdiction or under its control. It could be argued that the duty to protect and preserve the marine environment carried with it the duty to prevent individuals from committing acts which caused damage to the marine environment. Again, principle (7) laid down not only the liability but also the duty to compensate the victim and stated that procedures should be developed for dealing with the question.

If it was the duty of States to protect and preserve the marine environment, any activity by a State which, of necessity and as a natural consequence of that activity, was prejudicial to the environment of third States or of the international community and which was not in conformity with the needs of the international community considered as a whole, violated a norm of international law which applied to the author of the activity. Thus, it was an activity contrary to international law which could be attributed to a State and which had a victim. Could States then, in the light of those principles, carry out nuclear tests polluting the environment without violating international law and without incurring liability? The answer was that they could not.

His delegation agreed with the Canadian delegation (20th meeting) that principle (13) should serve as a guide to the Committee in its work of codification, since it was essential to guard against transferring damage or hazard from one part of the environment to another. He believed that that principle should be applied in connexion with the draft articles on ocean dumping, since some highly industrialized States had tried to transfer the hazards from their own territories to the sea.

Principle (21), concerning the right of the coastal State to take action, following an off-shore accident, to mitigate or eliminate the danger to its interests was in harmony with the right which the Declaration of Santo Domingo of 7 June 1972 (A/AC.138/80) accorded to the coastal State to adopt the necessary measures to prevent marine pollution and to ensure its sovereignty over its resources. It was impossible to conceive of sovereignty over resources and special jurisdiction over them, or even any particular interest of the coastal State, without recognizing that

State's right to protect those resources. The African States' Regional Seminar on the Law of the Sea, held at Yaoundé in June 1972, had also recognized in the conclusions in its general report (A/AC.138/79), the right referred to in principle (21). That principle was indisputable and hence it sufficed to recognize the "special interest" of the coastal State in the resources adjacent to its shores to acknowledge not only principle (21) but also in general the special jurisdiction of the coastal State for the prevention of pollution beyond the 12-mile limit of the territorial sea. Contrary to what the representative of Japan had said, that did not run counter to a global approach to the subject of pollution. The protagonists of the jurisdiction of the flag-State in areas beyond the limits of national jurisdiction did not support global action but unilateral action by the flag-State.

At the second session of the Intergovernmental Working Group on Marine Pollution at Ottawa in November 1971, the Mexican delegation had supported the three principles relating to the rights of coastal States in general terms and subject to drafting changes at a later juncture. It continued to support them and was of the opinion that the working group of Sub-Committee III could begin its work on them forthwith, taking into account the amendments submitted by the delegation of Peru in document A/AC.138/SC.III/L.20.

He then referred to the draft articles of a convention for the prevention of marine pollution by dumping. As far as the preamble was concerned, his delegation had proposed in the drafting committee at the intergovernmental meeting at Reykjavik that it should contain a reference to the fact that the General Assembly had solemnly declared that the sea-bed and the ocean floor and its subsoil beyond the limits of national jurisdiction were the common heritage of mankind. His delegation had been the sole representative of the developing countries present at that meeting of the drafting committee. Its proposal had met with strong opposition from the developed countries in that committee. The only possible explanation for that opposition was that they wished to use the sea-bed beyond the limits of national jurisdiction for the dumping of toxic waste. Did not that strong opposition constitute tacit recognition of the fact that the concept of the common heritage of mankind provided a sufficient legal basis for asserting that international law, inter alia, prohibited the free dumping of waste which would end up on the sea-bed? He felt it was necessary to sound a note of alarm, because the non-participation of developing countries in the drafting of the convention might result in the legalization of the dumping of toxic waste into the ocean.

His delegation had insisted that the future Convention should start from the premise that the dumping of waste was prohibited. That concept was seen in article IV of the draft articles. It was the Sub-Committee's duty to see that exceptions to the prohibition did not render it inoperative.

He drew attention to foot-note (a) to annex I of the draft articles, the text which he read out, and which related to exceptions, for containerized wastes, to the prohibition in question permissible during a period of five years from the date of entry into force of the convention. He had been concerned, since the effect of sea-water on containers over a period of time was not known.

He wished to make it clear, in connexion with article III, paragraph 3, that the draft articles applied to territorial seas and bays in accordance with the axiomatic principle that the State had rights and duties in the areas within its jurisdiction and in accordance with the principle of the unity of ocean space.

Article V, which contained an exception to the general prohibition and stated that the provisions of article IV did not apply where the safety of human life was threatened, should be clarified to show that the reference was to human beings on board ships, aircraft or rigs. As far as persons on land were concerned, it should be made clear that the exception related to an imminent threat. The provisions of those articles should obviate the transfer of pollution hazards from one part of the human environment to another.

One scientific expert who had attended the intergovernmental meeting at Reykjavik and came from a country whose national legislation prohibited the discharge of waste into the ocean had told him that it was safer to keep containers of toxic substances on land, so that their condition could be regularly checked. That fact should be borne in mind in the work on the draft under consideration. While it might be more costly, for instance, to use other chemicals to eliminate waste on land, it was the duty of developed countries to use the safest and not the cheapest means to dispose of toxic substances.

Article IX contained an exception set out in square brackets which had caused his delegation perplexity. It related to the application of provisions equivalent to those of the convention to warships and military aircraft, and vessels and aircraft in government non-commercial service owned or operated by a party and entitled to sovereign immunity under international law. His delegation could not agree that vessels which enjoyed sovereign immunity should not be covered by the provisions of the convention. His delegation would defend the preservation of that immunity only in so far as the State whose flag was flown by the vessel or aircraft should have exclusive jurisdiction to enforce the law, but it could not agree that the vessels and aircraft in question should have rights but no duties.

Article XIII was concerned with the right of the forthcoming Conference on the law of the sea to revise any instrument incorporating the draft articles in question. Obviously, any international instrument of a universal character on the subject should be subject to revision by that Conference, even if its final clauses did not make provision for such revision.

With regard to paragraphs 6 and 7 of annex I, in square brackets, included among matter whose dumping was totally prohibited high-level radioactive wastes and agents of chemical and biological warfare, his delegation was of the opinion that the brackets should be removed, so that those substances were included in the prohibition, irrespective of whether or not their toxicity was equivalent to that of the other substances listed in annex I.

With reference to annex III, in section B, relating to the characteristics of the dumping site and the method of deposit as criteria for the issue of dumping permits, any jurisdictional zone of third States should be expressly described as a prohibited site. The annexes had been prepared by scientists, but they needed to be considered also in the light of international law.

The meeting rose at 1.20 p.m.

SUMMARY RECORD OF THE TWENTY-FIFTH MEETING

held on Wednesday, 2 August 1972, at 10.45 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Marine pollution (continued) (A/AC.138/SC.III/L.15-17, A/AC.138/SC.III/L.19-22)

Mr. STEVENSON (United States of America) said that, although his delegation appreciated the importance of the United Nations Conference on the Human Environment, held at Stockholm in June 1972, and considered that the relevant documents should be used as guidelines for the Committee's work on marine pollution, it did not believe that the Committee and the forthcoming Conference on the law of the sea could be expected to deal with all the complex problems involved. In particular, Sub-Committee III should concentrate its attention on the basic legal principles concerning marine pollution which could be drawn from the conclusions of the Stockholm Conference and could form a basis for general treaty articles and, where appropriate, should also consider specific problems. With respect to specific problems, the Sub-Committee should concentrate on certain aspects of pollution from vessels, so as to avoid unnecessary conflicts with the other Sub-Committees and with other international activities and to ensure thorough consideration of a subject on which concerted international action was required. Neither the Committee nor the future Conference on the law of the sea should try to deal with problems of land-based pollution, since they did not have the necessary technical competence and since, in any case, such problems must be handled primarily by Governments and through regional co-operation.

The Committee and the Conference on the law of the sea would have to deal with the question of pollution resulting from the exploration and exploitation of the sea-bed, but the United States of America would urge that that should be done in Sub-Committee I, since that question could scarcely be considered separately from the other elements of the sea-bed régime. His delegation intended to propose in Sub-Committee I that a standard of strict liability should apply to clean-up costs and pollution damage from sea-bed exploration and exploitation.

With regard to ocean dumping, the United States considered that the draft articles drawn up during the 1972 Reykjavik and London intergovernmental meetings served as a sound basis for developing a convention which would significantly improve the quality of the ocean environment. The most useful action that the Committee could take on that subject would be to express support for the plenipotentiary conference to be convened by the United Kingdom Government later in 1972, for the outcome of that conference would largely determine whether the subject should be further considered at the Conference on the law of the sea.

Turning to the general subject of pollution from vessels, he pointed out that such pollution might take different forms, which should be dealt with separately. Thus, pollution might be either intentional or accidental and might involve many pollutants in addition to oil. Further research was clearly required on the effects of the

introduction of various substances into oceans. Moreover, accidental pollution might be further classified into pollution resulting from defects in internal regulatory standards governing the design, construction and operation of vessels, pollution resulting from maritime accidents, and pollution resulting from human error.

After reviewing the principal measures taken at the international level since 1954 to control and minimize pollution of the sea by oil from vessels, the proposals being considered by IMCO to extend the principles of the existing conventions on oil pollution to pollution caused by certain substances other than oil, and the objectives of the International conference on Marine Pollution to be convened by IMCO in 1973, he said that his delegation believed that seven further important steps needed to be taken.

In the first place, IMCO's current work should be strongly supported and the Committee and the Conference on the law of the sea might usefully urge countries which had not adhered to or ratified various IMCO instruments - particularly the 1969 International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, the 1969 International Convention on Civil Liability for Oil Pollution Damage, and the 1971 International Convention on the Establishment of an International Compensation Fund for Oil Pollution Damage - to give serious consideration to such adherence or ratification. The Committee and the Conference could also usefully endorse the extension of the liability and compensation provisions of those Conventions to further dangerous substances.

Secondly, greater consideration should be given to the concerns and proposals of coastal States, and the Committee might urge IMCO to undertake such studies, as well as the studies of specific regional or local problem-areas of pollution by vessels and the continuation and expansion of its training programmes for the nationals of developing countries.

Thirdly, IMCO's proposal that all new commercial tankers should be required to carry an international tanker construction (pollution prevention) certification should be adopted and included in the convention to be concluded in 1973.

Fourthly, port States should be required by international agreement to verify possession of such an international certificate by all new commercial tankers entering their ports and to refuse entry to any tanker not possessing the certificate. The United States intended to propose that refusal of entry should be made mandatory for non-compliance, except in the case of force majeure, and also believed that port States should be authorized to inspect any tanker entering its ports if there were reasonable grounds for believing that it did not conform to the construction standards, in which case the port State could require the necessary repairs to be made or could refuse entry.

Fifthly, all ships proceeding through areas to which international traffic separation schemes applied should be required to respect those schemes in accordance with the rules and procedures established by IMCO and the international regulations for preventing collisions at sea; the Conference should also include that requirement in the treaty to be formulated and should prescribe strict liability for accidents caused by diviation from those schemes.

Sixthly, the scope of the 1969 International Convention relating to intervention, to which he had already referred, should be extended to apply to dangerous substances other than oil and consideration should be given to expanding the criteria governing instances in which States could act, including the possible widening of the concept of maritime "casualty".

Finally, the Committee and the Conference should prepare treaty articles setting out the general principles governing the common effort to ensure that man's use of the oceans and other resources was carried out in harmony with the environment and with a minimum risk of pollution; the Declaration on the Human Environment and the 23 general principles for the assessment and control of marine pollution approved by the Stockholm Conference could clearly serve as a basis for that work.

In view of past and future action, his delegation considered that four main conclusions on the subject of pollution from vessels warranted the Sub-Committee's support. First, although much useful action had already been taken, more needed to be done, because of the serious dangers of pollution from vessels, particularly owing to the construction of larger tankers and the rapid expansion of maritime trade. Secondly, IMCO should be urged to proceed with its work in those matters as rapidly as possible and to give additional consideration to the needs of coastal States. Thirdly, the forthcoming Conference should support and supplement IMCO in its work, but should not try to replace it; the Committee and the Conference were the proper forums for developing treaty articles on basic policies, but were clearly incompetent to deal with work requiring technical expertise and detailed regulation.

Lastly, control of pollution from vessels required a careful balancing of the interests, rights and obligations of maritime, shipping and coastal States. Accordingly, while the United States sympathized with the underlying motives of proposals such as the three principles relating to the rights of coastal States referred to by the Canadian representative at the Sub-Committee's 20th meeting, it could not accept that approach, since the vesting of wide powers in coastal States would not promote a proper balance of interests or the prevention of pollution in the open ocean beyond the control zone that would be established, and it could lead to the type of conflict which it was the main purpose of the Committee and the Conference to avoid. Moreover, the needs of coastal States for increased protection against pollution could certainly be met without resorting to dangerous methods of self-help, and it was essential to recognize the fact that only concerted international action could adequately meet the common danger.

Mr. SMALL (New Zealand) said that his delegation regretted to be obliged once again to refer to the problem of pollution caused by the testing of nuclear weapons. At the meetings of the Sub-Committee in 1971, the representative of Malta had raised the question of nuclear weapons tests that were being undertaken by France in the South Pacific, drawing attention to the harmful effects of tests in the atmosphere on the marine environment and marine life and pointing out that the Sub-Committee had the responsibility of proposing legal norms for the preservation of the marine environment. With the exception of the French delegation, the Sub-Committee had agreed that the question fell within its competence, and the subsequent debate had centred on a "Suggested statement of views by Sub-Committee III, proposed by Australia, Japan, Malta, New Zealand, Peru and the Philippines (A/AC.138/SC.III/L.4 and Add.1)",23/ in which, inter alia, an urgent appeal was addressed to the Government

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23/ See Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421), annex V, p.246.

of France to cease its test programme. It would seem from the Committee's 1971 report to the General Assembly that only the opposition of the French delegation had prevented the Committee from adopting the statement by consensus.24/ The General Assembly had then adopted on 16 December 1971 resolution 2828 C (XXVI), stressing the urgency of bringing to a halt all nuclear weapon testing in all environments by all States.

When it had become known that further tests in the South Pacific were planned for 1972, there had been renewed protests from the nations and peoples of the South Pacific, but none of them had had any effect; the Government of France had announced on 5 May 1972 that a danger-zone centred on the site of Mururoa Atoll had again been activated.

The Stockholm Conference had produced a number of further specific expressions of international opinion on the subject, such as principle 26 of the Declaration on the Human Environment (see A/AC.138/SC.III/L.17. sect.A). Moreover, the Conference had adopted with only three opposing votes, a New Zealand and Peruvian draft resolution condemning nuclear weapons tests, especially those carried out in the atmosphere, and calling upon States intending to carry out such tests to abandon their plans.25/ The Conference had also had before it a similar joint appeal by nine countries of the Pacific region.

Unfortunately, however, there was reason to believe that on 26 June, only a few days after the Stockholm Conference had ended and in total disregard of its pronouncements, the first of a series of explosions had been fired at the Mururoa site, and no announcement had yet been made to the effect that the tests had come to an end. New Zealand believed, as did many other countries, that a universally accepted test ban treaty was long overdue and was especially concerned by the tests in the atmosphere undertaken by two countries, France and China, which presented the most obvious threat to the environment. Every year that such tests were carried out in the South Pacific, the people of New Zealand were exposed to a measurable increase in radiation levels. The International Commission on Radiological Protection had been careful to state, in establishing dose levels, that a controlled rate of exposure should be kept to the minimum and that the risk of such exposure should be justified in terms of the benefits received; although the risk of genetic and somatic damage to New Zealanders was admittedly small when compared to other hazards of life, it existed and was accompanied by no benefit of any kind. Moreover, each test carried out on a small atoll in the middle of a vast and fruitful ocean produced additional and unnecessary contamination of that environment and was ultimately capable of threatening marine resources.

New Zealand's concern with those tests was deep-rooted and genuine, and would not cease until testing ceased. It would continue its regular protests until the strong feelings of its Government and people were heeded. Indeed, most of the countries and territories of the Pacific region had made their attitude to the French tests abundantly plain. Thus, on 14 June a meeting of the Pacific Island Producers Association had unanimously adopted a resolution stating inter alia that, in spite of

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24/ Ibid., para. 173.

25 See A/CONF.48/14, sect. IV, resolution 3 (I).

assurances about the inoffensiveness of the French nuclear explosions to the health and safety of marine life, which was a vital element in the economy of the South Pacific, the French Government continued to conduct them at a point far removed from the mass of its own people, and that the continuation of the tests was an impediment to the joint efforts of the Pacific Islands Governments to improve the quality of life in the region, and urging the French Government to reconsider its intention and to call a definite halt to its nuclear test programme in the region.

On 20 June 1972, the Prime Ministers of New Zealand and Australia had signed a statement, transmitted to the Chairman of the Conference of the Committee on Disarmament, regretting that they were obliged to express a joint protest against the imminent further series of atmospheric tests of nuclear weapons in the South Pacific, declaring that the Government of France must bear full responsibility for its decision, which was contrary to the appeals of many Pacific countries, to the urgent requests made by the General Assembly and to the censure of such tests by the Stockholm Conference, and calling on the Conference of the Committee of Disarmament to continue to accord high priority to the question of the urgent need for the suspension of such tests and the formulation of a comprehensive test ban treaty.

On 22 June, the foreign Ministers of the Countries of the Andean Group had issued a declaration noting that the French Government had indicated that nuclear testing would take place in the vicinity of Mururoa Atoll, condemning such tests as dangerous to present and future generations of mankind, as well as to the normal development of animal and vegetable life in the world and in that area in particular, and calling for the immediate cessation of those nuclear tests in the light of the conclusions of the United Nations General Assembly and the results of the Stockholm Conference.

On 29 June, the ANZUS Council (Australia, New Zealand and the United States of America) had issued a communiqué expressing the hope that there would be universal adherence to the 1963 Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water and endorsing the Australian and New Zealand appeal to the Conference of the Committee on Disarmament, since progress in that area would respond to the deeply-held feelings and aspirations of the peoples of the Pacific area. On the same date, the Foreign Ministers of Australia and New Zealand had issued a further joint statement deploring and condemning the resumption of atmospheric nuclear testing by France, regretting that France had failed to respond to their own repeated protests and those of other Pacific nations and peoples, reiterating their hope that there would be universal adherence to the 1963 Nuclear Test Ban Treaty, reaffirming their strong opposition to the tests and renewing their appeal to the French Government to stop the series forthwith.

Finally, a communiqué issued during a meeting of the Foreign Ministers of Indonesia, Malaysia, Singapore and Thailand on 13 and 14 July 1972 stated inter alia that the meeting deplored nuclear tests anywhere in the world, since such tests presented unknown hazards to human life, polluted the environment, defied the Declaration on the Human Environment adopted by the Stockholm Conference and were contrary to the letter and spirit of the 1963 Nuclear Test Ban Treaty, which had received practically universal support.

In the belief that Sub-Committee III should take decisive action on that issue, the delegations of Australia, Canada, Chile, Colombia, Fiji, Indonesia, Japan, Malaysia, New Zealand, Peru, the Philippines, Singapore and Thailand had prepared a draft resolution (A/AC.138/SC.III/L.22) based on a similar text submitted to the Sub-Committee in 1971 and taking into account the resolutions of the Stockholm Conference. In its last preambular paragraph, the draft resolution drew attention to the obligations of the Committee, and especially Sub-Committee III, to propose legal norms for the preservation of the marine environment and the prevention of marine pollution. The main thrust of the draft lay in the declaration in operative paragraph 1, which, suitably adapted to the more restricted terms of reference of the Committee, closely followed the wording of the resolution on nuclear weapons tests adopted by the Stockholm Conference and was directed towards bringing to an end all nuclear weapons testing likely to contribute to the contamination of the marine environment. Finally, the sponsors had thought it appropriate to include in operative paragraph 2 a request that the resolution should be forwarded to the Secretary-General of the United Nations for referral to the appropriate United Nations bodies, including the Conference of the Committee on Disarmament.

Mr. RIZZO (Ecuador) said he hoped that the Sub-Committee would be able, at its present session, to discharge its task of preparing draft articles on questions relating to the preservation of the marine environment, including pollution prevention, and to scientific research, which were of such great importance for the law of the sea. It should be stressed that the success of the Committee's work depended to a large extent on the applicability of principles to the law of the sea embodying up-to-date concepts which were in harmony with technological and scientific developments, and on the strict observance of mutual respect in the territorial waters of coastal States and in international waters.

Ecuador was aware of the importance of speeding up national programmes in the fields of research and exploration of territorial waters, both mainland and insular, using national resources and co-ordinating national measures with related international programmes. Thus, the Government of Ecuador, concerned at the danger of pollution of the marine environment, particularly that caused by ships, had laid down norms which extended the scope of existing legislation and had organized safety measures to prevent and control coastal and maritime pollution at its ports; it was also considering the possibility of using in its navigational charts the traffic separation symbols recommended by IMCO.

There was no doubt that the legal principles to be formulated in the draft treaty articles should include the water column unit, incorporating the atmosphere on its surface and the sea-bed and its subsoil; in addition, the provisions should lay down minimum norms relating to universal principles applicable to the marine environment beyond the limits of national jurisdiction.

The Sub-Committee, in its work on the preparation, co-ordination and formulation of draft legal norms, had to rely heavily on knowledge acquired from technical reports, from conferences and from experiences with regional conventions currently in operation. In that context, his delegation wished to put forward the following general considerations regarding the preservation of the marine environment.

Problems relating to the preservation of the marine environment were closely connected with the results of scientific research that would enable the international authority to be established to take effective action, so that it could administer the sea-bed and the ocean floor beyond the limits of national jurisdiction for the benefit of mankind as a whole. National measures should be in conformity with the universal principles of positive international law, and in accord with the possibilities and capacities of States which had need of regional agreements and conventions to safeguard the utilizable resources of the marine environment off their shores.

Even before establishing jurisdictional maritime zones for the purpose of preparing draft principles, the Working Group of Sub-Committee III should accord priority to the concept of the preservation of the marine environment with a view to the utilization of its living and mineral resources, whether renewable or not. In addition, it should pay due attention to the relative importance of pollutants. It was readily understandable that, in the union between those two categories of intrinsic and concurrent principles, prominence should be given to the need for scientific research, carried out with the participation of States, to study specifically the classification and utilization of resources and ways whereby pollution of the marine environment could be prevented.

The rights of coastal States to preserve the marine environment should be respected, in conformity with the sovereignty and jurisdiction established by those States, it being incumbent on Sub-Committee III to make recommendations with which States should comply in that respect. His delegation attached importance to principles 2, 11, 20 and 24 in the Declaration of the United Nations Conference on the Human Environment. They called on States to accept joint responsibility for the preservation of the marine environment beyond the limits of national jurisdiction, while stating clearly that the measures adopted should not interfere with the economic development of countries and should promote co-operation and the transfer of technology in scientific maritime research.

Similarly, with regard to the specific use of the international area or the sea-bed and ocean floor and the subsoil thereof, it was necessary to respect the principles in paragraphs 4, 5 and 7 of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction set out in General Assembly resolution 2749 (XXV), which stated categorically that the exploration of the area and the exploitation of its resources should be governed by the international régime to be established and should be undertaken for peaceful purposes for the benefit of mankind as a whole.

It was regrettable that the Sub-Committee still did not have all the reports on fishing by countries and the additional updated documentation on the technological classification and development of fisheries, prepared by FAO. His delegation welcomed the proposal by the Government of Canada that a technical conference on fisheries classification and development be convened at the beginning of 1973, which would deal with the relevant scientific and technical principles and not with the legal aspects of fisheries. FAO was making a valuable contribution to the work of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. Greater knowledge of the methodology of classification of the living resources of the sea would provide the necessary background for the preparation of draft legal principles for the preservation of the marine environment, and the Sub-Committee, before it definitely formulated principles, should have the supplementary technical information to be provided by FAO.

In the draft articles, special attention should be paid to the unification of the work of bodies engaged in scientific marine research, with a view to speeding up programmes concerned with education, technical co-operation and staffing, and the establishment of research centres, which should apply in particular to the developing countries. That was in accord with general conclusions 6.1, 6.7 and 6.10 set out in the report of the FAO Technical Conference on Marine Pollution and its Effects on Living Resources and Fishing, held at Rome in December 1970, and with recommendations 90 and 91 of the United Nations Conference on the Human Environment on the same subject (see A/AC.138/SC.III/L.17.sect.B).

His delegation considered that the draft articles to be prepared by the Sub-Committee should take account of the spirit of principles 6 and 7 in the Declaration on the Human Environment (ibid., sect.A), which dealt with general measures to prevent marine pollution, and principles (1), (8) and (10) of the general principles for the assessment and control of marine pollution suggested in 1971 by the second session of the Intergovernmental Working Group on Marine Pollution, which, inter alia, called for collaboration between States and international organizations to prevent pollution at the regional and international levels.

His delegation reiterated its firm position that, as far as the forthcoming Conference on the law of the sea was concerned, the problems of ocean space were closely interrelated and should be considered as a whole.

His delegation would also support the New Zealand draft resolution, in the hope that all nuclear weapons tests would cease.

Mr. HARRY (Australia) said that his delegation was a sponsor of draft resolution A/AC.138/SC.III/L.22, just introduced by the representative of New Zealand, and greatly regretted that it had once again to refer to the threat to the marine environment caused by the conduct of atmospheric nuclear weapons tests in the Pasific. It did so together with 12 other delegations from every quarter of the Pacific Ocean.

In the summer of 1971, the Australian delegation, together with a number of other delegations, had submitted the statement of views mentioned by the New Zealand representative, expressing serious concern at the then recent nuclear tests in the South Pacific and directing an appeal to the Government of France to cease its testing of nuclear weapons in the atmosphere. Those efforts had been of no avail and testing had recently been resumed. Once again, the Australian Government and other Governments in the region, collectively and individually, had protested vigorously. Popular feeling in Australia against those tests had become very great. The concern of Australians was not simply because of the danger to Australia; it was a concern for the whole region. Many who were unaccustomed to participate in political demonstrations had joined in the protests.

It was disturbing that testing had been resumed in disregard of the genuine concern of the peoples of the region. Another disturbing aspect was the persistent disregard which those responsible for the carrying out of atmospheric tests demonstrated for the almost universal abhorrence of testing in the atmosphere, which had been evidenced by the 1963 Nuclear Test Ban Treaty. He urged all States which had not yet done so to accede to it as soon as possible. At the same time, he wished to make it clear that Australia was in favour of the discontinuance of all nuclear testing.

The draft resolution of which his delegation was a sponsor was particularly concerned with nuclear weapons tests that were likely to contribute to the pollution of the marine environment. In considering measures to prevent pollution of the sea, it was impossible not to deplore and condemn the release into the atmosphere over the Pacific Ocean of radioactive fission products. Whatever precautions were taken, such products settled on the surface of the sea, were absorbed into the water and eventually into the life-chains which comprised the marine eco-systems. In 1971, he had referred to the fall-out over Tureia Atoll in June 1971 as the result of the unforeseen conjunction of a contaminated air layer and rain. The previous week, laboratories of the Government of the State of Western Australia at Perth had recorded radiation which they had attributed to recent tests in the Pacific. The amount was very small, but detectable radiation had been found in both rainwater and air tests.

The threat to the environment caused by some nuclear weapons tests had been discussed at the United Nations Conference on the Human Environment. His delegation had hoped that the resolution condemming nuclear weapons tests adopted at that Conference would have led Governments to reconsider any plans they might have had for further tests in the atmosphere. It had just been reported in Le Monde, however, that following explosions on 25 June, 30 June and doubtless on 29 July on Mururoa Atoll, the warships which had been carrying out surveillance in the area were expected to return to Papeete at the end of the present week. He appealed to the Government of France to take account of the new mood in the international community and his delegation believed that the Sub-Committee should declare that no further nuclear weapons tests likely to contribute to the pollution of the marine environment should be carried out.

Mr. LOPEZ REINA (Colombia), after describing the complex natural processes through which the universe had evolved and the earth's biosphere had reached its present stage of development, said that before the advent of homo sapiens nature had been in a state of equilibrium as between production, consumption and waste; the latter had been assimilated so that it constituted a productive force in the mechanisms of natural transformation. It was because man had changed the natural environment in such a drastic manner that he had at last understood, with the development of science and technology, that he was endangering the human environment, and that, if he was not sure of the damage which an action taken by him would cause, it was preferable not to take that action until he had learnt how to control its effects. Although the vast enterprises in the fields of industry, the exploration and exploitation of resources, and transport, and indeed all those enterprises which used science and research for development purposes were aware of that fact, they also knew that the human environment contained the elements necessary for the life and well-being of their customers and consumers.

He then referred to the statement of the representative of the USSR (21st meeting) concerning the measures which the Soviet Union was taking to purify polluted waters and to the programme supported by FAO, WHO and the Conseil international pour l'exploration de la mer for the depollution of the North Sea, the Baltic and the Mediterranean. He wondered how much such depollution operations would cost the developed countries. In his view, it would undoubtedly have been preferable to prevent pollution in the first place.

Unfortunately, the developing countries were also being affected by pollution, although it had not yet reached dangerous proportions. Pollution arising from industrialization affected all parts of the world, but the profit gained went to a few companies and developed countries only. It was the latter, therefore, which should pay for the cost of studying pollution.

In the course of carrying out its mandate, the Sub-Committee should endeavour to ensure that the developed countries made their scientific and technological capacity readily available in the quest for more effective methods of preventing marine pollution. It should be used to enable the developing countries to prevent pollution while they expanded their economies. The Sub-Committee should aim at an immediate prohibition of ocean dumping, even with the use of containers, because at present there was insufficient knowledge of the effect on them of the currents, temperatures and pressures to which they would be subjected.

There was also a need for an immediate prohibition of the dumping into the seas of detergents or other chemicals used for cleaning oil tankers. Efforts to design tankers that would be as far as possible accident-free should also be stepped up. Moreover, the Sub-Committee should aim at a firm and immediate ban on nuclear tests in the Pacific, since the medium-term and long-term consequences, to man, to animals and to the environment were not known. Lastly, the Sub-Committee should instruct its Working Group to carry out a detailed analysis of the report of the FAO Technical Conference on Marine Pollution and its Effects on Living Resources and Fishing, held at Rome from 9 to 18 December 1970.

Mr. JEANNEL (France) said that in carrying out its mandate, the Sub-Committee would benefit from the excellent text adopted by the Stockholm Conference, which could provide valuable guidelines. Whatever sort of instrument was drawn up, it was essential that the details should be left to the competent technical bodies at the national and regional levels. Although the role of the Sub-Committee was of paramount importance in the preparation of draft articles concerning marine pollution, there was no reason why the efforts of other international or regional agencies should not be of great assistance to it. UNESCO, FAO, WMO, WHO and IAEA were all participating in the work of the prevention and control of pollution and an inter-agency group - GESAMP - had been set up with a view to joint efforts to deal with the scientific aspects of marine pollution. IOC was also performing valuable work and had just established an international co-ordination group to conduct the GIPME programme.

Because of the number of bodies involved in the problem, the fear that overlapping and duplication would occur was quite natural. The delegations of Labanon, Chile and Peru, for instance, had expressed such a fear (23rd meeting) in connexion with the 1973 IMCO Conference on Marine Pollution. Provided that there was proper co-ordination, however, there should be no grounds for such fears. IMCO was a technical body with considerable experience of the problem. The amendments to the 1954 International Convention for the Prevention of Pollution of the Sea by Oil had been prepared under its auspices, as had also the texts approved by the International Legal Conference on Marine Pollution Damage, convened by IMCO at Brussels in 1969. It was clear that IMCO could deal with technical problems such as the oil pollution resulting from the cleaning of tanks, the question of safety in tanker construction, and the need to reduce to the minimum pollution by harmful substances shipped either in bulk or in containers. In his view, the Sub-Committee had neither the experts nor

the authority to deal with such technical issues, and if they were dealt with by IMCO it would not be a question of competition but rather one of leaving the Sub-Committee free to draw up general and universal rules. In any event, as the representative of the United Kingdom had pointed out (23rd meeting), the text to be drafted would have to be referred to the Conference on the law of the sea. Moreover, in view of the serious nature of the pollution problem, it would be regrettable to delay consideration of the technical issues, since it was possible that immediate action might prove to be essential.

France, whose Breton coast had been seriously endangered by the wreck of the Germania with its cargo of chemicals, attached great importance to establishing regional agreements, which could be regarded as forerunners of world-wide agreements. As examples of regional agreements, he referred the Sub-Committee to the 1969 Bonn Agreement, a technical agreement for combatting marine pollution caused by oil in the North Sea, the Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, adopted by the Oslo Regional Conference on Ocean Dumping and signed by 12 of the States parties to the 1959 North-East Atlantic Fisheries Convention 26/. A particularly interesting provision of the Oslo Convention was its article 3, which prohibited the transfer of the dumping of harmful substances to the seas outside the area covered by the Convention. On the initiative of France, co-operation had been established in the western Mediterranean and on 25 April 1972 an agreement concerning oil pollution of the Mediterranean had been approved at Neuilly. The Italian Government, for its part, had convened a conference at the beginning of July 1972 at Rome with a view to preventing pollution from dumping operations in the western Mediterranean. It would have the same field of application as the Neuilly Agreement. He also gave the Sub-Committee information on other actions being taken by regional organizations, including the "Ramoge" project, which involved trilateral co-operation between France, Monaco and Italy in efforts to clear up a particularly heavily polluted pilot area.

On the other hand, if coastal States established anti-pollution rules for areas adjacent to their coasts which did not comply with agreed international standards, there was a danger that anarchy would ensue. Equally, the recognition of their right to prohibit foreign shipping from entering such areas because of alleged non-compliance with their rules would, unless accorded in the context of international regulation, constitute a serious infringement of the principle of the law of the flag.

In conclusion, he expressed deep sympathy with the fear that pollution control measures might impede the economic development of the developing countries. The Stockholm Conference had recognized that danger in the drafting of principle 23 of the Declaration on the Human Environment, which he quoted. It was essential that the economic effects of measures to be taken should be evaluated, so as to ensure that the cost to the developing countries was not too high. No doubt, it would be necessary to adapt standards and alter the cost structure according to regions or economic entities, in order to ensure that harmonious development was not held back.

Mr. CHEN (China) said that no nation, and certainly not his own, could fail to be deeply concerned at the vast increase in wastes and toxic substances currently being dumped into the seas and oceans as a result of the policy of plunder, aggression and war pursued by the super-Powers, and the activities of monopoly-capitalist groups which were so profit-conscious that they disregarded the safety of the peoples and the living resources of the sea.

26/ United Nations, Treaty Series, vol.486 (1964), No.7078, p.158.

China, a country with a long coastline, considered it essential to preserve the marine environment and was relying on its people to work systematically to prevent industrial wastes from polluting the environment and to eliminate them. However, since its science and technology was not yet advanced, it was ready to learn from the successful experiences of other countries how the marine environment could be protected and improved. His delegation believed that, notwithstanding the spurious arguments advanced by the super-Powers, coastal States, which were the direct victims of marine pollution, were fully entitled to exercise direct jurisdiction and control over areas - within certain limits - which were adjacent to their territorial seas, in order to protect the health and security of the people and to meet the needs of their economic development. His delegation therefore endorsed the proposals made to the Committee that were aimed at safeguarding the rights of coastal States.

While agreeing on the undoubted need for concerted effort by the people of all countries and increased international and regional measures, he pointed out that such action could not replace regulation by coastal States themselves. Indeed, protection by coastal States of their own marine environment was conducive to the protection of the marine environment as a whole. Consequently, international regulations would only be effective if they were prepared on the basis of respect for the rights and interests of coastal States. The argument that regulations by coastal States on marine pollution would create "a high degree of tension" was false. Any tension that was being caused was the responsibility of certain big Powers which regarded other countries as sources of petroleum and raw materials and other countries' territorial waters as their own "lifelines", through which their pollution-causing tankers and freighters could sail at will. It was such Powers that were causing tension by trying to prevent the injured countries from taking defensive measures against the pollution they caused.

His delegation noted that countries which were chiefly responsible for pollution were now pretending to be seriously concerned about the marine environment, when in fact they were attempting to shift their responsibility to others on the ground that everybody was equally responsible for marine pollution. In such a situation, specific action to control their own pollution would speak much louder than words.

His delegation believed that the rights of coastal States should be respected, that they had the right to guard their marine environment against pollution from outside, and that they had the right to claim compensation from any State that damaged their marine environment by pollution. It also believed that all States, particularly the industrially developed States, had an obligation to tighten their control over their internal marine dumping, to take effective measures to solve the problem of the discharging of harmful substances and to prevent the pollution of their own seas from spreading to and damaging the marine environment of other States or the area beyond the limits of national jurisdiction.

With regard to the marine environment beyond the limits of national jurisdiction, his delegation believed that international regulations should be established, for example, in the matter of anti-pollution standards; State responsibility should be defined, the use of that area as a dumping ground for highly poisonous substances should be strictly prohibited, and the exploration and exploitation of the international area should be prevented from causing pollution.

In conclusion, in connexion with draft resolution A/AC.138/SC.III/L.22, he reaffirmed his delegation's position on the subject of nuclear weapons tests and could not therefore support the draft.

Mr. APPLETON (Trinidad and Tobago) said that his delegation fully agreed with the view expressed at the Stockholm Conference on the need for the community of nations to act together in a manner consistent with the earth's physical interdependence, because the danger of pollution in one area of the earth affecting the entire global biosphere was beyond dispute.

Of the 26 principles approved at the Stockholm Conference in the Declaration on the Human Environment, 14 (principles 5 to 14, 20 to 22 and 24) were of particular relevance to the Sub-Committee. His delegation considered principles 8 to 14 particularly important, because of the need to ensure that development planning was compatible with the need to protect and improve the human environment. Proper planning and assistance from the developed to the developing countries was essential to ensure that economic development and industrialization could go forward without upsetting the balance of environmental controls.

Since Trinidad and Tobago was a producer of oil, gas and asphalt, it was particularly alive to the need for proper conservation procedures in the exploration and exploitation of its natural resources and therefore attached particular importance to principles 20 to 22 and 24. His Government was taking measures to ensure that pollution problems arising from economic development generally and from the development of the oil industry in particular could be kept under control.

With regard to principle 22, concerning the question of liability and compensation for the victims of pollution and other environmental damage, his delegation considered that international co-operation was essential if such a very complex aspect of law was to be further developed. Perhaps the principle of liability should be stated objectively and it might be necessary, in connexion with civil claims, to investigate some system of no-fault insurance compensation. His delegation was grateful to the representative of IMCO for his invaluable contribution to the work of the Sub-Committee and had noted that IMCO had adopted in 1969 the International Convention on Civil Liability for Oil Pollution Damage, which, by placing the liability for oil spill clean-up on the shipowners whose vessels were responsible for the pollution, had taken the law a significant step forward.

His delegation wished to reiterate its earlier proposal for the inclusion in the revised IMCO conventions of the requirement that vessels should be manned by responsible and qualified captains and crew, so as to be able to maintain minimum standards and to ensure a reasonable measure of control on ships operating both within and adjacent to territorial waters. The major threat of pollution came not so much from dramatic tanker accidents such as that of the Torrey Canyon but rather from the smaller-scale but much more frequent day-to-day incidents of deliberate tanker discharges in normal operations. The Stockholm Conference had therefore done well to adopt a recommendation to cover such incidents and had widely recognized the need

for an over-all instrument for the control of ocean dumping of both oil and other toxic substances, especially in semi-enclosed areas of ocean space like the Gulf of Paria and to a lesser extent the Caribbean, which were extremely vulnerable to pollution damage.

He reminded the Sub-Committee of his delegation's proposal (23rd meeting) for the establishment of a commission within the proposed international machinery for the purpose of deploying effectively manpower and equipment and providing scientific and technical advice for the prevention and control of pollution. Such a commission should operate at national and international levels and should be responsible for administering a central laboratory for receiving, analysing and identifying samples of all crude oils and other noxious substances dumped into the sea.

His delegation believed that recommendations 90, 91 and 94 of the Stockholm Action Plan should be embodied in any treaty governing ocean space.

Mr. METALNIKOV (Union of Soviet Socialist Republics) informed the Committee that his delegation had duly held consultations with others on the subject of its draft resolution on measures for preventing pollution of the marine environment (A/AC.138/SC.III/L.19), whose object was to establish temporary provisions until an international instrument on the subject could be adopted. The discussions had indicated that a common approach was possible.

His delegation considered it essential that discussions on the question of marine pollution should be continued in the Working Group, which should take up the list of items proposed by the representative of India (24th meeting). Referring to the three unagreed principles relating to the rights of coastal States beyond the limits of national jurisdiction, he pointed out that at the second session of the Intergovernmental Working Group on Marine Pollution, held at Ottawa in 1971, Soviet experts had expressed their views on those principles. His delegation agreed with the approach suggested by the representative of Japan (23rd meeting).

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

held on Thursday, 3 August 1972, at 11.20 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Marine pollution (continued) (A/AC.138/SC.III/L.22)

Mr. NEEDLER (Canada) said that his country was a signatory of the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water of 1963, and the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof (see General Assembly resolution 2660 (XXV), annex), both of which, in addition to their military implications, had important implications for the protection of the environment. However, those two measures, essential as they were, constituted only a first step. It had been Canada's consistent position that all nuclear weapons testing should be stopped, and it had made it known to every State conducting nuclear weapons tests. That was why his delegation was a sponsor of the 13-Power draft resolution (A/AC.138/SC.III/L.22), which it interpreted as a plea to all States to refrain from nuclear weapons testing. The draft resolution was not discriminatory; it did not discriminate between the various States carrying out nuclear weapons tests or between the various types of tests. It referred specifically to marine pollution because the latter was a topic which came within the Sub-Committee's terms of reference. He hoped that that appeal and expression of concern would in time have the effect which humanity so ardently desired - the cessation of all nuclear weapons tests.

Mr. NANDAN (Fiji) said that, as a sponsor of the 13-Power draft resolution, his delegation was in entire agreement with its contents. The dangers of atomic radiation were well known. Therefore, it was a matter of great concern to his delegation that States continued to conduct atmospheric nuclear weapons tests. If they persisted, a time was bound to come when the radiation in the environment would increase to a level which would endanger the existence of mankind and its environment. Indeed, it could be asked whether that stage had not already been reached. It should be recognized that there was a risk of induced disease or disability from even the lowest levels of exposure to radiation. That consideration was of particular significance to the peoples of the South Pacific Islands, who had had no part in determining the so-called "permissible levels" or in increasing the levels of radiation to which they were being subjected.

The South Pacific had for many years been regarded as a convenient testing ground for nuclear weapons. Since 1966, the French Government had been carrying out atmospheric tests from a base on Muroroa Atoll in the Tuamotu Archipelago, in complete disregard of the expressions of public concern from all parts of the world and of the protests of the peoples of the Pacific, whose environment was the most immediately concerned. The Government of Fiji, in its representations to the Government of France, had drawn attention to the potential hazards of those tests for the health and safety of the peoples of the area and the marine life on which they depended.

It was no comfort to the people of the area to be told that the tests were not hazardous or that precautions were being taken to ensure that the tests were harmless. If that were so, why should France continue to conduct the tests in an area far removed from its own territory? His delegation urged the French Government to reconsider its position and avoid further pollution of the Pacific environment. It called for the cessation of all nuclear weapons tests in the region; his Government was opposed to all nuclear weapons tests.

Mr. VALDEZ ZAMUDIO (Peru) said that the position of his delegation, which was a sponsor of the 13-Power draft resolution, was well known. It was gratified at the strong reaction from all parts of the world against nuclear weapons tests, to which no Government could remain indifferent. It hoped that the Governments of States interested in continuing nuclear weapons tests would be persuaded to cease such tests, in view of the harmful effects which they could have on the marine environment.

The statements which had been made the previous day showed that there was agreement in the Sub-Committee on some points at least; one appeared to be that the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and the Conference on the law of the sea were the bodies which should be responsible for the formulation of general principles to serve as a framework for efforts and conventions designed to preserve the marine environment from the harmful effects of pollution. Unfortunately, some countries failed to recognize certain basic and immutable principles relating to the inalienable rights of coastal States to protect their adjacent seas from pollution, arguing that, since the marine environment was an ecological unit, the measures which should be adopted could only be taken at the international level.

It was incomprehensible that, in the adjacent waters over which coastal States exercised sovereignty and jurisdiction, measures for the preservation of the marine environment should, in the view of some delegations, be taken only through international agreements in which States remote from the coastal States would participate. Coastal States had a natural right to protect and dispose of the renewable and non-renewable resources contained in the seas adjacent to their coasts, with a view to promoting the maximum development of their countries and the well-being of their peoples. It was undeniable that the satisfaction of the needs of the populations of coastal States should be given priority over the money-making interests of enterprises from distant countries.

His delegation was in full agreement with the views expressed by the representative of China on the rights of coastal States, namely that international measures could not replace the control which those States should exercise over the marine environment under their jurisdiction for the common benefit of all mankind.

Mr. OGISO (Japan) said that it was well known that Japan was opposed to any type of nuclear weapons tests. During the preparatory stage of the work for the United Nations Conference on the Human Environment, his delegation had submitted the draft principle concerning nuclear weapons which had subsequently been adopted, by acclamation, by the Conference as principle 26 of the Declaration on the Human

Environment. At that Conference, it had also been a sponsor of the general statement issued by the countries in the Pacific region calling for the ending of all nuclear weapons tests and in particular those carried out in the atmosphere. It had supported the draft resolution which had been submitted at the Conference by New Zealand and Peru condemning nuclear weapons tests and which had been adopted by an overwhelming majority.

It was very much to be regretted that, in total disregard of the growing concern expressed everywhere with regard to the effect of such tests on the environment, including the marine environment, they were still being carried out. That was why his delegation had felt that the Sub-Committee should adopt a draft resolution along the lines of that adopted at Stockholm and had accordingly become a sponsor of the 13-Power draft resolution.

Mr. JEANNEL (France) said that it was with some surprise that he had heard a whole series of representatives praising the 13-Power draft resolution. He had been surprised, because the Sub-Committee was not competent to deal with the question. No precise facts had been advanced by a single speaker as evidence that the sea might have been polluted by the French tests. All that had been asserted was that such testing might perhaps at some time be detrimental to the marine environment.

Reference had been made to the strong public reactions against such testing. The public had obviously been misinformed but nothing had been said about the need to see that they were correctly informed. France was prepared, in the face of such vague allegations, to adduce precise scientific data and, in fact, had already done so. None of the States which earlier on had carried out tests on a much larger scale had taken such careful precautions as France to see that they had no harmful effect. Careful monitoring to ascertain whether any pollution had been caused had been carried out with the most modern equipment and the use of ships and aircraft. Tests had shown that there had been no effect on the marine environment. The results of the checks had been reported regularly to the United Nations Scientific Committee on the Effects of Atomic Radiation, which had made no comments on them. If anyone wished to contradict the French assertion that no pollution of the sea had occurred as a result of the French tests, he should provide evidence to that effect; none had been produced. The Sub-Committee's task concerned pollution of the sea and the marine environment and, if none had occurred, no action was required of it.

Furthermore, its function was to make the necessary preparations for the Conference on the law of the sea. Unless it was able to formulate draft texts with reasonable speed, it would be impossible for the General Assembly to convene the Conference in 1973. The 13-Power draft resolution bore no resemblance to the type of text which the Sub-Committee should be preparing. It was a general declaration with a large propaganda content. He urged the Sub-Committee to get on with its real work forthwith.

His delegation could not accept the 13-Power draft resolution for the reasons he had indicated. He asked that the debate on it be closed so that the Sub-Committee could take up the next item with which it had to deal.

Mr. SMALL (New Zealand) said that before he commented on the statement by the representative of France he wished to draw attention to an error in his statement at the 25th meeting. The meeting of Foreign Ministers held on 13 and 14 July, to which he had referred, had taken place at Manila, and the Foreign Minister of the Philippines had been one of the authors of the communication which had been issued.

He was a little concerned that the representative of France should suggest that the sponsors of the 13-Power draft resolution were holding up the Sub-Committee's work by raising the subject of nuclear tests. From the views expressed at the previous and present meetings it was clear that many delegations attached rather greater importance to that subject and its effects on the marine environment than France did. The question was really how much weight should be accorded to any part of the Sub-Committee's work, and all the sponsors of the draft resolution believed that the question of nuclear testing should not be dismissed lightly.

The representative of France had asserted that there was no scientific evidence that the tests carried out in the Pacific had caused any harm to the marine environment. His delegation was, on the contrary, quite certain that over the years the tests which had been carried out in the South Pacific had contaminated the area. In New Zealand the atmosphere and such commodities as milk had been affected by the tests to a minor degree. He considered that any testing which produced an amount of contamination which had an effect on the environment and on the sea was undesirable.

He pointed out that it was not easy to ascertain at once the precise facts concerning the effects of nuclear testing in the Pacific, in view of the closing off of very large areas of the high seas when detonations took place.

With regard to the French representative's assertion that the whole subject was outside the Committee's and the Sub-Committee's terms of reference, the sponsors of the draft resolution maintained that their mandate covered the preservation of the marine environment, including the prevention of pollution. That had been agreed in 1971 and there could be no denying that nuclear weapons tests did to a certain extent pollute the marine environment.

He hoped that it would be possible to put the 13-Power draft resolution to the vote and would like to hear the Chairman's views on that point.

The CHAIRMAN observed that the decisions of Sub-Committees were reached on a consensus basis and that no vote could therefore be taken. The Rapporteur would certainly indicate in the Sub-Committee's report that the draft resolution had been supported by certain delegations and opposed by others.

Mr. CHEN (China), commenting on draft resolution A/AC.138/SC.III/L.22, said that his country was aware of being confronted by a highly threatening situation, in which the two super-Powers contending for world hegemony were not only manufacturing and stockpiling nuclear weapons, but were also maintaining nuclear bases in the territories of other countries; their aircraft were carrying nuclear weapons through the air-space of those other countries and their nuclear naval vessels were plying the oceans of the world, thus threatening the security of all States.

In order to put an end to such nuclear blackmail, the peoples of the world must break the monopoly of the super-Powers over nuclear weapons. China was developing those weapons exclusively for purposes of defence, of breaking that monopoly and of finally eliminating the nuclear threat. It advocated the complete prohibition and destruction of all nuclear weapons and had declared on many occasions that it would never be the first to use such weapons; the super-Powers, on the other hand, not only strongly opposed complete prohibition and destruction, but stubbornly refused to commit themselves not to be the first to use nuclear weapons. Accordingly, a simple appeal for the prohibition of tests could only serve to further the purposes of the super-Powers, to tie the hands of the peace-loving States, and to maintain a nuclear monopoly which was against the interests of the peoples of all countries.

It was regrettable that the New Zealand representative had gone so far as to accuse China of conducting tests which allegedly threatened the marine environment, when it was well known that those tests had been carried out in China's own territory under conditions of maximum safety and that every precaution had been taken to prevent pollution of the atmosphere. He could state categorically that the New Zealand representative's allegations concerning the Chinese tests were not in accordance with the facts.

Mr. SMALL (New Zealand) said that in the light of the Chairman's statement the sponsors would not press for a vote on their draft resolution. Nevertheless, they hoped that the Sub-Committee's report would include the text of the draft and a full account of the debate, showing that consensus would have been reached if it had not been for one or two objections. They reserved the right to return to the question in the main Committee if any draft resolution was voted on in that body.

With regard to the Chinese representative's statement, he did not intend to enter into the broad political and geographical issues that had been raised. The sponsors of the draft resolution could not be accused of partiality; they opposed all nuclear testing as a matter of principle.

Mr. JEANNEL (France) pointed out that he had already moved the closure of the debate. Without wishing to enter into polemics with the New Zealand representative, he would like to submit that the latter had not adduced the slightest proof that the French tests could possibly contaminate the marine environment. Moreover, the argument that the effects of the tests could not be determined because there was no access to their site was invalid, since the dangers which the New Zealand representative alleged were surely those threatening his country, not the test area. Furthermore, if there were effects, they would be still detectable a long time after the tests. If not, they would, it was to be assumed, be negligible.

He had every confidence in the Rapporteur's ability to reflect the debate faithfully in the report, but did not think that the text of the draft resolution should be included, since it had not been agreed upon in the Sub-Committee. In any case, discussion of the report was premature, and he did not wish to influence the Rapporteur in any way.

Mr. ARIAS SCHREIBER (Peru) said that, although his delegation appreciated the arguments of the French and Chinese representatives, it was sure that they would understand the concern of other countries about the tests they conducted. The Sub-Committee was not the appropriate forum for adducing proof of pollution or discussing the measurement of the effects of tests, but it could not be denied that nuclear tests would not promote the preservation of the marine environment, and that was the legitimate concern of the Sub-Committee. The main Committee should therefore be informed of the submission of the draft resolution, of the two different objections expressed and of the fact that a vote had been requested.

The CHAIRMAN said that the question could be raised by any delegation in the main Committee, and declared the debate closed.

Scientific research (A/AC.138/SC.III/L.18)

Mr. ODA (Japan) said that the purpose of his statement was to inform the Sub-Committee of the work of the Working Group of IOC on legal questions related to scientific investigations of the ocean, of which he was Chairman. The first Preparatory Conference of Governmental Experts to formulate a draft convention on the legal status of ODAS had been held in February 1972 and had been attended by representatives from 37 countries; a further meeting of that Conference would be held in the near future. The work was based on a preliminary report prepared by a small ad hoc group of experts set up by IOC several years previously.

The function of the Working Group, which had been set up in 1967, was not to prepare draft treaties, but essentially to pave the way for the solution of problems by considering the legal aspects of scientific investigation of the nature and resources of the ocean and preparing documentation on the effect of the law of the sea on scientific research and proposals relating to the contribution of scientific knowledge to the further development of the law of the sea. The Working Group had held its first meeting in 1968 and had decided to try to list the impediments which should be eliminated or limited; owing to lack of time, however, it had been unable to define the various impediments to scientific research of the ocean, although those suggested by certain delegations had been set out in the annex to the report on the Working Group's first meeting. The Working Group had also considered legal principles and other measures which would facilitate oceanic research; there again, the suggestions of delegations had been discussed, but there had been no time to reach agreement on a list of principles, and the suggestions had again been set out in an annex. Some draft resolutions had been submitted with a view to facilitating scientific research by obtaining clearances in the territorial seas, contiguous zones, fishery zones, on the continental shelf and for port calls, but the Working Group had been unable to reach agreement on a text to recommend to IOC. It had been agreed, however, that the final draft should be submitted to the Bureau and Consultative Council of IOC, on the understanding that the Bureau might wish to submit the text to members for consideration and to IOC at its sixth session.

At that session, held in 1969, IOC had codified the draft considerably after detailed consideration and had adopted resolution VI-13 entitled "Promoting fundamental scientific research", some of the preambular paragraphs of which drew attention to the interest of mankind in scientific research, with particular reference to the interests and needs of the developing countries, noted that specific cases of

obtaining consent for conducting scientific research in areas falling under the national jurisdiction of coastal States were usually resolved between the interested States, expressing the opinion that it was desirable that the procedures to obtain the consent of a coastal State for the carrying out of fundamental scientific research in areas over which jurisdiction was exercised should be simple and effective, and observed that any steps which might be taken in that regard were not intended to impair the sovereign rights of States. IOC also took the view that it should act as a go-between for scientists in helping them to obtain the consent of coastal States to the conduct of fundamental scientific research, either within the framework of a long-term and expanded programme of oceanic research or within declared national programmes.

In that resolution, IOC had further suggested six principles to be applied to such assistance with regard to areas of national jurisdiction. In the first place, as soon as a tentative decision was made to carry out a research programme, the coastal State should be informed in a preliminary manner, so as to ensure that it might, if it so desired, be associated from the outset with the planning of the programme and might arrange for early contact between interested scientists. Secondly, a formal description of the nature and location of the research programme should be submitted to the coastal State and to IOC as soon as possible, in order to enable the coastal State to respond formally as far in advance as possible and to participate effectively in the research programme. Thirdly, the Secretary of IOC should transmit the formal description so received to the coastal State within 20 days of receipt, together with IOC's request for favourable consideration, and, if possible, with a factual description of the international scientific interest in the subject, prepared by the requesting State, supplemented by the Secretary of IOC, if he considered that desirable. Fourthly, the coastal State, if it so desired, might participate in such research programmes as might be arranged between interested States. Fifthly, the coastal State should be provided as soon as possible with all data from such research, including data and samples which could not be duplicated, and special arrangements should be made concerning the custody of such data and samples. Finally, the results of research programmes should be published as soon as possible in an open, internationally distributed scientific publication.

The second session of the Working Group on legal questions had been held in February 1970, just before the spring session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. The agenda had included the review of proposed articles for a draft convention on the legal status of ODAS, and the impact of the resolution on promoting fundamental scientific research adopted by IOC the previous year. The Working Group on legal questions had not taken much action on the draft convention submitted by the ad hoc group of experts, but had devoted most of its time to discussing the impact of the IOC resolution. However, it had been considered premature to begin to assess that impact, particularly since no request for IOC assistance had yet been received in the very short period since the adoption of the resolution. The Working Group on legal questions preferred to examine the extent to which the resolution required clarification and the form which that clarification might take, for instance, through the adoption of suggested guidelines for its application, pending further examination of the question by IOC. The Working Group

was also to consider how the resolution could be supplemented by additional elements which had been considered at the first session but had not been expressed in the resolution. The provisional guidelines that the Working Group prepared for member States and the Secretary of IOC had been submitted to the Bureau and Consultative Council for subsequent endorsement by IOC and for incorporation either in a revision of the earlier resolution or in an additional resolution.

Nevertheless, IOC had not approved those guidelines at its seventh session in 1971, and the Working Group on legal questions had not been convened since its second session. The probable reason for that hesitation on the part of IOC was the expansion of the terms of reference of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor under General Assembly resolution 2750 (XXV) and the consequent wish to avoid duplication of work.

Mr. KNAUSS (United States of America) said that, to a scientist, the primary objective of scientific research was to gain a better understanding of the natural world. The task of ocean science was to observe, explain and eventually to understand the world. Society supported science for a variety of additional reasons, including its contribution to the control of global pollution and to the protection of the marine environment, as well as to environmental forecasting and the development, conservation and management of marine resources.

The growing interest and concern about marine pollution made marine scientific research increasingly important. The oceans of the world were receiving ever greater quantities of the wastes of man from ever growing uses of materials and the combustion of fossil fuels. The releases to the marine environment were in part deliberate and in part inadvertent. As a consequence, the composition of sea-water, of sediments and of marine organisms was being altered. Threats were being posed to man's continued well-being, to the community health of marine populations and to the non-living resources of the sea.

Fortunately, major programmes in the field of global pollution were currently being implemented, many of them as part of the Long-Range and Expanded Programme of Oceanic Research (LEPOR) sponsored by IOC.

If studies of ocean pollution were of the greatest importance for man's survival, the set of studies that might have the greatest beneficial effects for all mankind were those related to ocean currents and the interaction of the ocean with the atmosphere. Better understanding of ocean-atmosphere relationships was vitally important for those who used the sea; each year, hundreds of ships were lost at sea because of waves and storm damage; subtle changes in the ocean currents could decimate a fishery as easily as overfishing; frequently, a shift in the geographical distribution of a particular species was the first indication of a climatic change.

Scientists from many countries were studying a wide range of problems in the complex spectrum of ocean-atmosphere interactions, in the expectation of improving both short-range and long-range forecasting relating to the ocean and the atmosphere.

Because scientific knowledge had led to a wider use of ocean resources, it was tempting to postulate a direct relationship between scientific research and resource exploitation. There was indeed a relationship, but not a direct one. The findings of science might suggest where to look for fish or oil, but the commercial development of such resources required a developmental programme extending well beyond the scope of scientific research. There was no known case of an oil company drilling a well solely on the basis of bona fide scientific research investigations. Before an oil company was justified in making the large investment necessary for exploiting oil, it had to have much more detailed information than that produced by scientific research.

The discovery and utilization of fisheries resources had proceeded quite independently of oceanographic science. Studies of coastal upwelling and biological productivity had suggested where fish stocks might be found. However, the development of a commercial fishery depended upon such factors as the size of the fish population, the ease with which fish could be caught and the availability of a convenient market. Experimental fishing, using commercial gear and techniques, was needed to establish whether such factors existed, but that was not the same as scientific research.

Oceanographic research could, however, be important in developing sound management practices for a commercial fishery. As the world catch increased and approached the maximum sustainable yield, the development of sound management techniques became increasingly difficult. It was essential that scientists should learn enough about complex ecological interactions to be able to make a more meaningful contribution to the development of better management practices.

Oceanography had always been characterized by a high degree of international co-operation. The number of countries participating in oceanographic research had grown rapidly in the last decade and that trend could be expected to continue.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

held on Monday, 7 August 1972, at 10.55 a.m.

Chairman: Mr. van der ESSEN Belgium

In the absence of the Chairman, Mr. Kidan (Ethiopia), Vice-Chairman, took the Chair.

GENERAL DEBATE (continued)

Scientific research (continued) (A/AC.138/SC.III/L.18, A/AC.138/SC.III/L.23)

Mr. MAY (Canada), introducing the working paper submitted by his delegation on principles of marine scientific research for submission to the third Conference on the law of the sea (A/AC.138/SC.III/L.18), said that, although the need for and the value of the scientific investigation of the marine environment was generally recognized, the intensification of that activity had led to difficulties concerning the recognition and protection of the interests of coastal States which might be affected by such research. Thus, a classical problem of the law of the sea had assumed a new aspect with the development of science and technology, and particular interests and community interests had to be reconciled. The pursuit of knowledge through creative scientific research was an activity which emphasized the unity of mankind, but from a realistic point of view science, as well as being an intellectual exercise, was an instrument of national policy, and marine scientific research was therefore of fundamental importance, not only to those engaged in research, but also to adjacent coastal States.

The Canadian working paper was designed to reconcile not only various national interests, but also national interests as such and the interests of the world community in free scientific enquiry. The rights of coastal States were emphasized, but it was also stressed that all States, whether coastal or not, had the right to conduct or authorize scientific research in the marine environment and that, while coastal States had the right to regulate and participate in scientific research conducted in areas within their jurisdiction, they also shared in the responsibility to further the expansion of research and to prevent interference with its progress.

In the Canadian working paper, the possibility that coastal States might arbitrarily withold or unreasonably delay their consent to marine research programmes in areas under their jurisdiction was reduced to a minimum by the provision that international rules should be drawn up to facilitate research and that coastal States should reply promptly to requests for permission to conduct scientific investigations. It did not go into the question of any disputes that might arise between a coastal State and a foreign agency proposing a scientific programme in that State's jurisdiction, but his delegation believed that the possibility of establishing appropriate conciliation procedures might be considered.

Many of the political and legal difficulties of marine research were due to the difficulty of distinguishing between "pure" scientific research and commercial exploration and between research for peaceful and for military purposes. To meet the natural wish of States to control activities having a bearing on the development of their resources or on their security, the working paper contained a broad definition

of marine scientific research without attempting to differentiate between underlying purposes and motives. In that connexion, he drew special attention to principle 12 in the working paper and pointed out that the additional references to particular forms of regulation were only meant to be illustrative; thus, the special reference to resources management was not intended to imply that scientific research and commercial resource investigation should be dealt with on the same basis, but only that the same regulatory régime would apply, for instance, where the techniques used for both gave rise to the same problems and thus necessitated the same treatment.

Those comments on the relevance of a comprehensive definition of scientific research to the regulatory powers of the coastal State also applied to the powers of the proposed international sea-bed machinery with regard to marine research beyond the limits of national jurisdiction; in that connexion, he drew attention to principle 13 contained in his delegation's working paper.

It was in principle 1 that his delegation tried to deal with an important aspect of the distinction between the various purposes and objectives of scientific research, by stating that the knowledge and information resulting from such research should be exchanged and made available to the whole world when it was of a non-proprietary and non-military nature. That principle should not be regarded as an invitation to States to classify all results of marine scientific research as proprietary or military for the purpose of withholding those results from others; the important point was that the results of marine research should, where appropriate, be exempt from the principle of free and open access to all. His delegation considered that the problems common to all States in that regard could be solved and had suggested a formula to that end. In any case, those problems should not be used as a diversion from the fundamental principle that the knowledge resulting from marine research was part of the common heritage of mankind. The right or privilege of access to maritime areas for research purposes should be closely linked to freedom of access to the results of such research, although that freedom of access should not be interpreted as imposing unreasonably heavy obligations to publish and disseminate all data.

Furthermore, freedom of access to scientific information would be meaningless for the developing countries unless and until they had the trained personnel and technological capacity to use the information and secure practical benefits from it. The scientific and technological capabilities of the developing countries must be strengthened, to enable them to participate increasingly in marine research programmes. It should be borne in mind, however, that the interests and needs of the developing countries, like those of other smaller Powers, would be largely directed towards scientific research in their own coastal areas; the issue was therefore one not only of scientific and technological development, but also of the authority to regulate marine scientific research in the areas within their jurisdiction.

He stressed that in the Canadian working paper no attempt was made to define the areas in which the coastal State would exercise regulatory authority over scientific research, but such authority would obviously have to be closely related to the coastal State's resource management authority. That point was already covered by an existing international convention and in existing national legislation whereby the authority to regulate scientific research was subsumed within the jurisdiction exercised over fisheries and the resources of the continental shelf.

Mr. VALDEZ ZAMUDIO (Peru) expressed appreciation of the statement made at the 26th meeting by the representative of the United States of America concerning the nature, characteristics and objectives of scientific research. There was no doubt that knowledge of the oceans and the practical application of that knowledge was essential for man's development, and countries should try to facilitate oceanographic research, with special emphasis on its practical aspects.

He drew attention to a very interesting point made in that statement in connexion with global tectonics, namely that scientists showed a lack of interest in applying the results of research activities. The United States representative had pointed out that to most scientists the most exciting field of oceanography over the past decade had had little or nothing to do with resource development and management, pollution, environmental forecasting or any of the other branches of oceanography that contributed to the benefit of mankind. That was unfortunately true and the Sub-Committee should attach due importance to that aspect of marine scientific research. Generally speaking, marine research had been undertaken in order to obtain scientific data which could not be or had not been applied in order to obtain direct, relatively short-term benefits whenever possible.

That had been one of the arguments advanced at the United Nations Conference on the Human Environment which had led to the adoption of recommendation 87 (see A/AC.138/SC.III/L.17, sect.B). Paragraph (c) of that recommendation was concerned with the strengthening of IOC so as to make it an effective joint mechanism for the Governments and United Nations organizations concerned with research and monitoring in the marine environment. His delegation welcomed the activities which IOC was planning in accordance with the recommendation of the Stockholm Conference and the fact that it was taking steps to improve its efficiency by a process of restructuring. In that connexion, he observed that the text of paragraph (c) of the recommendation adopted at Stockholm referred to "measures required to improve the constitutional, financial and operational basis under which the Intergovernmental Oceanographic Commission is at present operating", the words referring to structural arrangements in the original draft having been replaced, since it had been felt that a structural change alone was not sufficient and that more far-reaching changes were needed.

Oceanographic research was essential in the field of fisheries, because data relating to various indices and parameters, such as salinity, temperature, suspended oxygen, limpidity, etc. made it possible to prepare forecasts and models on the behaviour of fisheries resources and hence to manage them efficiently. The study of ocean currents and undercurrents, and of other phenomena, important in the marine environment, was the corner-stone of man's knowledge of the ecosystem. As mentioned by the representative of the United States, the Peruvian anchoveta populations conditioned the deepest coastal undercurrent through their grazing activities, which were beneficial for the production of phytoplanktons, the base of the marine food chain.

Also important as far as fishery resources were concerned, was the influence, sometimes beneficial but more often not, which the occurrence of unusual oceanographic conditions exercised on those resources. One example was the periodic appearance of the El Niño phenomenon in the sea off the coast of Peru, which completely changed

environmental conditions and was accompanied by the disappearance of valuable fish and the appearance of predatory species of no economic value, the destruction of birds and heavy rainfall along the Peruvian coast. Any knowledge which could be obtained concerning the probable occurrence of such phenomena would basically affect fishing strategy and the planning of other measures.

With regard to the theory, also referred to by the representative of the United States, that the earth's surface was made up of rigid crustal plates, floating in a sea of lava and thus in motion, it had to be recognized that for the time being it was a theory of pure science, but already attempts were being made to find practical applications, as for instance in forecasting earthquakes, which for countries situated along the coasts of the Pacific Ocean would be of inestimable value. Advance warning of the earthquakes which had occurred in 1970 in northern and central Peru would have saved the lives of some 100,000 people. That theory also explained the small continental shelf of American countries situated on the Pacific, unlike the countries on the Atlantic. The atlantic countries had a broad continental shelf with the advantages which that implied, without earthquake phenomena, since the nearest joint of the crustal plates was situated in the middle of the Atlantic. The Pacific countries of America had a narrow continental shelf and hence a deep sea, high mountain chains, very little rainfall and earthquakes; in compensation, the marine areas along their shores were the richest in the world in living resources, and they considered those areas a natural region to be exploited rationally under their sovereignty.

As a country which obtained its livelihood from the sea, Peru felt the need for knowledge and information about its marine environment. Foreign oceanographic vessels had always been welcome, and Peruvian scientists had often collaborated in their activities. Since 1928, 27 vessels from foreign countries, including the United States of America, Japan and the Soviet Union, had engaged in research projects in Peruvian waters.

The Peruvian General Fisheries Act of 25 March 1971 and its relevant regulations laid down the scope and conditions of scientific research in the fisheries sector, which was defined as studies and surveys carried out with a view to ascertaining the causes and effects of phenomena occurring in the sea and in continental waters, with a view to recommending the rational utilization of hydrobiological resources. All natural or juridical persons could engage in scientific research, provided that they fulfilled certain conditions laid down in the regulations. For instance, in the case of natural persons, they had to be members of national or foreign scientific institutions and, in the case of foreign juridical persons, they had to be scientific institutions of countries which had agreements with Peru based on reciprocity.

The meeting rose at 11.35 a.m.

SUMMARY RECORD OF THE TWENTY-EIGHTH MEETING

held on Tuesday, 8 August 1972, at 10.40 a.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Scientific research (continued) (A/AC.138/SC.III/L.18, A/AC.138/SC.III/L.23)

Mr. VALLARTA (Mexico) said that he would like to present his delegation's basic views on the question of scientific research. First, the degree of freedom to conduct scientific research must of necessity vary from one marine area to another within or outside the limits of national jurisdiction. Some areas of the sea might be governed by the same regulations as far as scientific research was concerned, but there would certainly be different regulations, for example, between internal waters and the high seas.

Secondly, his delegation still had serious doubts concerning the advisability of drawing a distinction, for the purposes of drafting articles, between pure scientific or bona fide research and commercial prospecting. Scientists recognized that prospecting was possible only on the basis of data obtained through so-called pure scientific research. In the opinion of his delegation, it was somewhat artificial to maintain that so-called pure scientific research was an innocent activity. It would be better to be realistic and face the fact that pure scientific research gave the State undertaking it commercial, military and other advantages which were not normally shared with the international community.

Thirdly, within internal waters and a 12-mile territorial sea, the control exercised by the coastal State should be established at the highest possible level in the future articles on marine scientific research, since such waters had the legal status of "national territory". The right of innocent passage did not carry with it an untrammelled right to conduct scientific research.

Fourthly, within the patrimonial sea, or exclusive economic area, the coastal State must be able, if it wished, to control all scientific research, while undertaking to permit any research which complied with reasonable requirements.

Fifthly, the coastal State had the right to participate directly, if it wished, in any scientific research conducted in its internal waters, territorial sea, patrimonial sea or exclusive economic area, or on its continental shelf. If the coastal State did not wish, or was unable, to participate directly, the party conducting the research would be obliged to make available without delay to the Government of the coastal State the data obtained, a selection of any samples collected and its interpretation of such data and samples. It should be made quite clear that foreign researchers operating within a coastal State's national jurisdiction did not have the right to keep the data collected until they had drawn their conclusions, but must give all the data to the coastal State, in order that scientists in that State could draw their own conclusions.

Sixthly, the results of scientific research in the international areas should be published in their entirety. When international organizations were established in the future with special jurisdiction over marine areas, they would have rights to the data samples and results of scientific research similar to those of a coastal State within the limits of its national jurisdiction.

Seventhly, any research conducted within fishing areas controlled by a regional or a world organization, if one was created, should carry with it the obligation to furnish the data, results and interpretations to the organization concerned for distribution to its members.

Eighthly, the coastal State was obliged to practise international co-operation by providing international or foreign organizations, upon request, with scientific information concerning areas within the limits of its national jurisdiction. Obviously, the choice of information to be supplied must be left to the discretion of the coastal State and be within the possibilities open to it.

Lastly, the points which he had enumerated applied to scientific research irrespective of the means used to obtain data. Consequently, research organizations using ODAS or satellites should be subject to the same obligations as any other research body, including the obligation to obtain permission for research in areas of national jurisdiction.

The foregoing considerations did not exhaust the views of his delegation on the question. He had merely put them forward as matter for discussion. It was not the intention of his delegation to limit scientific freedom but merely to safeguard sovereign rights and to promote genuine international co-operation, which would not really be possible without obligations on the part of those conducting scientific research.

Mr. CABRAL de MELLO (Brazil) said that the working paper submitted at the 27th meeting by the Canadian delegation on principles of marine scientific research, to be submitted to the third Conference on the law of the sea, (A/AC.138/SC.III/L.18) constituted a constructive proposal which went a long way towards rescuing scientific research from the legal limbo to which it had been relegated as a result of the unwillingness of some developed countries to accept basic rules aimed at regulating that kind of activity.

It was extremely difficult to determine the legal situation of scientific research in ocean space. With the sole exception of research on the continental shelf, marine research was in a kind of legal void - a fact which countries with the necessary means might take advantage of to cover indiscriminate access to all areas of marine space, with or without bona fide scientific motivation. The need to fill that void was becoming more apparent, in view of the remarkable expansion of research facilities which had occurred during the past 10 years. International co-operation had also increased under the auspices of the International Decade of Ocean Exploration sponsored by the United Nations to co-ordinate the actions of Member States in ocean research. All that was to the good and highly commendable.

International law had not, however, kept pace with the expanding scientific research in the oceans, especially the high seas. There were no legal provisions on

that point except article 2 of the 1958 Convention on the High Seas 27/, which, although it did not even mention scientific research, had been interpreted, on the basis of the travaux préparatoires, as including it under the other freedoms besides the four main freedoms referred to in that article.

On the question of scientific research in the sea-bed beyond the limits of national jurisdiction, the Declaration of Principles continued in General Assembly resolution 2749 (XXV) provided, in paragraph 10, that States should "promote international co-operation in scientific research exclusively for peaceful purposes" and went on to mention some methods by which those purposes were to be attained. Finally, the Declaration, in the same paragraph, added that no activity relating to scientific research could form the legal basis for any claims with respect to any part of the area or its resources. Needless to say, the Declaration having aimed only at establishing guidelines for the future international régime of the sea-bed, scientific research in the sea-bed remained in a twilight area of controversy with regard to its legitimacy - a situation similar to that prevailing with regard to scientific research on the high seas.

There had been some, although insufficient, progress in international law on areas under international jurisdiction. Some States had regulated the granting of licences for the exploration of areas under their jurisdiction, and in 1969 the Intergovernmental Oceanographic Commission of UNESCO had put forward some guidelines in that respect. More importa:t, the 1958 Convention on the Continental Shelf required, in article 5, paragraph 8, that "the consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there" and recognized the right of the coastal State, if it so desired, "to participate or to be represented in the research" and to demand the publication of the results 28/. As to the territorial sea, the scope of the rights exercised by the coastal State over that area gave it the competence to regulate scientific research in the manner it saw fit.

A point raised in the Canadian working paper which seemed particularly relevant was that contained in paragraph 2 of the preamble, which defined marine scientific research. Although distinguishing between fundamental and applied research, the Canadian delegation had wisely refrained from envisaging a separate legal status for each of those types of research, since it would be almost impossible to determine the dubious frontier where pure research became commercial prospecting. All fundamental research was liable to have implications of a practical nature, whether economic or military, and it was basically that fact which required that in areas under national jurisdiction marine research should be subjected to the control of the coastal State. In that connexion, it would be extremely useful if the Canadian delegation could develop and refine the concept of knowledge and information of a proprietary or military nature that was to be excluded from principle 1 in its working paper.

He now wished to refer to principle 8 in that document, which dealt with the question of the transfer of marine science and technology to developing countries and the strengthening of the marine research capabilities of such countries. If the Conference on the law of the sea adopted a separate agreement on that matter or prepared specific articles on it, principle 8 would suffice. That would not, however, be the case if the Conference decided to tackle the question of the transfer of technology in a separate treaty on scientific research on the basis proposed by the Canadian delegation. In that event, more elaborate provisions would have to be negotiated.

27/ United Nations, Treaty Series, vol.450 (1963), No.6465, pp.82 and 84.
28/ Ibid., vol.499 (1964), No. 7302, p.316.

Principle 9 represented the very core of the Canadian working paper. Of course, complete freedom of scientific research was excluded from the territorial sea by the very nature of the sovereignty which the coastal State exercised over that area. But even in the case of a broad area of exclusive rights over resources beyond a 12-mile territorial sea, it would be necessary to invest the coastal State with exclusive competence with regard to the regulation of scientific research and indeed to all other kinds of activities which might interfere with the economic utilization of that area. The concept of the consent of the coastal State, although limited by certain general international commitments, therefore became the very basis which would provide the necessary accommodation among different and sometimes conflicting uses of that same ocean space. A relevant provision in that connexion was principle 12 in the Canadian working paper.

Principle 13, which dealt with scientific research concerning the sea-bed beyond the limits of national jurisdiction, left entirely to the international machinery for the sea-bed the task of adopting regulations for that purpose. On that point, an agreement on principles relating to marine scientific research should be more ambitious; an effort should be made to devise the fundamental principles that were to govern research in the sea-bed beyond national jurisdiction. That was a matter which had been frequently discussed since the establishment of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor and on which a significant exchange of views had already taken place.

On the other hand, the present debate could be broadened to include the regulation of scientific research in the water column above the sea-bed, i.e. in the high seas. It should, for example, be possible to develop fully the most important implication of the principles laid down in the Canadian working paper, namely that "knowledge resulting from marine scientific research is part of the common heritage of all mankind" (principle 1). On that basis, scientific research in the area beyond national jurisdiction should be made conditional on the publication and dissemination of results, and access to such results could not, therefore, be dependent any longer on the good will of scientific institutions, however well-intentioned and however sincerely devoted to pure research they were.

To sum up, the Canadian working paper constituted a good basis for negotiation as far as scientific research in the area under national jurisdiction was concerned. It nevertheless had shortcomings with regard to scientific research in the high seas and in the sea-bed beyond the limits of national jurisdiction.

Mr. RIZZO (Ecuador), having observed that the formulation of draft legal principles relating to the area beyond the limits of national jurisdiction was a complex process, said that it was first necessary to establish a tridimensional definition which described the specific purposes of peaceful fundamental or applied research for the use of all mankind. Such a definition of the nature, characteristics and objectives of marine scientific research should take account of the aspirations of the developing countries as enunciated in the list of subjects and issues relating to the law of the sea under consideration by Sub-Committee II. Paragraph 2 of the working paper submitted by the Canadian delegation correctly interpreted, the basic definitions of marine scientific research. Sub-Committee III should study general drafts of legal principles, in accordance with its mandate, without trying to establish priorities with regard to the various aspects of the conservation and investigation of the marine environment.

The major Powers were ingenuously trying to draw an indirect distinction between the various aspects in order to meet the desires of their commercial interests. The use which some States had made and were making of the results obtained by scientists to dominate other regions and peoples was unacceptable. The guiding principle of paragraph 10 of the General Assembly's Declaration of Principles, which dealt with international co-operation in scientific research exclusively for peaceful purposes, must be one which related the success and development of research to the transfer of technology.

Despite political differences between States concerning the law of the sea and the existence of reprehensible sanctions as a result of imperialist attitudes, developing countries like Ecuador were not hampering, but, on the contrary, were facilitating, oceanographic research undertaken by other States and international organizations within and outside their territorial waters. That underlined the applicability of the inviolable principle of the equality, responsibility and joint effort of mankind in the development of the marine sciences, which must be clearly reflected in the formulation of draft legal principles.

In the opinion of his delegation, it would be appropriate to make use of recommendation 87 adopted by the United Nations Conference on the Human Environment with a view to identifying and promoting the efficiency of the United Nations organizations engaged in the research, monitoring and promotion of marine scientific programmes and services. Ecuador was preparing to participate in the various activities of IOC in accordance with its programme (LEPOR).

The Sub-Committee would have to have full access to the work on the draft legal regulations relating to ODAS, in order to give proper guidance for the respect of national sovereignty in the drafting of legal principles, thereby contributing to the future acceptance and application of marine scientific projects of IGOSS and WMO.

The best preparation for finding solutions to international maritime problems before accepting any draft agreement concerning scientific research and the exploitation of resources was the decisive involvement of the specialized agencies, particularly in matters relating to marine regions for which there was little knowledge of parameters and oceanographic models, and which also constituted areas of disputes among countries, such as the tropical waters of the eastern Pacific.

His delegation was convinced that scientific research beyond the limits of national jurisdiction must be integrated and regulated for the peaceful and joint use of States, and until there was a planned increase in the transfer of technology to the developing countries, understanding on ocean space would be delayed and accommodation regarding the principles of the law of the sea would be impeded.

Mr. BALLAH (Trinidad and Tobago) said that his country attached the greatest importance to the promotion of co-operative programmes in the field of marine scientific research, in which scientists from developing countries participated along with scientists from technologically advanced countries. Hitherto, oceanographic research had been mainly undertaken by developed countries. There was reason to believe that the problems facing bona fide scientific research might never have arisen had greater efforts been made to ensure, wherever practicable, broader participation in marine research programmes. His delegation had always recognized the value of scientific

research to the international community as a whole, and fully endorsed the satement by the representative of the United States of America at the 26th meeting, when he had said that continued and intensified scientific research was essential to optimize the development of the oceans for the benefit of all mankind.

It might even be said that the true test of whether or not scientific research was bona fide was whether or not it benefited all mankind. The Committee was concerned with the peaceful uses of the sea and any research activity that was inconsistent with that principle could not prima facie be deemed to be bona fide. However, the term "peaceful purposes" had been variously interpreted as meaning purposes that were not incompatible with the United Nations Charter or as embracing in its ambit a clear, if not absolute, prohibition of all military uses. In the latter view, any marine research activity which had military or para-military repercussions would not be regarded as bona fide scientific research. It was thus his delegation's view that scientific research in ocean space beyond the limits of national jurisdiction should be conducted with due regard to the two elements to which he had referred, namely that it should be for peaceful purposes and for the benefit of all mankind.

Those observations referred to scientific research in areas beyond the limits of national jurisdiction, since marine research in areas under national jurisdiction might be considered as coming under the terms of reference of Sub-Committee II. However, as scientific research in the two areas was interrelated, he would like to make some comments on scientific research in areas under national jurisdiction. His delegation considered that the test as to whether planned research was for the benefit of all mankind should be applied by States to applications by other States or entities to conduct scientific research in areas under their national jurisdiction. In each case, the interests of the international community should be weighed against those of the State concerned. In other words, the need for extensive research had to be balanced against the individual State's need to protect its resources and to ensure its security, and the overriding criterion should be the interests of the international community in marine scientific research.

Paragraph 1 of the preamble to the working paper submitted by the Canadian delegation stated that "all mankind has an interest in the facilitation of marine scientific research and the publication of its results". In endorsing that essential principle, his delegation wished to point out that the term "facilitation of scientific research" was not synonymous with "freedom of scientific research". It could not accept that freedom of scientific research should be unconditional. There was no generally agreed rule regarding freedom of scientific research, although some held that it was an implied freedom recognized by international law, while it was not one of the traditional freedoms of the high seas. The statement which the representative of Brazil had just made on the subject was particularly pertinent. Indeed, scientific research could not be promoted by interminable discussions on whether it constituted one of the freedoms of the high seas. At the present juncture, the Sub-Committee should concentrate on trying to work out agreed formulae to reconcile the interests of mankind as a whole with those of States and to balance the needs of States, institutions or other entities against the needs of coastal States to protect their resources by exercising jurisdiction over scientific research and exploratory operations in areas under their sovereignty or control. His delegation regarded the Canadian working paper as a bold and novel attempt to reach an accommodation of needs and interests, without reference to the principle of freedom of scientific research.

While scientific research which had among its objectives the control and elimination of pollution, the preservation and protection of the marine environment,

ocean and weather forecasting, the prediction and control of earthquakes and the incidence of tsunamis was unquestionably bona fide, the difficulty with regard to pure scientific research lay in the fact that it had not yet proved possible to define the term precisely. In the present state of the law, it was extremely difficult to differentiate between that research and exploration carried out with a view to commercial exploitation. That was particularly true when the bona fide scientific research related to the extractive resources of ocean space, like fisheries, hydrocarbons and other mineral resources. Attempts to define the relationship between such research and further exploratory work geared to the exploitation and development of resources had merely shown that at the present juncture no clear-cut distinction could be made. It would be unrealistic to expect industry, which made a major contribution to bona fide scientific research, to forego the use of the results of that research in its further exploratory work. The links which sometimes existed between industry and institutions conducting fundamental scientific research were not undesirable per se, but they weakened the argument for freedom of scientific research as far as the developing countries were concerned.

In view of the inability to frame a precise definition, such factors as the subject-matter of the research and the entity seeking to conduct it would have to be taken into consideration in determining whether or not a specific project came within the category of bona fide scientific research. With regard to the subject-matter of the research, it was to be presumed that scientific research which had as its objective one that was useful to all mankind would unquestionably be of a bona fide nature except when, for example, marine fauna and flora were studied with a view to developing drugs and medicines. In that case, the determining factor would be the entity undertaking the research. If, for instance, it was FAO, the assumption would be that it was bona fide scientific research, while the assumption would be that it was not if a commercial corporation was concerned. In the case of academic institutions, the burden of proof would lie with them.

He stressed that the suggestions he had just made were intended to provide a theoretical framework for the discussion of the question. His delegation did not wish to put any impediment in the way of the promotion of scientific research, the more so as it had national institutions conducting marine scientific research. The main problem arose when foreign entities sought to conduct research in areas falling under national jurisdiction, namely the territorial sea, the continental shelf and the patrimonial sea.

As far as the territorial sea was concerned, the coastal State had full sovereignty over it, whatever its extent. That sovereignty applied both to the ocean space (including the water column) and to its resources, and included jurisdiction over scientific research. The express consent of the coastal State was required to conduct research in its territorial waters, and it was under no obligation to give reasons for a refusal to grant an application. Scientific research conducted by foreign ships, without prior consent, in the course of their passage through the territorial sea was incompatible with the coastal State's sovereignty over the area and its resources, and was not innocent.

In contrast, scientific research on the continental shelf had given rise to some problems. Some States had sought to regulate scientific research on their continental shelf in their national legislation. Article 5, paragraphs 1 and 8, of the 1958

Convention on the Continental Shelf 29/ provided some guidelines on the question, but it must be remembered that the Convention had the support of only about one third of the international community, and both customary and conventional international law had to be taken into account. Article 2 of the Convention gave the coastal State exclusive rights over the resources of the continental shelf, as defined in paragraph 4 of that article 30/. It was worth noting that, while the coastal State had sovereign rights over the shelf, it had sovereignty over its resources. In other words, it had rights with respect to the resources of the shelf similar to those it had over the resources of its territorial sea. Hence, it had jurisdiction over scientific research and exploration of the continental shelf to the extent that they had a bearing on the shelf's resources. Coastal States, in a desire to protect their resources, had not interpreted the nature and extent of their jurisdiction over scientific research restrictively. They were unable to make any rigid distinction between research relating to resources conducted in the water column and research conducted on the shelf itself.

Very interesting problems were likely to arise in connexion with research in the patrimonial sea, if that concept was recognized by the forthcoming Conference on the law of the sea. The concept of the patrimonial sea differed from the concept of the continental shelf, in that the coastal State had sovereignty over the mineral resources of the continental shelf and the living resources on, under or in contact with it at the harvestable stage, but in the case of the patrimonial sea it had sovereignty over all resources, whether living or not. The sovereignty which the coastal State exercised over its patrimonial sea included the exercise of jurisdiction over all scientific research conducted in the area.

The representative of Japan, in his capacity as Chairman of the Working Group of IOC on legal questions relating to scientific research, had already drawn the Sub-Committee's attention (26th meeting) to resolution VI-13, adopted by IOC at its sixth session. That resolution provided some further guidelines for promoting basic scientific research.

In general, his delegation considered the following points to be essential elements for any further development of the law relating to scientific research: (a) the prior consent of the coastal State should be obtained for research programmes in ocean space under its jurisdiction; (b) the coastal State should apply reasonable presumptions in granting or withholding its consent; (c) bearing in mind the fact that all scientific research inevitably had economic and military repercussions, the likelihood of such repercussions should not necessarily entail the withholding of consent; (d) programmes of scientific research which *prima facie* benefited mankind and seemed peaceful in their objectives should be encouraged and facilitated; (e) there should be prior early notification of research programmes to permit the coastal State to participate in the proposed research, the coastal State had the right to participate or to be represented at all stages of the project; (f) an adequate description of the nature and location of the research programme should

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29/ *Ibid.*, pp.314 and 316.
30/ *Ibid.*, pp.312 and 314.

be provided to the coastal State as early as practicable; (g) there should be no undue delay by the coastal State in replying to applications to conduct research; (h) the coastal State had the right to all data and specimens; where data and specimens could not be duplicated, they should be lodged with the coastal State after use; it was not enough to make data accessible; they should be sent within reasonable time to the coastal State, and should be made available to the coastal State even before processing; (i) timely publication of the results of research programmes should be made in internationally distributed scientific publications.

It was his delegation's view that scientific research in the area beyond the limits of national jurisdiction should be conducted in keeping with the principle of the common heritage of mankind. Like the Canadian delegation, it was of the opinion that all knowledge resulting from such research was part of the common heritage of mankind and should be exchanged and made available to the whole world. It felt that, if there was to be order in ocean space, research would have to be regulated by the international régime to be established. That did not, however, mean that States and other entities would be precluded from conducting oceanographic research. The international régime might well grant them such rights, provided they did not conflict with the principle of the common heritage of all mankind.

Mr. ODA (Japan) said that he wished to make a few basic remarks concerning principles relating to oceanographic research. He welcomed the excellent working paper on the subject submitted by the Canadian delegation, which highlighted a number of issues that the Sub-Committee had to face in its preparatory work for the forthcoming Conference on the law of the sea. He also wished to endorse the statement by the representative of the United States of America at the 26th meeting that increased knowledge of the marine environment and its resources was essential for the well-being of all mankind.

The Sub-Committee's task was to establish a legal framework within which freedom of oceanographic research could be safeguarded to the fullest extent possible and the exchange and dissemination of the results of scientific research could be facilitated and encouraged. He was not suggesting that freedom of oceanographic research was sacrosanct. Obviously, freedom of oceanographic research did not imply that anyone engaged in such research activities should be allowed to interfere with other activities carried out on the sea but that it should be protected, and should be restricted only when it was not exercised with reasonable regard for the activities of other States. In that respect, his delegation fully agreed with the view expressed in principle 4 in the Canadian working paper.

Referring to the problem of scientific research conducted on the high seas, he recalled the preparatory work for the 1958 Convention on the High Seas. That Convention, the provisions of which had been adopted as "generally declaratory of established principles of international law", referred in article 2 only to the following as comprising the freedom of the high seas: freedom of navigation, fishing, laying of submarine cables and pipelines, and flying over the high seas. The list did not include freedom of scientific research or investigation. One delegation had recommended that freedom to undertake research, experiment and exploration should be explicitly listed as one of the freedoms of the high seas, but the proposal had not secured the necessary majority vote. However, the Convention specifically stated that the list of freedoms set forth therein was not exhaustive. Thus, there seemed to be no legal barrier under international law to prevent the free pursuit of scientific research and investigation on the high seas. The general rules of law applicable to

the high seas would apply in that case too. In his view, the freedom of scientific research or investigation, as one of the freedoms of the high seas, should be placed on a par with the other legitimate uses of the high seas and structured into the régime of the high seas.

He wished to emphasize that the future régime should not result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication. He was convinced that research for open publication for the benefit of the international community should be promoted to the fullest extent possible. For mankind as a whole to be able to share in the benefits of scientific progress, it was essential that access to knowledge and information acquired through scientific research should be facilitated through international co-operation. His delegation basically supported the spirit of principles 1 and 6 in the Canadian working paper, although it doubted the appropriateness or necessity of introducing the concept of the common heritage of mankind, because its precise meaning in that context was not too clear. Obviously, the Sub-Committee should consider carefully what type of international scheme was best suited to the promotion of the exchange and dissemination of scientific knowledge and information relating to the marine environment. His delegation was prepared to co-operate in the elaboration of international rules for that purpose. It might be expected that IOC would play a central role in any such scheme.

However, attention should also be paid to the view that the publication of the results of scientific research had never been a condition for freedom of scientific research under the present rule of international law of the high seas. He considered that it might not be the right approach to impose an over-all legal undertaking on the scientific community that scientific research should be open to everyone and that the results of its research work should always be publicized. If a concept of legal obligation was introduced in that respect, he feared it would be demanding too much of scientists and the whole régime of scientific research might become too rigid. However, he agreed with principle 8 in the Canadian working paper. Japan would do everything in its power to promote the transfer of technology and the experience of marine scientific research to the developing countries.

Turning to the question of scientific research relating to the sea-bed under the high seas and referring first to scientific research on the continental shelf, he said that provision had already been made in the 1958 Convention on the Coninental Shelf that "the exploration of the continental shelf and the exploitation of its natural resources must not result in any ... interference with fundamental oceanographic or other scientific research carried out with the intention of open publication".31/ The spirit of that provision of the Convention should equally apply to scientific research in the area beyond the continental shelf.

The Sub-Committee had also to consider the competence of the international machinery with respect to scientific research conducted in the international sea-bed area. Article 5, paragraph 8, of the same Convention stipulated that the consent of the coastal State should be obtained in respect of any research concerning the continental shelf and undertaken there. The question was whether scientific research undertaken in the international sea-bed area should be subject to the consent of the international machinery to be set up. It was quite clear that not only the exploitation

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31/ Ibid., art.5, para.1, p.314

of mineral resources but also the commercial exploration of the international sea-bed area were to be under the control of the international machinery, but his delegation did not consider that scientific research as such concerning the sea-bed area should be subject to regulation by the international machinery. It believed that the new régime for the sea-bed should not in principle jeopardize freedom of research on the international sea-bed. It was, however, prepared to recognize that scientific research in that area should respect the basic rules applied to exploration and exploitation of the sea-bed in matters concerning the protection of the marine environment against pollution arising from such scientific activities as drilling, dredging and excavation.

Another important question concerning scientific research in the international sea-bed area was the distinction between commercial prospecting and scientific research as such. That was a very difficult task. If the concept of freedom of scientific research was restricted in a rather narrower sense than had been the case in the past and research activities which might have some remote bearing upon the exploration of resources were brought under the same régime of control and regulation by the international machinery as exploration itself, he feared that freedom of scientific research in the sea-bed area, which had so far been guaranteed, would be severely restricted, to the detriment of the international community.

Furthermore, since the Principle stated in paragraph 10 of the Declaration of Principles set out in General Assembly resolution 2749 (XXV), which was also reflected in principle 3 in the Canadian working paper, clearly stipulated that scientific research should not form the legal basis for any claims with respect to any part of the sea-bed or its resources, and since it was to be hoped that knowledge and information resulting from scientific research would be made available to the public, there was not much point in elaborating an artificial demarcation line between pure scientific research and scientific research identified with commercial prospecting, with a view to applying two different régimes to the inseparable concept of scientific research. An a priori approach to the subject was not likely to be very fruitful. It was reasonable to expect that, as the international sea-bed authority began its work of controlling and regulating the exploration and exploitation of the sea-bed area and its resources, the formulation of norms and criteria for demarcation between exploration or commercial prospecting, on the one hand, and scientific research, on the other, could be improved upon.

Turning to scientific research conducted in the areas within the jurisdiction of coastal States, he noted that the subject was covered extensively in principles 9 to 12 in the Canadian working paper. His delegation was opposed to the recent tendencies towards the extension of the national jurisdiction of coastal States to the high seas for various unilateral purposes. It contended that such a "creeping jurisdiction" of coastal States would result in the partitioning of the high seas, which should be reserved for the use of all mankind. Principle 12 enumerated all the possible grounds for interference with freedom of scientific research which a coastal State might invoke under the undefined right of coastal States. In particular, it seemed that the Canadian working paper had the intention of introducing the concept of the security zone to regulate scientific research.

The concept underlying such draft principles was that a unilateral and "creeping" jurisdictional approach should be applied also to scientific research and that scientific research conducted within zones which had been established unilaterally by the coastal States should be subjected entirely to the domestic laws and regulations of the coastal States concerned. That approach was not acceptable to his delegation.

It could understand that a coastal State might have an interest in following up scientific research conducted within its territorial sea or on its continental shelf, and it supported the view that adequate information concerning research programmes should be supplied to the coastal State in advance, and that participation in the research work and access to the results should be ensured to the coastal State. Provided that the participation of the coastal State, or its representation, in such projects was facilitated as much as possible, and provided that it was fully assured of the harmless character of the planned project, his delegation did not consider that the coastal State had any right to withhold its consent to such research. In that connexion, he mentioned resolution VI-13 adopted by IOC in 1969, which was designed to promote fundamental scientific research and which he had referred to in the statement he had made at the 26th meeting . Moreover, the Convention on the Continental Shelf itself stipulated, in article 5, paragraph 8, that the coastal State should not normally withhold its consent if the request was submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf.

He was not one of those who viewed freedom of scientific research with suspicion and favoured the introduction of strict regulations for its control. Bona fide research in the area under the national jurisdiction of a coastal State could only be beneficial to it. The fear that research by foreigners would eventually lead to the working of resources was probably groundless, since it was hardly possible to work either mineral or living resources under the guise of research. If too many restrictions were imposed on bona fide research, more would be lost than was gained.

Mr. ARCHER (United Kingdom) said that British scientists had been among the pioneers in the investigation of the oceans and his delegation naturally had a particular interest in the subject of marine research. It could not share the view of the Canadian delegation that science, as well as being an intellectual exercise, could be and was at the service of national interests, for it believed that nothing but benefit for all could emerge from encouraging the further growth of scientific research into all aspects of the oceans, although the results of national research programmes could, of course, also benefit the country concerned.

The International Indian Ocean Expedition, planned by the Scientific Committee on Oceanic Research (SCOR) of the International Council of Scientific Unions (ICSU) provided a good example of the potential benefits that could follow from scientific research undertaken free from all restrictions. It had shown that much of the Indian Ocean was biologically productive and had stimulated interest in the possibility of developing major fisheries in the Arabian Sea and elsewhere.

Physical oceanography was a science which continually added to the understanding of waves, tides, surges and currents, and the application of that knowledge to navigation, harbour engineering, coastal protection and other problems was becoming more necessary and universal as more use was made of coastal land and water throughout the world. Fuller understanding of boundary layers between ocean and atmosphere and of the transfer of energy from wind to water and of heat and moisture from ocean to atmosphere was making significant contributions to weather forecasting, especially in hurricane areas. Finally, knowledge of the circulation of water, currents, stratification and mixing and exchanges between ocean and coastal waters and between surface and deep layers had an important bearing on pollution problems.

With regard to international collaboration, he said that British scientists were closely associated with the international oceanographic organizations that had been established for that purpose. It had been suggested that an international sea-bed authority should have responsibilities in that field, but his delegation believed that adequate arrangements were provided by existing organizations. Those could be broadly divided into two categories, the intergovernmental organizations led by IOC and the independent scientific bodies generally falling within the orbit of ICSU and its specialized committee, SCOR; both worked towards the common goal of achieving practical co-operation, and of finding ways of enabling scientifically less advanced countries to play an increasing part in oceanic research.

IOC had developed close links with other interested intergovernmental organizations; for example, the Inter-Secretariat Committee on Scientific Programmes Related to Oceanography included the executive heads of UNESCO, IMCO, FAO, WMO and IAEA, and on all questions which did not fall within its own competence IOC sought independent scientific advice from various specialized bodies of intergovernmental organizations. SCOR, for its part, was in close touch with the competent non-governmental international scientific unions. Multinational collaborative investigations sponsored by IOC and other organizations included LEPOR and GIPME. A number of regional co-operative investigations were also proceeding.

In the light of those examples, his delegation did not believe that there was any justification for another body to duplicate or supervise the work of existing organizations. On the contrary, it believed that an international sea-bed authority should look to IOC for advice on all questions relating to marine scientific research.

All the speakers in the debate had attached great importance to the availability of data obtained from marine scientific research, and he wished to outline the ways in which that need was currently being met. First, World Data Centres for Oceanography had been established at Washington and in Moscow during the International Geophysical Year. Those centres were required to help developing countries, inter alia, by providing archive facilities for countries which required them. Other specialized centres included in the Permanent Service for Mean Sea Level, the International Hydrographic Bureau and the FAO Fisheries Data Centre. Secondly, the International Council for the Exploration of the Sea had for many years been operating a system for exchange of regional oceanographic data. Thirdly, there were a number of manuals and standardized data recording forms, including the IOC Manual on International Oceanographic Data Exchange, the Report of Observations/Samples collected by Oceanographic Programmes (ROSCOP form) and the Geological Data Inventory of the Committee for Marine Geology. Fourthly, many international organizations, including IOC and SCOR, were constantly endeavouring to extend the system of international data exchange to include all important data or information. For example, the ROSCOP form was being expanded to include pollution data. Fifthly, IOC was developing plans for an Integrated Global Ocean Station System designed to meet the need for instantaneously available physical oceanographic data. Sixthly, the latest edition of the Manual on International Oceanographic Data Exchange, prepared by IOC and approved by SCOR, recognized that some points of observations, referred to as non-standard or experimental observations, did not lend themselves to international exchange through the World Data Centre system; special provisions were therefore made whereby the essential information concerning the availability and sources of such data were notified to the World Data Centres or to specialized centres, so that those interested could request them from the originating countries. The manual thus implicitly recognized the impractibility of calling for the indiscriminate international deposition of marine data.

The existing system required a large staff and was expensive; even the staffs of the United States National Centre at Washington and the World Data Centres, numbering about 150 and with a combined budget of over $2 million, were finding it difficult to handle the increasing quantities of oceanographic data becoming available. Consideration was being given to making greater use of national oceanographic data centres, which might work as part of an integrated world system, with the World Data Centres keeping inventories of the data available in the national centres.

If a new world authority were to attempt to collect research data, it would need a budget amounting to tens of millions of dollars a year and would find it difficult, if not impossible, to meet the demand for qualified scientific staff. His delegation believed that the existing machinery provided for the maximum practicable degree of data exchange and was sufficiently flexible to take changing needs into account. It therefore strongly recommended that existing agencies should continue to be regarded as the competent United Nations bodies for ensuring universal access to the results of research.

His Government fully supported the view that developing countries should be enabled, through increased teaching of marine sciences and technological training, to benefit from the knowledge obtained in marine research. It supported the working groups established by IOC and UNESCO's Office of Oceanography to study the problem and was prepared, as always, to consider further means whereby scientific and technological skills might be transferred to developing countries and means whereby less expensive technologies might be developed for their use.

With regard to the supervision or regulation of research in areas beyond the limits of national jurisdiction, although the United Kingdom recognized the need to regulate large-scale sea-bed drilling and dredging that might seriously interfere with the marine environment, it did not believe that the functions of an international authority should include the supervision of research programmes, as proposed in article 19 of the draft treaty contained in the "Working paper on the régime for the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (A/AC.138/49)" 32/ submitted by some Latin American countries in 1971. British marine scientists had great difficulty in appreciating the underlying motives of some of the proposals that had been made. The United Kingdom was firmly convinced that the close regulation of all marine scientific research was unnecessary and that undue restrictions were bound to discourage research.

For example, with regard to the proposal that facilities should be provided for scientists from developing countries or international institutions to participate in scientific expeditions, a distinction must be drawn between providing accommodation for an observer or supervisor and enabling visiting scientists to participate effectively in expeditions. From the purely practical point of view, the presence of a non-productive scientist on a research vessel where accommodation was already limited would clearly be undesirable. Moreover, a research ship might have to make appreciable diversions from its intended track to enable the supernumerary to join or leave the ship; such diversions would be wasteful not only of the time of the scientists aboard, but also of expensive ship-time, which could cost $2,500 per day. While all ships should be encouraged to carry observers, that should not be made mandatory.

32/ See Official Records of the General Assembly, Twenty-sixth Session, Supplement No.21 (A/8421), annex 1.8, p.93.

The scientific staff of the suggested international authority would have to be very large and highly qualified to deal with all the different kinds of research concerned, to check conclusions based on the enormous amount of data involved, to translate and study all the relevant literature and thus to understand what was going on. Moreover, the effort required would clearly be much more extensive if the authority were to be made responsible for the regulation of research.

With regard to research cruises in territorial seas, the United Kingdom fully agreed that the coastal State should be entitled to impose whatever conditions it chose and had no difficulty in complying with article 5, paragraph 8, of the 1958 Convention on the Continental Shelf, provided that it was applied in a co-operative spirit and that coastal States were informed promptly and fully of the results of work undertaken in areas within their jurisdiction. Prior announcement of the aims and objects of research programmes, giving approximate places and times and information about the techniques to be used, would not be regarded as unduly restrictive, provided that the rule was applied with reasonable flexibility.

In conclusion, his delegation wished to reassert that, with a few exceptions, scientific research should remain as free of regulation as it was at present, so as to promote the objective of improving and increasing knowledge of the marine environment for the benefit of all mankind.

Mr. YANKOV (Bulgaria), introducing the working paper submitted by his delegation jointly with those of the Ukrainian SSR and the USSR and entitled "Basic principles concerning international co-operation in marine scientific research" (A/AC.138/SC.III/L.23), said that the purpose of the document at that stage of the Sub-Committee's deliberations was to provide a background for the discussions, rather than an exhaustive detailed report on scientific research, to be considered by the forthcoming Conference on the law of the sea. The principles set out in the working paper were based on General Assembly resolution 2749 (XXV) containing the Declaration of Principles, and particularly on paragraph 10 of that Declaration. As far as the scope of the working paper was concerned, it should be borne in mind that it related mainly to research in the high seas, since research in the territorial sea was usually covered by national regulations and research on the continental shelf was regulated by the 1958 Convention.

It would be seen that the working paper consisted of two parts, a preamble and an operative part containing 15 principles. In the preamble, the sponsors had tried to set out in a concise form the basic objectives, significance and general policy of marine scientific research. With regard to general policy, the sponsors had confined themselves to three main points, first, that marine scientific research should be conducted for the benefit of all countries, irrespective of their degree of economic and technological development and without any discrimination whatsoever; secondly, that the promotion of research would help to increase the well-being of the peoples of the world, with particular emphasis on the needs and interests of the developing countries; and thirdly, that efficient scientific research called for the strengthening of international co-operation by uniting the scientific capacities and combining the efforts of States.

Among the principles enumerated in the operative part of the working paper, he drew special attention to principles 1 to 6. Under principle 3, research should be conducted in conformity with international law, including the United Nations Charter;

in that connexion, the words "and the present principles" should be added at the end of the first sentence. With regard to that principle and principle 6 and their relation to freedom of scientific research, some speakers had referred to that freedom as a "so-called" freedom. He would submit, however, that in an organized society there were no absolute freedoms, rights or duties; all of them were regulated by international or domestic provisions. Scientific research was no exception to that rule, and the fact that freedom of research was subject to regulation should not lead to the negation of that freedom or to undue claims in connexion with the high seas.

An important consideration formulated in principles 5 and 8 of the working paper related to assistance in promoting the research capabilities of developing and land-locked countries, particularly with regard to the training of personnel and access to scientific data by the developing countries. Another general rule, contained in principle 4, concerned the duty of States to co-operate with each other in providing favourable conditions for the conduct of marine scientific research, the removal of obstacles to that research and facilitating and simplifying the relevant procedures.

Several provisions of the working paper dealt with the problem of access to and dissemination of scientific data, with special emphasis on the publication and dissemination of the results of research, the establishment of world and regional ocean-data acquisition centres and specific ways and means of giving effect to the principle. In that connexion, his delegation agreed with the United Kingdom delegation's views on the advisability of making use of existing institutions. As a small country, Bulgaria could not afford to undertake many independent projects and had to rely on international co-operative action and a register of existing international institutions would be useful for countries which could not afford to be members of them all.

The final provisions of the working paper contained a number of general principles on the prevention of pollution and other phenomena harmful to the marine environment and on the avoidance of interference with the legitimate uses of the world oceans, such as navigation and fishing. On the basis of paragraph 14 of the General Assembly's Declaration of Principles, principle 13 of the working paper dealt with international responsibility, and principle 14 provided that marine scientific research should not constitute legal grounds for claims to any part of the oceans or their resources.

A preliminary perusal of the Canadian working paper led to the conclusion that some of the provisions of that document were substantially similar to those of the paper co-sponsored by his delegation. On the other hand, some of the definitions and concepts contained in the Canadian document, such as the statement that knowledge derived from research was the common heritage of all mankind, lacked precision and could be open to equivocal interpretation. The same applied to the provisions on the extension of jurisdiction, control over research and the establishment of restricted zones, which would have to be studied very carefully because of their implications. His delegation would comment on the Canadian working paper in greater detail at a later stage, but believed that that document, together with the one his delegation had co-sponsored, could serve as a basis for the Sub-Committee's discussions.

Mr. Kidan (Ethiopia), Vice-Chairman, took the Chair.

Mr. BEESLEY (Canada) said that the Japanese representative seemed to have misunderstood the objectives of the Canadian working paper and of the statement in which it had been presented to the Sub-Committee by the Canadian delegation (27th meeting). The Canadian working paper could hardly be characterized as introducing

a notion of unilateralism, when it was a multilateral proposal introduced in a multilateral form as the basis for a multilateral treaty; he decisively rejected the accusation that it was promoting "creeping jurisdiction", since the issue of what areas were within national jurisdiction was not prejudged in any way in the working paper; furthermore there was nothing in the working paper raising, even by implication, the suggestion of security zones. Perhaps the Japanese delegation would wish to reconsider its comments in that connexion.

The United Kingdom representative, too, had misinterpreted the Canadian introductory statement and taken it completely out of context when he had asserted that the Canadian view was exclusively that science was at the service of national interests; on the contrary his delegation had postulated both in the working paper and in the introductory statement, in unmistakable terms, that knowledge of the marine environment was the common heritage of all mankind, which excluded a narrow nationalistic approach. He wondered what the role of the United Kingdom Ministry of Technology was, in the light of the United Kingdom delegation's statement. Clearly, all Governments benefited from scientific research, and so they should. Finally, concepts of the extension of jurisdiction and the creation of restricted zones, to which the Bulgarian representative had just referred, did not appear in either the Canadian working paper or the introductory statement, and, given the typically balanced approach of the Bulgarian delegation to the Canadian proposal, it was important that that delegation should not pick up the points made by the Japanese and United Kingdom delegations without examining them very carefully.

The meeting rose at 1.20 p.m.

SUMMARY RECORD OF THE TWENTY-NINTH MEETING

held on Friday, 11 August 1972, at 3.15 p.m.

Chairman: Mr. van der ESSEN Belgium

In the absence of the Chairman, Mr. Espinosa Valderrama (Colombia), Vice-Chairman, took the Chair.

GENERAL DEBATE (continued)

Scientific research (concluded) (A/AC.138/SC.III/L.18, A/AC.138/SC.III/L.23)

Mr. ZAVOROTKO (Ukrainian Soviet Socialist Republic) said that his delegation had stressed previously the importance which it attached to scientific research and given its views on the need for international co-operation in that sphere. The Ukrainian SSR had already collaborated in large-scale undertakings, in particular with the Office of Oceanography of UNESCO and various specialized agencies. It possessed vessels specially designed for research and equipped with the most modern apparatus; in 1971, it had established a centre for research on the southern seas, for the operation of which the assistance of foreign scientists had been enlisted.

In 1959, Professor Mikhail Lomonosov had discovered the existence of a current in the Atlantic which was called after him. In 1963-1964, the Ukrainian SSR had undertaken research in the tropical Atlantic for the preparation of an oceanographic atlas containing more than 300 maps, mostly drawn up by Ukrainian scientists; it had been decided to print the first volume in 1972. In 1964, with the co-operation of Central American States, and particularly Cuba, it had explored the Caribbean and the Gulf of Mexico. From 1965 to 1969, its vessel Mikhail Lomonosov had continued its research in the Indian Ocean, in the north-western part of which it had discovered important phosphorite deposits. Since 1969, the Ukrainian SSR had been co-operating with France in the exploration of the Mediterranean sea-bed.

Such undertakings, which required considerable expenditure, a large labour force and extremely advanced technological means, were only possible if all the States concerned took part in them. The time had passed when mankind could be satisfied merely with using natural forces; it must now intervene in the action of those forces and master them, scientifically regulate the reproduction of species and defend itself against the threat of pollution. The ocean was a complex environment with interrelated aspects which needed to be studied in parallel if the purpose of such study, which in the final analysis was the welfare of mankind, was to be achieved; the closing of any area of the high seas might seriously jeopardize or falsify the results of those studies. As the representative of the United States of America had rightly pointed out (26th meeting), it was essential to know everything that was happening on the sea-bed; thus, the principle of freedom of scientific research on the high seas, which was merely a corollary of the general principle of freedom of the high seas, must be safeguarded absolutely. It was mistaken to argue, as some did, that the sole beneficiaries of such research would be the developed countries; in fact, all States, whatever their geographic or economic situation, would benefit from scientific research, which must

be subordinated to the common welfare of mankind. Thus, the work done by Ukrainian scientists in the tropical Atlantic and the Indian Ocean had already been useful to many developing countries, enabling them to take measures to ensure the renewal of species. A truly scientific knowledge of the sea-bed was only possible through frank co-operation; such knowledge would assist weather forecasts and navigation, avoid the loss of hundreds of vessels and thousands of human lives and would save thousands of millions of dollars, particularly on port installations and maritime engineering.

The Ukrainian delegation, which considered that research done by different countries should be under international control, had, together with the Bulgarian and USSR delegations, sponsored the working paper entitled "Basic principles concerning international co-operation in marine scientific research" (A/AC.138/SC.III/L.23) which, it greatly hoped, would assist the Sub-Committee to fulfil its mandate. The main principles on which that document was based were a desire to ensure that the research carried out by one country would not harm others and would not endanger the marine environment, navigation or fishing; that countries would bear international responsibility for national activities, whether conducted by government bodies or by individuals or bodies corporate under their jurisdiction; that all discrimination would be eliminated; and that information would be exchanged on a bilateral basis or disseminated by regional or world centres. The Ukrainian SSR, which acted as host to scientists and students from developing countries, particularly Latin American countries, disseminated the results of its research through a data dissemination centre in Moscow, in the hope that all mankind would benefit.

Mr. GORSHKOV (Union of Soviet Socialist Republics) fully endorsed the views of the Bulgarian delegation (28th meeting) concerning document A/AC.138/SC.III/L.23, of which the Soviet Union was one of the authors, and reserved the right to comment on that document in greater detail at a later date.

For the moment, the Soviet delegation wished to give its views on the working paper submitted by the Canadian delegation (A/AC.138/SC.III/L.18), which contained some positive elements concerning the principles which should govern marine research. The Soviet delegation fully shared the view expressed by the representative of Canada (27th meeting) that marine research should not hamper other uses of the marine environment, and vice versa. The Soviet delegation also supported the principles put forward on the desirability of international co-operation in the preparation of joint marine scientific research programmes and the need for States to facilitate the development and growth of activities in that sphere and to develop exchanges of data and information; those principles were very close to the ones set out in document A/AC.138/SC.III/L.23. In addition, he accepted as sound the legal interpretation given in the Canadian draft of the rights of coastal States with respect to scientific research carried out in their territorial waters or in the areas above their continental shelf. As a whole, the Canadian working paper had the merit of considering the facts from a practical and realistic point of view.

However, despite those positive aspects, the Soviet delegation had some misgivings about certain principles, and considered that other provisions required clarification or modification. Thus, in principle 1, the phrase "the common heritage of all mankind" was vague in so far as it related to the knowledge resulting from marine scientific

research; the definition of that term was still the subject of considerable discussion in the Working Group on the international régime, where three different formulas had been proposed without any of them gaining general acceptance. The Soviet delegation wondered whether the idea of a common heritage could be linked to scientific research; it considered that the results of scientific research were the product of human labour and served the welfare of mankind as a whole. That did not mean that it was opposed to the dissemination of knowledge. On the contrary, it attached great importance to complete international co-operation in marine scientific research and believed that the results obtained should be widely disseminated to all countries, including developing countries.

With regard to principle 2, he expressed doubts as to the advisability of adopting a provision which would give any international organization the right to authorize the conduct of scientific research in the marine environment. It would be dangerous to make such research subject to control by a specialized agency, since that would be contrary to the principle of freedom of marine research, which was recognized by international law and stated in the second part (dealing with the principles and rules of international law applicable to the sea-bed and the ocean floor and the subsoil thereof underlying the high seas beyond the limits of present national jurisdiction) of the study prepared by the Secretariat in 1968 and entitled "Legal aspects of the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind".33/ Principle 2 also provided that such research should be conducted in accordance with rules and recognized principles of international law. It therefore contained a flagrant contradiction.

Principle 3 should be completely changed. Although the Soviet delegation shared the view that scientific research could not form the legal basis of any exploitation rights, it could not accept the second part of the paragraph, which denied such rights in areas beyond the limits of national jurisdiction. A State could claim rights which were not purely material, for example, in relation to discoveries made as a result of scientific research. Consequently, principle 3 should be worded along the following lines: "No scientific activity as such shall form the legal basis for any claims of rights over any part of the area of the high seas or its resources".

In principle 5, it was difficult to see what was meant by the expression "excessive collection of specimens and samples". If the author meant the industrial exploitation of marine resources under the pretext of scientific research, another formula should be found; it might be stated, for example, that in each case the amount of scientific information needed should be determined solely by competent scientists or by scientific institutions.

Principle 12 reflected Canada's well-known view on the areas of the high seas, namely, that the coastal State was primarily responsible for the protection of the marine environment in the areas within its jurisdiction. Many States did not share that view, including the Soviet Union, which considered the formula too broad and vague.

33/ A/AC.135/19/Add.1

Paragraph 13 required considerable amendment. If it was accepted that the conduct of marine scientific research should be completely free, except for certain conditions which could be laid down by international agreement, then it could not be accepted that sovereign States should blindly conform to the decisions of any international body and the regulations which it might draw up on scientific research in the marine environment.

In the Soviet delegation's view, the phrase "in the areas within the jurisdiction of that State", which appeared frequently in the working paper submitted by the Canadian delegation, should be amended as follows: "in the territorial waters of the coastal State and on its continental shelf".

He hoped that the Canadian delegation would take the comments which he had just made into account and would exercise a positive influence on the subsequent preparation by the Sub-Committee of draft principles acceptable to all delegations.

Mr. FONSECA TRUQUE (Colombia) said that he wished to express his delegation's preliminary observations on documents A/AC.138/SC.III/L.18 and A/AC.138/SC.III/L.23. In those documents, it had first noted with satisfaction the desire to ensure that the lightning progress of technology was not used for the destruction of human life, as was unfortunately all too often the case, but for mankind's preservation and welfare. However, it feared the insidious infiltration of scientific neo-colonialism and the monopolization by some Powers of scientific achievements, in the development of which all peoples had co-operated for innumerable generations and which was therefore their common heritage.

In 1971, the Latin American States, aware of the need to ensure that all peoples of the world benefited from technological progress, had submitted to the Committee a document entitled "Working paper on the régime for the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (A/AC.138/49)"34/ on the establishment of an international authority to control and manage the exploration and exploitation of ocean resources; articles 16, 17, 18 and 19 of that text had related to scientific research and the powers which might be conferred on the authority in that sphere. Article 19, which had provided that the authority should be given control over all stages of the various programmes, as well as the power to take part actively whenever it deemed it advisable, had not won the approval of either the United Kingdom representative or the Soviet representative. The Colombian delegation nevertheless continued to believe that an international authority would be the ideal place for the preparation and implementation of a world policy for marine scientific research.

While reserving the right to speak more fully on the two documents under consideration when amendments to them had been proposed, he said that he would have been willing to endorse principle 1 proposed by the Canadian delegation if the last part of the sentence, relating to non-military information, had not caused him some apprehension; should the conclusion be drawn that parallel oceanographic activities, completely foreign to the objectives pursued by the General Assembly, existed? That would mean a return to the supremacy of national policy interests over international interests. Furthermore, principle 6 of the Canadian proposal appeared to imply that the coastal State had the right to take part actively in the preparation and implementation of projects following research carried out in its waters; such States should also have to inform dissemination centres of the results of their own research.

34/ See Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421), annex I.8, p.93.

The draft submitted by the delegations of Bulgaria, the Soviet Union and the Ukrainian SSR seemed to have the sole aim of maintaining the status quo. One wondered what the "universally recognized principles and standards of international law" referred to in paragraph 3 were, since the Conference on the law of the sea would have the very task of deciding international law in the light of new trends in international affairs, scientific progress and the specific interests of the developing countries. That proposal seemed clearly reactionary, and in that connexion the statement of the United States of America representative at the 26th meeting was very much to the point.

It was impossible nowadays to argue that freedom of research was sacrosanct, and the Colombian delegation was convinced that it was the responsibility of the international community to regulate scientific activities beyond the limits of national jurisdiction. That task must be undertaken in a spirit of international equity and political realism, without, however, abandoning idealism, which would make it possible to hand down for generations to come a lasting legal statute ensuring the rational use of the common heritage of mankind, including both biological and non-renewable resources.

Mr. BOHTE (Yugoslavia) said that the 1958 Convention on the High Seas had not mentioned freedom of scientific research among the "freedoms" recognized on the high seas, despite a proposal to that effect, which had not received sufficient support. It might be assumed in practice, however, that the wording of the Convention did not exclude freedoms of the sea other than the four mentioned in article 2, paragraph 2. It was true that science and technology advanced at such a rate that any limitation or regulation of scientific research might appear to the highly developed countries a hindrance. It should not be forgotten, however, that, for the purposes of the preparatory work for a further conference on the law of the sea, it was accepted that the sea, the sea-bed and the ocean floor and their subsoil beyond the limits of national jurisdiction were regarded as the common heritage of mankind, with all the economic and legal implications that that entailed. Furthermore, some prerequisites for the recognition of the freedom of the sea had changed. In any event, the trend of development in that area, as in other areas of international life, was in the direction of limited or regulated freedoms, and consequently it seemed impossible to justify the creation of a new freedom, regardless whether it was based on classical concepts or on economic and technological concepts or on concepts relating to the stage of development attained. The fact should not be overlooked that freedom of scientific research had led to abuses. It was a very delicate matter, in fact, to strike a balance between the requirements of pure scientific research and research related to the exploitation of economic resources, or, in other words, a balance between the national interests of small and still underdeveloped sovereign countries and those of countries highly developed economically and technologically. Since scientific progress ought to benefit mankind as a whole, the Yugoslav delegation could not approve of the principle of absolute freedom of scientific research in the sphere of the marine environment and resources, but believed, on the contrary, that all States, whether coastal or land-locked and irrespective of their present level of development, were entitled to have access to and to benefit from the results of scientific research. It should be accepted, therefore, first, that a coastal State should have the sovereign right to regulate scientific research in the area under its jurisdiction, secondly, that a clear distinction should be established between pure scientific research and research for purposes of exploitation, and thirdly, that any element of scientific research which contained a basis for the appropriation or extension of sovereignty should be eliminated. In general, the future rules should ensure that every country should have access to the results of scientific research.

All countries, large and small alike, harboured a legitimate wish to participate actively in and genuinely contribute to scientific projects and their technical implementation. The working paper submitted by the Canadian delegation was a useful point of departure which, together with the statement by the representative of Trinidad and Tobago (28th meeting), might serve as a basis for preparing the principles to be adopted. In particular, the Yugoslav delegation was in favour of the reaffirmation of the principle that scientific research in areas within the jurisdiction of a coastal State should only be conducted with the consent of that State and that it should then have the right to participate or to be represented in the scientific research; it was equally important that a coastal State should be able to require information to be furnished to it on specific points, such as the period, location, nature and purpose of the proposed investigations. It was important, too, that responsibility should be fixed when States or international organizations caused damage in the course of marine scientific research or where such damage was caused to the marine environment or to any other State or its nationals by the activities of persons under their jurisdiction. The Yugoslav delegation sincerely hoped that obligations and responsibilities would be precisely regulated with regard to pollution and damage inflicted during scientific research on the sea-bed and ocean floor.

He would like to repeat once more that the developing countries did not wish only to share in the proceeds of the exploitation of the sea-bed and its resources; they were as just as interested in sharing actively in exploratory work and in having access to scientific and technological information. The concept of access to the results of scientific and technological research transcended the traditional concept of technical assistance to developing countries. It was a far more genuine kind of assistance, which would better contribute to the development of the human resources of the developing countries and promote the benefit of the entire world community by helping to bridge the ever-widening gap between a developed world and a developing world. That, in fact, was the only way to create conditions under which all countries, irrespective of their present economic development, human and industrial potential or geographical situation, could participate on equal terms in the management of the common heritage of mankind. In view of the complexity of the problem and the need to find, in the interests of mankind as a whole, an adequate balance between conflicting interests, the Yugoslav delegation wished to reiterate that, in its opinion, scientific research should be an integral part of the international régime and machinery for the sea-bed and ocean floor and their subsoil beyond the limits of national jurisdiction. It was examining with interest the various working papers submitted and was prepared to discuss them with a view to their improvement.

Mr. KATEKA (United Republic of Tanzania) observed that, though there was general agreement on the need to encourage marine scientific research and to ensure freedom of research, opinions differed as to the kind of research to be done, how it should be carried out and by whom. Initially, a distinction had been attempted between pure research and applied research, that was to say, between research for purely academic purposes and research to solve specific problems. The fact could not be overlooked that any research opened up considerable possibilities, some of them not even suspected by the very personswho originated the projects, and it was well known that the results of any research could be used for the most diverse purposes, peaceful or non-peaceful. The Tanzanian Government believed that what counted was how the

results were applied; it was therefore against any attempt to divide such results into two separate categories and wished to be able to reserve the right to benefit from all results of research conducted in any place under its jurisdiction. A poor country could not permit itself to devote its scarce resources to purely academic research; it must devote them to programmes of productive research to stimulate all-round development. His delegation could not, therefore, share the view of those who wished to separate research from commercial exploitation. Scientific research, resource management and development were complementary. The more that was known about the potential wealth concealed in the oceans, the more possibilities there would be for exploiting those resources and, in consequence, for development. In other words, what interested countries such as his was not research based on hypothetical international standards, but research which could make a concrete contribution to accelerating the rate of economic and social development.

Unfortunately, research in the developing countries had so far been a projection of the needs of the developed countries, and the needs of the third world had been disregarded. The countries of the third world had remained ignorant of the marine environment surrounding them, owing to lack of scientific knowledge. If the developing countries wished to emerge from that ignorance and catch up with the developed countries, they must be able to master the scientific research which had largely brought about the development of the developed countries. It was quite obvious, therefore, that the developing countries, far from wishing to hinder scientific research, had every interest in promoting it, for otherwise the present inequities would continue. All that they asked was that it should be subjected to proper regulation under the various régimes of the sea.

Two broad régimes should be applied, one under national jurisdiction, the other under international control. Whatever the régime adopted, a balance must be found between national interests and the interests of the international community, for the two were inextricably entwined. Scientific research extended both to the sea-bed and to the superjacent water column. In territorial waters, no research should be carried on without the prior consent of the coastal State. On the continental shelf, the provisions of the 1958 Convention on the Continental Shelf should continue to apply. Within the economic zone, scientific research should be authorized, subject to reasonable conditions which would be laid down in the future international instrument and would be in keeping with the regulations in force in the coastal State, in conformity with the Declaration of Santo Domingo (A/AC.138/80) on the patrimonial sea and the draft articles on the concept of an exclusive economic zone submitted by Kenya (A/AC.138/SC.II/L.10). Coastal States should be able to participate in the research if they wished to do so; they should be provided with the basic data and be informed of the results. In that connexion, his delegation must observe that the Japanese delegation's statement (28th meeting) that publication of the results of scientific research had never been, and should not be, a condition of such research was misleading. If the research was carried out within the limits of national jurisdiction, the coastal State had the fundamental and incontrovertible right to be kept informed, from the initial planning until the publication of the results. To say that scientists were reluctant to publish such information before examining it and should not be required to do so simply meant trying to keep such information to themselves and maintaining the status quo. The United Republic of Tanzania knew from experience that the major maritime Powers sold the information gathered by their scientists to each other, in complete disregard of the

interests of the developing countries. That practice should not be encouraged. With regard to freedom of research on the high seas, just as there could not be absolute State sovereignty, so there could not be absolute freedom for all. Such freedom was both broader and more restricted, owing to the interdependence of all countries. The Sub-Committee's task in that area, like that of the Committee in the other areas with which it was dealing, was to try to establish order by proper regulations. That standpoint could not be reconciled with the kind of random research which was being urged by those who advocated complete freedom in that respect. Indeed, no one had yet asked himself whether the "other freedoms" referred to in the 1958 Convention on the High Seas included the freedom of scientific research. The Sub-Committee must therefore contemplate provisions to settle that question in any future international instrument.

His delegation did not intend to belittle the role of international co-operation in scientific research. It realized that for the developing countries the very notion of scientific research would not mean much without the broadest possible co-operation at a world-wide level. That was why it had been amazed to hear the representative of the United Kingdom draw a distinction (28th meeting) between the specialists from the developing countries who should participate in scientific expeditions. He had spoken of "non-productive scientists" as undesirable persons to have on an expedition. A remark like that might be interpreted as an attempt to make marine science an exclusive club. That was what the Tanzanian delegation meant when it spoke of "hypothetical standards". How could the United Kingdom representative's allusion to lack of space on ships as a reason for an inability to accept "non-productive scientists" from the developing countries be taken seriously?

With regard to the various proposals submitted on scientific research, it should be noted that the Canadian working paper was an attempt to take into consideration the interests of coastal States without damaging those of the international community. The Tanzanian delegation would therefore examine that proposal very carefully. It must observe, however, that in the first of the principles stated the Canadian delegation referred to "information of a non-proprietary or non-military nature"; that gave the impression that some information could not be made available; but if the knowledge furnished by scientific research on the seas and the oceans was part of the common heritage of mankind, it could not belong to any State or group of countries and must be intended solely for peaceful purposes. On the other hand, the Canadian proposal should allay the fears of those who held that coastal States should not have the right to regulate scientific research by showing that those countries had an interest in keeping order within the limits of their jurisdiction, especially with regard to unauthorized economic and military activities and the preservation of the marine environment.

The Canadian proposal and the proposal in document A/AC.138/SC.III/L.23 provided for the training of scientists from developing countries. It should be clearly understood that training facilities should be better suited to the special conditions of developing countries and that, as the representative of Trinidad and Tobago had said, training centres should be opened in their regions, so as to avoid sending so-called experts to the developing countries. Paragraph 15 of document A/AC.138/SC.III/L.23 should be changed, since the Committee was dealing only with research carried out on the

sea-bed and the ocean floor beyond the limits of national jurisdiction; the final decision on the question of limits should not therefore be prejudged. Moreover, the principle was not in keeping with the Declaration of Principles contained in General Assembly resolution 2749 (XXV). Having made those preliminary observations, the Tanzanian delegation reserved the right to revert to the topic in detail later.

Mr. MANANSALA (Philippines), after stressing the vital importance of the Sub-Committee's mandate for the future of all mankind, said that scientific research - whose objectives had been briefly defined by several speakers and in the Canadian working paper - had assumed special importance in the past decade or two, as a result of the realization of the tremendous possibilities offered by the resources of the sea-bed. All countries represented in the Committee attached great importance to the development of knowledge and technology relating to the marine environment, and the Philippines, owing to its geographical features, attached very special importance to it. The recent calamity suffered by his country as the result of a typhoon which had caused heavy loss of human life and damage of property, and also the fact that 15 to 20 typhoons passed through various parts of the Philippines annually, raised in acute form the question of the reasons for such calamities, and of the incalculable benefits which mankind might derive from scientific discoveries about ocean-atmosphere interaction. For a country in which one island in the archipelago was inundated while others suffered from drought, and which had been ravaged by many hurricanes, cyclones and typhoons, a better understanding of air-sea interaction and the effects of solar energy, and the better weather forecasting and weather control which might result from it, would be very helpful. Marine scientific research, because of its global nature and the great expense it entailed, lent itself most readily to international co-operation. The limited resources of the Philippines did not allow it to engage extensively in fundamental scientific research, but his Government was seeking to alleviate that difficulty by participating in the work of international co-operative bodies and encouraging co-operative research in the region in which the Philippines was situated. It had actively participated in the work of IOC and IMCO, and in joint projects by IOC and WMO and other similar programmes.

With regard toprinciples, the Philippine delegation believed in the fundamental freedom of scientific research in the marine environment in the areas beyond national jurisdiction. It realized, too, the need for an appropriate atmosphere to encourage marine scientific institutions to conduct their tedious and lonely scientific research. Knowledge and technology in that field had advanced very rapidly during the past century. Not so long ago, man had had no inkling of the vast riches of the continental shelf and the oceanic depths. Now, the Philippines, like most other developing countries, was inclined to advocate some form of regulation to curb or control the proliferation of so-called marine "research".

The Philippine delegation appreciated the concern expressed by the United Kingdom representative at the possibility that mandatory and restrictive regulations might hamper marine research, and thought that one solution might perhaps be to reconcile the need to provide the fullest opportunity for scientific research with the legitimate wish of every State to ensure that scientific research was not used as a pretext for intrusion into its national waters. There must be an assurance that applied scientific research in the oceans did not turn into exploration or exploitation ventures; the line dividing applied research from exploratory investigations was very thin indeed. In waters under national jurisdiction, the prior permission of the coastal State should

be required for all marine research. That State should be fully informed of the objectives of the programme, the time and duration of the research, the size of the area of operations, and the equipment and personnel involved (including the tonnage of vessels), at the time when the request for permission was submitted. Moreover, the request should be accompanied by an invitation for scientists of the coastal State to participate in the research, at least while it was being undertaken in coastal waters, by an offer to share in the samples, data or records obtained, and by a pledge that the results of the research would be published in international journals and the data communicated to oceanographic data centres.

Lastly, while the Philippine delegation could not accept all the views expressed by the United Kingdom representative at the 28th meeting, it entirely agreed with him on the need for training and education in the field of marine sciences in the developing countries, in order to bridge the gap separating them from the developed world and thus to bring genuine peace to a world from which suffering and proverty should be eliminated. Extensive education and training programmes in the marine sciences should be undertaken within the framework of the existing international organizations and through further international co-operation. The Philippine delegation was particularly glad that the item on the transfer of technology had been included without dissent in the list of subjects and issues relating to the law of the sea, to be submitted to the Conference on the law of the sea, since the phrase "bearing in mind the special interests and needs of developing States" would have no meaning unless the third world was given the means to acquire the necessary technology and improve its industrial capacity.

Mr. McKERNAN (United States of America) said that it was now impossible to ignore the fact that the results of marine scientific research were beneficial to all mankind, wherever man was affected by natural disasters, wherever damage was done to the marine environment and wherever man tried to achieve an effective use and regulation of ocean space and its resources.

The sea was a critical component of the world eco-system; it produced large quantities of living and non-living resources and was an essential means of transportation and communication. Better understanding of the sea was thus of vital importance to all nations, whether coastal or land-locked, developed or developing. The quest for such knowledge was not only a necessity; in the area beyond the territorial sea, it was also a right which should not be abridged by the restrictive actions of States, coastal or otherwise, except as recognized by international law. It was in the common interest of everyone to accept rules that maintained the maximum freedom to conduct scientific research in the ocean.

The marine environment was certainly extremely complex, and an adequate system for controlling the general pollution threatening it could not be developed without a much greater understanding of the physical, chemical and biological processes which operated in the oceans. Only through combined and intensified scientific research would it be possible to optimize the development of the ocean for the benefit of all mankind. The structure of the natural world transcended man-made boundaries, and access to all parts of the sea was essential to achieve a better understanding of the natural processes occurring therein. The United States delegation took the view that international arrangements should maximize freedom of access for such investigations.

There were corresponding common interests in protecting the rights of coastal states in adjacent ocean areas and in strengthening marine scientific skills and capabilities, where necessary. The protection of the interests of coastal States consisted primarily of ensuring that investigations did not prejudice the coastal State's control over resource exploitation in areas subject to its jurisdiction. General agreement had already been reached on certain fundamental principles applicable to certain areas, as was clear from paragraph 10 of the Declaration of Principles Governing the Sea Bed and Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, contained in General Assembly resolution 2749 (XXV). The United States delegation had already whole-heartedly supported that principle in the Declaration on several occasions, and had stated its view that the obligation to promote international co-operation in scientific research implied an undertaking on the part of States not to interfere with research conducted with a view to open publication. It believed that freedom of research was one of the fundamental freedoms of the sea recognized by international law, and that it should be exercised by all States, with reasonable regard to the interests of other States and in the interests of all States.

The scope of the concept of research and the authority over research might perhaps usefully be clarified. The United States delegation suggested that a distinction should therefore be made between open scientific research and commercial exploration. The criteria which characterized open research were that it was intended for the benefit of all mankind and involved open participation in the planning and conduct of research programmes and the prompt publication of results. Such research should be conducted so as not to cause significant harm to the environment; it did not include the taking of resources in commercial quantities, nor did it confer any rights to industrial exploration or exploitation. On the other hand, commercial exploration was characterized by restrictions on the publication of results and on the availability of samples, and it did not necessarily involve open participation in the planning and conduct of the work. Commercial exploration should also be conducted so as not to cause significant harm to the environment.

To most coastal States, the most important ocean area was their territorial sea. The United States delegation of course recognized the right of coastal States to prohibit or permit open research within the territorial sea which, the United States had proposed, should be limited to a maximum of 12 miles. A coastal State might well see advantage in having open research undertaken in its territorial sea by a research vessel of another nation. The United States delegation hoped that the coastal States would permit such activities in accordance with generally acceptable guidelines. It would suggest that a State requesting permission to carry out open research within the territorial sea should comply with the following conditions: (a) reasonable advance notice to be given, a period of 60 days normally being adequate; (b) an opportunity to be provided for the coastal State to participate or be represented in the research, and to have access to all scientific equipment aboard the vessel; (c) all information to be communicated to the coastal State on request, and access to samples which could not be duplicated to be given to that State; (d) publication of significant research in the open scientific literature to be ensured; (e) measures must be taken to ensure that the scientific activities presented no significant hazard to the resources or other uses of the territorial sea. Beyond the territorial sea, there would be areas of limited national jurisdiction. With regard to the continental shelf, which was one of those areas, the

1958 Convention contained satisfactory provisions; for any other areas of limited national jurisdiction or specialized competence, there should be minimal restrictions on the conduct of research. Thus, the Committee might usefully consider whether a State wishing to undertake open research relating to resource responsibilities delegated to a coastal State by international agreement should be required to meet some or all of the criteria suggested for research in the territorial sea.

It was clear that commercial exploration in the territorial sea, and in areas subject to limited national jurisdiction, should in most cases be subject to the regulation of the coastal State.

In all areas beyond the limits of limited national jurisdiction, all research should be conducted without interference. Deep-sea drilling which might entail significant harm to the marine environment should be subject to reasonable international standards.

The above-mentioned concepts and principles fully protected the interests of all States both in facilitating marine scientific research and in assuring coastal States that their interests were being met. However, important as it was to provide a legal framework guaranteeing the common interests of all States in marine scientific research, it should be stressed that international co-operation was also of very great value. The conduct of scientific research at sea was characteristically an international enterprise in which the participation of the ships and nationals of many States was common practice. The furtherance of international co-operation called for concerted action on a bilateral, regional and broad multilateral basis.

Recently, scientific research at sea on marine pollution had come into special prominence, and it was of particular interest to the Sub-Committee because it was related to the other main subject of its concern. In that connexion, the Sub-Committee would recall principle (15) of the general principles for the assessment and control of marine pollution, which the United Nations Conference on the Human Environment had recommended Governments to endorse.

He read out the text of that general principle, and said that the United States Government endorsed it.

Lastly, with regard to the other main common interest of coastal States, the enhancement of their marine science capabilities, the United States delegation hoped that the Sub-Committee would discuss the subject in greater detail later. There had been many statements before the Committee which indicated the need and the desire of developing countries to build or to strengthen their capabilities in marine science and technology. The United States shared that concern and believed that effective action should be taken on an urgent basis to co-operate with those States which were developing their expertise in marine science and their capability to use and develop marine resources. In that connexion, it should be noted that IOC had long been involved with that task and that the General Assembly, in its resolution 2467D (XXIII) of 21 December 1968, had specifically requested it to intensify its efforts in that field. It was true that the transfer of scientific skills and technology was not easy. The United States

and other countries had made significant contributions in the past, but their efforts had not been uniformly successful. The United States delegation hoped that interested delegations would suggest alternative methods that might be necessary or desirable to improve existing efforts in technical assistance in marine science education and technology transfer. Concrete proposals were urgently needed, and he hoped that, by acting together, delegations would devise methods for attaining that objective.

The United States, therefore, was prepared in principle to commit funds to support multilateral efforts in all appropriate international agencies to create and enlarge the ability of developing countries to interpret and use scientific data for their economic benefit and other purposes and augment their knowledge of marine scientific research; and it was prepared to supply them with scientific research equipment and the means to maintain and use it. The funds supplied by the United States in that connexion would be in addition to the efforts made by the international sea-bed resource authority when it gained the financial capacity to devote funds to the same purposes.

It was in the interests of everyone to encourage scientific research in the ocean, recognizing the right of the coastal State to regulate the conduct of research within its territorial sea and to apply reasonable conditions and controls for research. The Committee would be wise to consider broad principles which might act as guidelines under which open research might be carried out within the territorial sea of coastal States.

In addition, in areas of limited coastal State jurisdiction, there should be a minimum of interference with open research, but the Committee might usefully consider what criteria might apply to research carried out in those areas. In areas beyond limited national jurisdiction, all scientific research should continue to be conducted without interference.

The United States believed that the principle of the transfer of skills and technology was important and should be reaffirmed in any convention dealing with research. The United States was prepared to accept the challenge of transferring technology for ocean research. It was prepared to commit new resources to that end, so that every country could acquire new capability for using the sea and its resources for the benefit of all mankind.

Miss MARIANI (France) said that her delegation regarded scientific research as a basic question requiring the closest possible attention, so as to create the optimum conditions for the pursuit of activities which were of importance to the whole of mankind. Her delegation had read with interest the working papers submitted by Canada and by Bulgaria, the Ukrainian SSR and the USSR, but, before commenting on them, it first wished to draw attention to some essential factors which should be taken into account in establishing any basic principles for scientific research.

Scientific research, and more particularly oceanographic research, which was recongized as a legitimate activity, required a considerable expenditure of human and financial resources, and the accumulation of complex data and material - in other words, the development of large-scale and usually multidisciplinary programmes which covered very wide areas and could not be carried out properly without international co-operation.

Such co-operation already existed, as was clear from LEPOR, the Global Atmospheric Research Programme (GARP), IGOSS, GIPME and a number of joint programmes undertaken in the Caribbean (CICAR), the Mediterranean (ECM), the central and east Atlantic (CINECA) and the Indian Ocean. Oceanic phenomena and processes knew no frontiers; the document submitted by Bulgaria, the Ukrainian SSR and the USSR rightly spoke of scientific research in the "world's oceans", just as all the programmes mentioned used the term "global" or "world". Such research required substantial capital investment at the national and international levels for the purpose not of making an immediate or direct profit but of increasing the total volume of knowledge. Consequently, it was most important not to discourage or hamper legitimate and beneficial activities that were extremely costly and involved intensive collaboration between nations. In her delegation's view, that was an essential prerequisite. The right to undertake scientific research, and the need for international co-operation to facilitate it, were the two corner-stones on which the basic principles of oceanographic research should be founded. Moreover, both principles were emphatically stated in the two working papers she had mentioned. In determining how they were to be applied, three elements were indispensable - freedom (or at least facilities), dissemination of information and participation.

Respect for freedom meant that every assistance should be given to research work by avoiding possible obstacles and thereby ensuring that the research would be conducted in optimum conditions and in accordance with existing principles of international law. Such freedom did not mean that there would be no rules; it was bound by respect for certain principles or legitimate interests, such as the protection of the marine environment (see A/AC.138/SC.III/L.18, principle 5 and A/AC.138/SC.III/L.23, para. 11) other uses of the marine environment (see A/AC.138/SC.III/L.18, principle 4) - wherever the research was conducted - and, of course, respect for the sovereign rights of States. As the Mexican representative had pointed out (28th meeting), the degree of freedom would vary depending on the area in which the research was being carried out. Within the limits of the national jurisdiction of States, freedom of research would be subject to the need to obtain the consent of the coastal State, and one would no longer speak of freedom but of the facilities to be granted by the State. In the international area open to all nations, no permission would be required and the research would merely have to comply with the existing principles of international law; in other words, it would have to take into account the other uses of the marine environment and the need to conserve it. However, if research was conducted within zones covered by any permits or licences which might be granted in the international area, the holders of the permits or licences would have to be notified, so that they could take the necessary steps.

In what were termed the areas under national jurisdiction (which had not yet been defined by treaty), respect for the rights and interests of the coastal State implied - in accordance with article 5, paragraph 8, of the 1958 Convention on the Continental Shelf - that the coastal State would have to give its concurrence. The IOC Working Group on legal questions related to scientific investigation of the oceans had established a procedure for obtaining the consent and participation of the coastal State. The procedure, which was based on co-operation between the coastal State and the State conducting the research, had been carefully studied and drawn up after extensive discussions, in which the views of all interested States had been taken into consideration. It had been explained to the Sub-Committee (26th meeting) and was set out in principles 10 and 11 in the Canadian paper.

In accordance with that procedure, the coastal State would receive information on any research programme to be undertaken, so that it might, if it so wished, be associated with the research from the beginning and arrange for contacts between the scientists concerned. The results of the research would be published as soon as possible in an international scientific journal. The IOC Working Group had also drawn up provisional guidelines for the application of IOC resolution VI-13. France had immediately implemented the resolution and believed that there should be a two-phase procedure for applying for, and granting, permits for research in the territorial waters or on the continental shelf of other States.

Her delegation could not agree with the second part of principle 12 in the Canadian working paper, in which it was stated that marine scientific research should comply with the coastal State's resource management regulations. That provision was based on a confusion of thought that had been avoided in French legislation, which dealt separately with scientific research, for which only a permit was required, and exploration or exploitation, for which a place of establishment in France and permits were required. Also, it was essential to make a distinction between scientific research and commercial exploration, which should be subject to a stricter régime. In any case, scientific research could not, either in the areas under national jurisdiction or in the international area, constitute legal grounds for any claim to undertake industrial exploration or exploitation, and that should allay all fears.

Plans for scientific research should be published, to provide universal access to the knowledge which formed part of the common heritage of mankind. That was the feature which distinguished scientific research, sometimes known as open research, from the so-called "limited exploration" or research undertaken for economic or commercial reasons, the results of which were often protected by licences or patents. Research could be publicized either by the transmittal of information on programmes, their characteristics and objectives, etc., directly to States or through an international organization; such publicity would facilitate participation by other interested countries.

The publication of the results of research programmes was a more complex matter, however, since the term "results" implied the analysis and interpretation of data which could not be published as such. The representative of the United States of America had explained (26th meeting) that a scientist was unwilling, for reasons of professional integrity, to communicate unprocessed data which he had not himself carefully examined, verified, analysed and interpreted.

The word "publication" should be taken to mean "making accessible to the public", rather than publication in the literal sense of the term. It was not possible to compel States, particularly those lacking adequate resources, to publish all their findings at considerable financial cost, and it was therefore preferable to adopt the idea of "making available" or "free access". In fact, in the Canadian working paper, such expressions as, "knowledge ... should be exchanged and made available to the whole world" (principle 1), "the availability to every State of information and knowledge" and "publication and dissemination through international channels of their results" (principle 6) had been repeatedly used. That seemed to be the best solution in many cases, since international organizations often had greater facilities and resources at their command.

There was already an international system for providing free access to data and for exchanges of information. The United Kingdom delegation had given a full account (28th meeting) of the role of the data centres; there were also the World Data Centres for Oceanography A at Washington D.C., and B in Moscow, and national and regional centres which stored and retrieved data on request. France had just set up an international oceanic data bureau, and was prepared to co-operate actively with other interested centres or bodies and, if necessary, to transform the bureau into a regional centre. Moreover, within IOC, France was a member of the Working Group on International Data Exchanges, which had prepared a handbook and standardized formulas such as the Report of Observations/Samples collected by Oceanographic Programmes (ROSCOP form).

Lastly, the facilities to be accorded to marine scientists - whatever their origin and place of work - and also free access to knowledge would encourage general participation in scientific research and in the benefits obtained from it. That was both an essential condition and a major objective for the development of oceanographic research. Such participation should be as active and effective as possible, whether the research was conducted in areas under the national jurisdiction of coastal States or in the international area.

In the former case, the coastal State's representatives on board a research vessel must take an active and effective part in the work and not merely act as observers or supervisors, since space on board was limited and the cost of a day's work was very high. France believed in general that the participation of the developing countries in scientific research was one of the most important means of narrowing the gap which separated them from the industrialized countries. It was therefore prepared to take an active part in special assistance programmes and to welcome young scientists from the developing countries to its laboratories and research vessels. It was already taking steps in that direction through the Office scientifique de recherche des techniques outre-mer, which had set up research centres in a number of African countries and in Madagascar. A seminar on the assessment of different fish species, which was to be held with the assistance of FAO in the oceanological centre in Britanny, would be attended by scientists from the developing countries.

Lastly, she referred to the role of the IOC Working Group on Training and Education, which had been amalgamated with the Mutual Assistance Working Group and given new terms of reference. It had, in particular, been requested to study the requirements, possibilities and programmes of member States - particularly the developing countries - and of international organizations in regard to training, education and mutual assistance in marine science and techniques.

The developing countries were a major concern of IOC, which had asked the UNESCO General Conference to give high priority to programmes of training, education and mutual assistance in oceanography. It had also urged member States to provide scientists in the developing countries with every possible facility to enable them to take part in oceanographic research and training campaigns. Moreover, several grants from IOC funds had been made for training and education in the developing countries.

In conclusion, her delegation wished to point out that the definition of basic principles for scientific research required detailed and extensive consideration, with the help of scientists and specialists. At the present stage, it had attempted merely to describe the nature of such research and to air some of the problems and concerns of the scientific community. There were already a number of international scientific organizations whose membership included eminent scientists and experts who had done remarkable and valuable work and were highly experienced in oceanography. Furthermore, there were practices and customs in scientific research which should not be overlooked. Consequently, it was essential, first, to make the best possible use of existing organizations and skills. The Committee should request the advice and services of such organizations as IOC, FAO and WMO, and it should work in close collaboration with them in order to obtain sound and objective advice for the formulation of equitable and viable principles for the conduct of scientific research.

Mr. GORSHKOV (Union of Soviet Socialist Republics), replying to the representative of Colombia, who had described the working paper of which the Soviet Union was a sponsor (A/AC.138/SC.III/L.23) as reactionary, said that such practices were not conducive to the progress of the Sub-Committee's work. When a delegation was not in favour of a draft, it could always make an alternative proposal.

Mr. ARCHER (United Kingdom) replied to the criticisms addressed to the United Kingdom delegation by the United Republic of Tanzania in connexion with the statement by the United Kingdom representative at the 28th meeting concerning assistance to the developing countries in the teaching of marine sciences and technological training in scientific research. The Tanzanian delegation had accused the United Kingdom of hypocrisy because it had said that it was ready to provide assistance in that field but had stated at the same time that the presence of non-productive scientists from developing countries on research vessels would not be desirable. He reminded the Sub-Committee that, in his statement, he had drawn a distinction between providing accommodation for an observer and inviting a scientist to participate effectively in expeditions, and had referred in that context to article 19 of the draft treaty contained in the "Working paper on the régime for the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (A/AC.138/49)" submitted in 1971 by 13 Latin American countries. The United Kingdom would welcome scientists from developing countries who wished to participate in the work of expeditions but reaffirmed that there would not be room on research vessels for mere observers, since such space was too costly to be made available to unproductive passengers.

Mr. KAWASHIMA (Japan), speaking in exercise of his right of reply, said that his delegation, which had also been criticized by the United Republic of Tanzania, wished to draw attention to passages in the statement of the Japanese representative at the 26th meeting with regard to the exchange and dissemination of the results of marine scientific research. The Japanese representative had stated, inter alia, that publication of the results of scientific research had never been a condition for freedom of scientific research under the present international law of the high seas. It should be made clear that the scientific research referred to in that statement was not that conducted within the limits of national jurisdiction, but on the high seas. As far as scientific research conducted in the areas within the jurisdiction of coastal States was concerned, the Japanese representative had said that adequate information should be supplied to the coastal State in advance, and that participation in the research work and access to the results should be guaranteed to the coastal State.

ORGANIZATION OF WORK

Mr. IGUCHI (Japan) said that he wished to refer to the question of the working groups which the Sub-Committee was to set up on marine pollution and perhaps on scientific research. He wondered whether it was desirable to start a substantive discussion on marine pollution as early as the following week, since there were still many questions to be settled in the other Sub-Committees and their working groups, and it would be difficult for small delegations to participate in so many meetings.

Moreover, Sub-Committee III had itself considered the draft convention on ocean dumping, and the views expressed by delegations on it had been summarized in the report which the Sub-Committee was to consider during the following week. That report could be transmitted to Governments, and their attention could be drawn to the comments which had been made on it - a procedure which would enable Sub-Committee III to play a part in the elaboration of the future convention on ocean dumping. It should be remembered that there were already a number of texts on the question - those which had been adopted at the Stockholm Conference and those which had been neither adopted nor rejected. His delegation felt that it was pointless to rush matters, and that it was not essential to consider the question in a working group.

Miss CASKEY (Canada) reminded the Sub-Committee that Canada had proposed that a working group on ocean dumping should be set up to consider the text of the principles submitted to the Stockholm Conference. Her delegation understood that consultations had taken place in the regional groups, which had reached agreement on the composition of the working group. She asked the Chairman to list the delegations which would be represented in the group. Referring to the statement just made by the representative of Japan, she urged the Sub-Committee not to delay the work of the working group any longer; she considered that the work of the other Sub-Committees should not affect the work of Sub-Committee III.

The CHAIRMAN announced the composition of the Working Group on Marine Pollution, which for the time being comprised only 31members, since two had still to be nominated (one from the African group and one from the Asian group). They were: Brazil, Bulgaria, Canada, Ecuador, India, Indonesia, Iran, Ivory Coast, Japan, Kenya, Liberia, Madagascar, Mauritius, Mexico, Morocco, New Zealand, Nigeria, Peru, Philippines, Romania, Somalia, Spain, Sudan, Sweden, Thailand, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela. He suggested that the Working Group should meet on the following Monday at 10.30 a.m. to elect its officers, settle procedural questions and consider the suggestion made by the Japanese delegation; then Sub-Committee III at its night meeting on the same day could consider the suggestion made by the delegation of Japan and any substantive questions that might have been raised at the Working Group's meeting in the morning. At the same meeting, Sub-Committee III would consider the first part of its report, which had been circulated under the symbol A/AC.138/SC.III/L.24.

The meeting rose at 6.25 p.m.

SUMMARY RECORD OF THE THIRTIETH MEETING

held on Monday, 14 August 1972, at 9.50 p.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (continued)

Marine pollution (continued*) (A/AC.138/SC.III/L.25)

Mr. EVENSEN (Norway), introducing draft resolution A/AC.138/SC.III/L.25 on preliminary measures to prevent and control marine pollution on behalf of the sponsors, said that the text before the Committee represented a compromise reached after long and detailed negotiations. The draft resolution was concerned with preliminary measures to prevent and control marine pollution because the sponsors considered that measures must be taken to preserve the marine environment without waiting for the results of the Conference on the law of the sea or other international conferences. At the same time, operative paragraph 5 emphasized that those steps would in no manner prejudice the creation of any future international instruments or international institutions for the prevention and control of marine pollution. Care had also been taken to avoid any reference to other issues before the Sub-Committee on which views were known to differ, such as the extent of coastal States' jurisdiction. No attempt was made in operative paragraph 3 to define "appropriate" rules and regulations.

The sponsors realized that their text could not be completely satisfactory to all delegations, but nevertheless hoped that it would gain the Sub-Committee's support.

Mr. BEESLEY (Canada) said that, as one of the sponsors, his delegation, which attached considerable importance to preliminary measures for the prevention and control of marine pollution, associated itself with the comments of the Norwegian representative. The draft resolution represented a delicately balanced compromise which did not touch on difficult and controversial issues and did not attempt to prejudge future action. Action at the national, regional and international levels was nevertheless needed immediately, and his delegation therefore hoped that the draft resolution would be adopted in its present form.

Mr. METALNIKOV (Union of Soviet Socialist Republics) expressed his delegation's satisfaction that the sponsors of the draft resolution had managed to reach agreement on a compromise text. The USSR was convinced that the prevention of further marine pollution could only be achieved through the joint efforts of all States without political discrimination, and that position was reflected in the seventh preambular paragraph. His delegation would carefully consider the views expressed during the discussion of the draft resolution, which it hoped would be acceptable to the Sub-Committee.

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* Resumed from the 26th meeting.

Mr. McKERNAN (United States of America) said that his delegation endorsed the concepts of the draft resolution as it understood them. In order to clarify the relationship between operative paragraphs 1 and 3, he suggested that the words "to the above end" should be inserted after the word "regulations" in operative paragraph 3.

Mr. DUDGEON (United Kingdom) suggested that the proposed insertion might perhaps read "to the above ends".

Mr. VALDEZ ZAMUDIO (Peru) proposed the deletion of the fourth preambular paragraph. Scientific solutions to almost all problems of marine pollution were known; the difficulty was to put them into practice, since their cost was often prohibitive. In operative paragraph 5, after the word "prejudice", he proposed the insertion of the words "the measures taken by the developing countries to raise the standard of living of their populations,".

Mr. CHAO (China) proposed that further discussion of the draft resolution should be postponed in order to allow delegations sufficient time to study the text.

It was so decided.

DRAFT REPORT OF SUB-COMMITTEE III (A/AC.138/SC.III/L.24 and Add.1)

Mr. IGUCHI (Japan), Rapporteur, introducing the draft report of the Sub-Committee on its work in 1972 (A/AC.138/SC.III/L.24 and Add.1), pointed out that no attempt had been made to quantify the views expressed, since some statements had been preliminary in nature, whereas others had gone into much greater detail.

Introduction (A/AC.138/SC.III/L.24)

Paragraphs 1 and 2

Paragraphs 1 and 2 were adopted.

Paragraph 3

Mr. IGUCHI (Japan), Rapporteur, said that, in the second sentence, the word "accordingly" should be deleted and the words "from the beginning of the March session" should be added at the end.

It was so decided.

Paragraph 3, as amended, was adopted.

Paragraphs 4 to 6

Paragraphs 4 to 6 were adopted.

Paragraph 7

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) proposed that the draft resolution on preliminary measures to prevent and control marine pollution (A/AC.138/SC.III/L.25) should be added to the list of documents presented to the Sub-Committee during 1972.

The Ukrainian amendment was adopted.

Paragraph 7, as amended, was adopted.

Paragraph 8

Mr. VALLARTA (Mexico) observed that the Sub-Committee's Working Group on Marine Pollution had not yet concluded its work. He therefore suggested that discussion of paragraph 8 should be postponed.

It was so agreed.

Paragraph 9

Paragraph 9 was adopted.

Preservation of the marine environment, including the prevention of marine pollution (A/AC.138/SC.III/L.24)

Paragraph 10

Mr. IGUCHI (Japan), Rapporteur, said that, in the fourth sentence, the words "and which considered that the Conference was not universally representative" should be inserted after the first reference to the Stockholm Conference.

It was so decided.

Mr. GORSHKOV (Union of Soviet Socialist Republics) said that the USSR, which had not participated in the Stockholm Conference, would like it to be made clear in paragraph 10 that the 23 general principles for the assessment and control of marine pollution and the statement of objectives adopted by that Conference had first been worked out at the Ottawa meeting.

Mr. IGUCHI (Japan), Rapporteur, suggested that the words "drafted at Ottawa and" should be inserted after the word "objectives" in the second sentence.

Mr. GORSHKOV (Union of Soviet Socialist Republics) agreed to that change.

The amendment was adopted.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that the words "over-all legal framework" in the first sentence could be considered as including national legislation and should therefore be changed.

Mr. GORALCZYK (Poland) suggested that those words should be replaced by the words "general international legal framework".

The Polish amendment was adopted.

Mr. ZEGERS (Chile) proposed the insertion, after the fourth sentence, of a new sentence to read: "Furthermore, it was made clear that other proposals could be considered". He also proposed that the last four sentences of the paragraph should form a separate paragraph, since they related to the co-ordinating powers of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor.

The Chilean amendments were adopted.

Paragraph 10, as amended, and the new paragraph 11 were adopted.

Paragraph 11 (the new paragraph 12)

Mr. ZEGERS (Chile) proposed that a new first sentence should be inserted, reading: "On the other hand, it was stated that the Committee had co-ordinating powers, since the law of the sea was a unity and that unity should be ensured by the Conference on the law of the sea and its preparatory stage".

The Chilean amendment was adopted.

Mr. McKERNAN (United States of America) asked how the second sentence would now begin.

Mr. YANKOV (Bulgaria) proposed that the Rapporteur should redraft the beginning of the second sentence to ensure its logical cohesion with the new first sentence.

It was so decided.

On that understanding, paragraph 11 (the new paragraph 12), as amended, was adopted.

Paragraph 12 (the new paragraph 13)

Mr. VALDEZ ZAMUDIO (Peru) suggested that, in the Spanish version, the word "generally" in the first sentence should be translated by the words "en general" and not by the word "generalmente".

Mr. ZEGERS (Chile) proposed that the words "... and other proposals that might be submitted" should be added at the end of the third sentence.

Paragraph 12 (the new paragraph 13) was adopted.

Paragraph 13 (the new paragraph 14)

Mr. ZEGERS (Chile) proposed that the words "It was stated that ..." should be inserted at the beginning of the paragraph.

The Chilean amendment was adopted.

Paragraph 13 (the new paragraph 14), as amended, was adopted.

Paragraph 14 (the new paragraph 15)

Miss MARIANI (France) suggested that the last part of the second sentence, beginning with the words "and prevent ..." should be deleted, since they were duplicated by the last sentence.

Mr. VALDEZ ZAMUDIO (Peru) said that in his view the end of the second sentence should be retained but its wording might be made somewhat more hypothetical.

Miss MARIANI (France) withdrew her suggestion.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) drew attention to an error in the translation of the word "piecemeal" in the Russian version.

The CHAIRMAN said that account would be taken of the comments by the representatives of Peru and the Ukrainian Soviet Socialist Republic.

On that understanding, paragraph 14 (the new paragraph 15) was adopted.

Paragraph 15 (the new paragraph 16)

Mr. IGUCHI (Japan), Rapporteur, said that the following two sentences should be added at the end of the paragraph:

"However, it was stated that, as far as the question of marine pollution within territorial seas and within the limits of national jurisdiction was concerned, it was up to the coastal States to take effective measures to preserve, in a practical way, the marine environment within such areas. The Committee could only suggest recommendations as regards these areas, since they were under national sovereignty".

It was so decided.

Paragraph 15 (the new paragraph 16), as amended, was adopted.

Paragraph 16 (the new paragraph 17)

Paragraph 16 (the new paragraph 17) was adopted.

Paragraph 17 (the new paragraph 18)

Mr. KOVALEV (Union of Soviet Socialist Republics) said that the second sentence was too categorical and his delegation hoped there would be no objection to its deletion.

Mr. RANGANATHAN (India) said that his delegation, which was one of those whose views were expressed in the paragraph in question, would have no objection.

The USSR amendment was adopted.

Paragraph 17 (the new paragraph 18), as amended, was adopted.

Paragraph 18 (the new paragraph 19)

Paragraph 18 (the new paragraph 19) was adopted.

Paragraph 19 (the new paragraph 20)

Mr. MIRAPEIX MARTINEZ (Spain) suggested that, in the Spanish text, the words "dentro de su territorio", in the first sentence, should follow the words "daños ocasionados" and not the word "contaminación", since what States wanted to prevent was damage in their territories caused by pollution which might have occurred outside it.

It was so decided.

Mr. IGUCHI (Japan), Rapporteur, suggested that the second sentence should be redrafted to read:

> "On the one hand, it was felt that coastal States, being the direct victims of marine pollution, had the full right to enforce necessary measures in areas within given limits which were adjacent to their territorial seas, in order to prevent, control and eliminate any harm to such areas caused by pollution from outside those areas and to demand compensation from the States causing pollution."

Mr. APPLETON (Trinidad and Tobago) said that it was comparatively rare for States as such to be responsible for causing pollution. He therefore proposed that the last few words of that sentence should be redrafted.

Mr. IGUCHI (Japan), Rapporteur, said that the words "the States causing pollution" might be replaced by the word "polluters".

Miss CASKEY (Canada) said that the Rapporteur's new text did not fully meet the point which was of concern to her delegation. As it now stood, the sentence appeared to suggest that the only area to be protected was the area beyond the coastal State's territorial sea, whereas the Canadian delegation wished the sentence to refer to the protection of the coastal State, its coast, its territorial sea and the adjacent zone, including the living resources.

Mr. APPLETON (Trinidad and Tobago) said that the right of coastal States to take action on the high seas designed to prevent pollution which might cause damage within their territorial waters was already recognized by a number of international instruments and was referred to at various other points in the report, e.g. at the beginning of paragraph 14 (the new paragraph 15).

Mr. ZEGERS (Chile) said that he agreed with the Canadian representative. The first sentence of the paragraph under consideration referred to the right of jurisdiction of a coastal State over a given area adjacent to its territorial sea for purposes of preventing pollution damage within its territory.

Mr. IGUCHI (Japan), Rapporteur, suggested that the words "or their territory" should be inserted twice in the new sentence he had proposed, once after the words "harm to such areas" and again after the words "outside those areas".

Miss CASKEY (Canada) said that, with that change, her delegation could accept the new sentence.

The second sentence of the paragraph, as proposed by the Rapporteur, as amended, was adopted.

Mr. DUDGEON (United Kingdom) said that the expression "it was pointed out" implied that the statement following was an uncontested statement of fact. It was therefore, in his delegation's view, desirable to avoid that phrase in the writing of reports when referring to a point of view. He requested the Rapporteur to adopt some alternative phraseology at the beginning of the third sentence of the paragraph and wherever else the words "it was pointed out" occurred in the report.

The CHAIRMAN said that the United Kingdom representative's comment would be taken into account.

On that understanding, paragraph 19 (the new paragraph 20), as amended, was adopted.

Paragraph 20 (the new paragraph 21)

Mr. ZEGERS (Chile) proposed that the words "extending the application of 'innocent passage' to areas adjacent to their territorial sea", at the end of the third sentence, should be deleted, since the legal concept of "innocent passage" could not be applied in the situation referred to in the paragraph.

Mr. VALDEZ ZAMUDIO (Peru) agreed with the Chilean representative, but suggested that the words "in the areas adjacent to their territorial seas" should be retained at the end of the sentence.

Mr. ZEGERS (Chile) accepted the modification of his amendment proposed by the Peruvian representative.

The Chilean amendment, as modified by Peru, was adopted.

Paragraph 20 (the new paragraph 21), as amended, was adopted.

Paragraph 21 (the new paragraph 22)

Miss MARIANI (France) suggested that the beginning of the fourth sentence should be worded rather less categorically.

The CHAIRMAN said that the French representative's comment would be taken into account.

On that understanding, paragraph 21 (the new paragraph 22) was adopted.

Paragraph 22 (the new paragraph 23)

Mr. APPLETON (Trinidad and Tobago) proposed that the words "since most damage was caused accidently" in the second sentence should be deleted. While it was true that the most spectacular cases of pollution damage, such as that of the Torrey Canyon, were usually caused accidently, the most frequent cause of pollution was the cleaning out of oil tankers.

Mr. VALLARTA (Mexico) said that, while he agreed with the representative of Trinidad and Tobago, the deletion of the words in question would make the sentence incoherent, since it was the occurrence of accidental damage which called for consideration of the requirement of compulsory insurance. He proposed that the beginning of the sentence should be amended to read: "It was pointed out that, since damage could be caused accidently, consideration should be given ...".

Mr. APPLETON (Trinidad and Tobago) withdrew his amendment in favour of the Mexican amendment.

The Mexican amendment was adopted.

Paragraph 22 (the new paragraph 23), as amended, was adopted.

Paragraph 23 (the new paragraph 24)

Paragraph 23 (the new paragraph 24) was adopted.

Paragraph 24 (the new paragraph 25)

Mr. YANKOV (Bulgaria) said that the end of the paragraph should be redrafted, since the Sub-Committee was certainly not called upon to implement the principle in question.

The CHAIRMAN said that the Bulgarian representative's comment would be taken into account.

On that understanding, paragraph 24 (the new paragraph 25) was adopted.

Paragraphs 25 to 27 (the new paragraphs 26 to 28)

Paragraphs 25 to 27 (the new paragraphs 26 to 28) were adopted.

Paragraph 28 (the new paragraph 29)

Mr. VALLARTA (Mexico) said that the principle referred to in the second sentence should be principle 21 and not principle 20.

The CHAIRMAN said that the Mexican representative's comment would be taken into account.

On that understanding, paragraph 28 (the new paragraph 29) was adopted.

Paragraph 29 (the new paragraph 30)

Paragraph 29 (the new paragraph 30) was adopted.

Paragraph 30 (the new paragraph 31)

Mr. GAUCI (Malta) proposed that the words "for this could prove to be a source of conflict" at the end of the first sentence should be deleted.

The Maltese amendment was adopted.

Mr. VALDEZ ZAMUDIO (Peru) proposed that the words "by some of these States" should be added at the end of the fourth sentence.

The Peruvian amendment was adopted.

Paragraph 30 (the new paragraph 31), as amended, was adopted.

Paragraph 31 (the new paragraph 32)

Paragraph 31 (the new paragraph 32) was adopted.

Paragraph 32 (the new paragraph 33)

Mr. VALLARTA (Mexico) suggested that the word "sancionar" in the second sentence of the Spanish text, which had been used to translate the English word "sanctioning", should be replaced by the word "legalizar".

Paragraph 32 (the new paragraph 33) was adopted.

Paragraph 33 (the new paragraph 34)

Mr. VALLARTA (Mexico) said that the word "exemption" in the first sentence should be replaced by the word "exceptions" and the words "should apply" in the third sentence should be replaced by the words "should be".

The Mexican amendments were adopted.

Paragraph 33 (the new paragraph 34), as amended, was adopted.

Paragraphs 34 to 36 (the new paragraphs 35 to 37)

Paragraphs 34 to 36 (the new paragraphs 35 to 37) were adopted.

Paragraph 37 (the new paragraph 38)

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that the Conference on the law of the sea was not empowered to revise decisions taken by IMCO, as was stated in the first sentence of paragraph 37.

The CHAIRMAN observed that the report merely reflected the views expressed; it did not suggest that they were well-founded.

Mr. McKERNAN (United States of America) said that, in his delegation's view, the paragraph was unbalanced. He thought that one or two sentences should be added expressing the point of view of his own and certain other delegations.

Mr. ZEGERS (Chile) said that the paragraph expressed the logical point of view that, since IMCO was a technical body, it was not competent to draft general conventions. The alternative point of view was already expressed in the preceding two paragraphs.

Mr. BEEBY (New Zealand) said that the point made by the United States representative might be taken care of by the addition of the words "... and would elaborate conventional law within its sphere of competence" at the end of the last sentence.

Mr. McKERNAN (United States of America) said that his delegation could accept the New Zealand amendment.

Mr. VALDEZ ZAMUDIO (Peru) asked whether IMCO, as a technical body, could elaborate conventional law.

Mr. BEEBY (New Zealand) said that the question was not what IMCO was or was not entitled to do, but what had been said in the discussion. In any event, IMCO had drafted "conventions" which, if not "law", were binding on the States which had accepted them.

The CHAIRMAN suggested that the words "conventional law" in the New Zealand amendment should be replaced by the words "multilateral agreements".

Mr. VALDEZ ZAMUDIO (Peru) said that with the change suggested by the Chairman, he could accept the New Zealand amendment.

Mr. BEEBY (New Zealand) accepted the Chairman's suggestion.

The New Zealand amendment as modified by the Chairman was adopted.

Paragraph 37 (the new paragraph 38), as amended, was adopted.

Paragraph 38 (the new paragraph 39)

Paragraph 38 (the new paragraph 39) was adopted.

The meeting rose at 12.5 a.m. on 15 August.

SUMMARY RECORD OF THE THIRTY-FIRST MEETING

held on Tuesday, 15 August 1972, at 3.25 p.m.

Chairman: Mr. van der ESSEN Belgium

GENERAL DEBATE (concluded)

Marine pollution (concluded) (A/AC.138/SC.III/L.25)

Mr. EVENSEN (Norway) speaking on behalf of the sponsors (Australia, Bulgaria, Canada, Iceland, the Netherlands, Norway, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics) of the draft resolution on preliminary measures to prevent and control marine pollution (A/AC.138/SC.III/L.25), accepted the amendments proposed by the Peruvian delegation at the 30th meeting. He reminded the Sub-Committee of those amendments: the deletion of the fourth preambular paragraph and the deletion of the full stop at the end of operative paragraph 5 and its replacement by a comma, followed by the phrase "or measures that developing States take to enhance the standard of living of their populations".

The sponsors also agreed that the words "to the above ends" should be inserted after the words "appropriate rules and regulations" in operative paragraph 3, as the delegations of the United States of America and the United Kingdom had requested (30th meeting).

Other amendments had been proposed by the representative of Kenya, but the sponsors had not had sufficient time to discuss them with him. He hoped that the Peruvian amendments might satisfy that representative.

Nevertheless, if the Sub-Committee was unable to reach a consensus on the draft resolution, the sponsors would like the original text to be annexed to the report of the Sub-Committee.

Mr. STRATIGIS (Greece) said that his country was very interested in the control of marine pollution and had already introduced legislative measures to that end, some of them very stringent ones. He supported the amended text of the draft resolution and asked that his country be listed among the sponsors.

Mr. KATEKA (United Republic of Tanzania) submitted certain amendments which he had not been able to propose to the sponsors before. They were the following: firstly, in the seventh preambular paragraph, to delete the word "only"; secondly, so as to mention the role of the coastal State, to add at the end of the preamble a new paragraph to read: "Further noting the coastal State's responsibilities in the control of marine pollution"; and, thirdly, for the same purpose, to insert the following new paragraph between operative paragraphs 3 and 4: "Further appeals to coastal States to take the necessary measures to prevent and control marine pollution in the areas under their national jurisdiction and the areas adjacent thereto".

Those amendments were in keeping with the decisions taken at the United Nations Conference on the Human Environment. He hoped that the Sub-Committee would reach a consensus, but thought that some principles should not be compromised to achieve it. Lastly, he associated himself with the representative of Kenya in requesting that the concept that the "polluter must pay" be reflected in the draft resolution.

In reply to a question by the CHAIRMAN, Mr. NJENGA (Kenya) said that his delegation maintained its amendments.

Mr. KATEKA (United Republic of Tanzania) said that his delegation also maintained its amendments, although it was prepared to modify their formulation if necessary.

Mr. EVENSEN (Norway) said that the Kenyan and Tanzanian amendments deserved thorough study. Moreoever, the Sub-Committee did not have sufficient time to reach a consensus. In the circumstances, he suggested that the original text of the draft resolution should be annexed to the report, as he had already proposed. In that way, all discrimination among the amendments submitted to the Sub-Committee would be avoided.

Mr. SHEN WEI-LIANG (China) said that the present text of the draft resolution was unsatisfactory and he supported the amendments submitted by the Tanzanian representative. He agreed that the Sub-Committee did not at present have sufficient time to adopt the draft resolution.

Miss MARIANI (France) said that her delegation had no objection to the substance of the draft resolution. Nevertheless, she wished to point out that, in her delegation's opinion, the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction was not empowered to adopt resolutions.

The CHAIRMAN suggested that, in view of the opinions which had just been expressed and the comments made by Mr. VALDEZ ZAMUDIO (Peru) and Mr. NJENGA (Kenya), the original text of the draft resolution and all the amendments thereto should be annexed to the Sub-Committee's report.

It was so decided.

DRAFT REPORT OF SUB-COMMITTEE III (continued) (A/AC.138/SC.III/L.24 and Add.1)

Scientific research (A/AC.138/SC.III/L.24/Add.1)

Mr. IGUCHI (Japan), Rapporteur, said that he had already introduced (30th meeting) part II of the draft report (A/AC.138/SC.III/L.24/Add.1), which the Sub-Committee was about to consider. He would therefore simply mention that it had been requested that, at the beginning of paragraph 40, the words "pointed out" should be replaced by the word "stated".

The CHAIRMAN said that paragraph 39, which began the section entitled "Scientific research", had become paragraph 40, since a new paragraph had been inserted in the preceding section of the report. To avoid any confusion, however, the Sub-Committee would consider paragraph 39 and the subsequent paragraphs in accordance with their present numbering.

Miss MARIANI (France) said she hoped that the draft report would mention IOC and its GIPME programme, for which a working group had been set up at the last session of the IOC Executive Board, held at Hamburg.

Mr. METALNIKOV (Union of Soviet Socialist Republics) supported the suggestion made by the French delegation.

The CHAIRMAN asked the representative of France to draft the paragraph she wished to be inserted. The Rapporteur would add it to the text of the report.

He invited the Sub-Committee to consider the section of the draft report entitled "Scientific research", paragraph by paragraph.

Paragraph 39

Paragraph 39 was adopted.

Paragraph 40

Mr. McKERNAN (United States of America) requested that the words "is approaching" should be replaced by the word "approaches" in the English text of the second sentence of that paragraph. His delegation considered that the world catch could still be doubled.

The United States amendment was adopted.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) suggested that, at the end of the first sentence, the full-stop should be replaced by a comma and the following phrase added: "and the development of the science of the earth as a whole, as well as other associated sciences".

The Ukrainian amendment was adopted.

Mr. GAUCI (Malta) said that the way in which the words "including FAO" were placed at the end of the paragraph in the English text gave the impression that FAO was mentioned as an afterthought. He would like the Rapporteur to re-phrase the text of the paragraph in that respect, to give it its proper perspective.

Subject to that change, paragraph 40, as amended, was adopted.

Paragraph 41

Mr. YTURRIAGA BARBERÁN (Spain) said he regretted that the relationship between pollution control and scientific research was not made sufficiently clear in the paragraph.

Mr. METALNIKOV (Union of Soviet Socialist Republics) suggested that the words "on a world basis" should be inserted in the second sentence of the paragraph after the words "broad international co-operation".

The amendment was adopted.

Paragraph 41, as amended, was adopted.

Paragraph 42

Paragraph 42 was adopted.

Paragraph 43

Mr. REPETTO (Chile), supported by Mr. VALDEZ ZAMUDIO (Peru) and Mr. NJENGA (Kenya), said that, in the second sentence of the paragraph, it would be better to refer to "the area beyond national jurisdiction" rather than to "the area beyond the territorial sea".

Mr. McKERNAN (United States of America) said that he objected, because paragraph 43 reflected the statements of a number of delegations, including that of the United States. Different views on the same subject were expressed in paragraphs 52, 53 and 54. It would be preferable, therefore, not to change the wording of paragraph 43.

Mr. VALDEZ ZAMUDIO (Peru) recognized that the United States representative's comment was well-founded, but, supported by Mr. YTURRIAGA BARBERAN (Spain), he said that the opening words of the second sentence "It was also considered ..." should therefore be amended. Those words gave the impression that there had been general agreement. It would be better to say: "A number of delegations stated ...".

Mr. BALLAH (Trinidad and Tobago) said that he was of the same opinion. Paragraph 43 reflected the view of some delegations and did so in an exaggerated way. The views of delegations should be reflected in a more balanced manner - with some sense of proportion.

Mr. GAUCI (Malta) said that all delegations might be satisfied if the full-stops in the paragraph were replaced by semi-colons. The paragraph would then read: "It was stated that it ...; that this quest ...; that research should be ...".

Mr. BALLAH (Trinidad and Tobago) said that, even amended on the basis of the comments which had been made, the paragraph did not give a balanced account of the opinions of the various countries and did not mention the need for international action in scientific research, in which the developing countries could participate. He suggested that the meeting should be suspended to enable the Rapporteur to consult with the delegations concerned, with a view to preparing a generally acceptable wording.

Mr. McKERNAN (United States of America) thought that the imbalance was perhaps apparent only if the tenor of other paragraphs was taken into account. With a little patience, a generally acceptable text could certainly be found.

Mr. IGUCHI (Japan), Rapporteur, drew attention to paragraphs 64 and 65, in which the question of international co-operation was dealt with at some length. In his view, it would be better to continue the discussion, amending the text as desired.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) agreed with that view.

After an exchange of views in which Mr. BOHTE (Yugoslavia), Mr. NJENGA (Kenya), Mr. BEESLEY (Canada), Mr. ARCHER (United Kingdom), Mr. BALLAH (Trinidad and Tobago) and Mr. CABRAL de MELLO (Brazil) took part, the CHAIRMAN suggested that the meeting should be suspended to enable the Rapporteur to hold consultations on that paragraph and on other controversial paragraphs.

It was so decided.

The meeting was suspended at 4.50 p.m. and resumed at 7 p.m.

The CHAIRMAN invited the Sub-Committee to continue its consideration of its draft report in the light of the amendments agreed upon in the informal drafting group.

Paragraph 43 (continued)

Mr. STEINER (Secretary of Sub-Committee III) said that the paragraph had been moved. It should now appear before paragraph 52. Consequently, it should be examined after paragraph 51.

It was so decided.

Paragraph 44

Mr. STEINER (Secretary of Sub-Committee III) said that the informal group had decided to amend paragraph 44 to read:

> "It was stated that there was a need to formulate general principles governing oceanic research which, while acknowledging the unity of the marine environment, must not ignore the diversities of the régimes existing in different marine areas. It was suggested that the development of science and technology had posed new and serious problems for the law of the sea in general, and had placed considerable importance on the nature of the articles to be drafted on scientific research".

The last sentence of paragraph 44 would be retained.

Another delegation had suggested that the following text, which had not been considered by the informal group, should be inserted in paragraph 44: "It was stated that legal principles on scientific research, its definition and characteristics, should be prepared by the Sub-Committee and that treaty articles should be drafted thereon, in accordance with the programme of work (annex I). It was also stated that it was important to ensure the necessary unity of matters relating to the Conference on the law of the sea and its preparatory phase, and it was therefore considered that the Sub-Committee, as with the question of the marine environment, should have a co-ordinating role also in respect of scientific research in the oceans".

The amendments were adopted.

Paragraph 44, as amended, was adopted.

Paragraph 45

Mr. STEINER (Secretary of Sub-Committee III) said that the last sentence of the paragraph should be deleted and replaced by the following sentence: "At the same time, it was observed that, with the sole exception of the continental shelf, scientific research was in a kind of legal void, since international law had not kept pace with the expanding scientific research of the oceans".

It was so decided.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) proposed that the words ", confirmed by long practice," should be inserted in the first sentence after the words "high seas".

The Ukrainian amendment was adopted.

Mr. ODA (Japan) said that the comment in the second sentence of paragraph 45 was inaccurate and that the International Law Commission, in its 1956 report, in paragraph (2) of its commentary on article 27 of the draft articles concerning the law of the sea, 35/ had already mentioned and even recognized the freedom of scientific research.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) supported the Japanese representative's observation. In his view, the Sub-Committee should either delete the reference to the International Law Commission or add a sentence along the following lines: "However, it was also observed that freedom of scientific research was mentioned in this document of the International Law Commission."

Mr. BALLAH (Trinidad and Tobago) said that the statement in question had been made and should be retained in the text. He would not be opposed, however, to the insertion in the report of the sentence proposed by the Ukrainian representative.

After an exchange of views, in which Mr. PARDO (Malta), Mr. McKERNAN (United States of America), Mr. METALNIKOV (Union of Soviet Socialist Republics), Mr. BOHTE (Yugoslavia) and Mr. KATEKA (United Republic of Tanzania) took part, the CHAIRMAN suggested that the wording of the second sentence of paragraph 45 should be retained and the Ukrainian amendment should be inserted in the paragraph.

The Ukrainian amendment was adopted.

Paragraph 45, as amended, was adopted.

35/ See Yearbook of the International Law Commission, 1956, vol.II, Documents of the eighth session, including the report of the Commission to the General Assembly (United Nations publication, Sales No.: 1956.V.3, vol.II), p.278.

Paragraph 46

Mr. STEINER (Secretary of Sub-Committee III) said that the first sentence of the paragraph should read: "... an attempt should be made to distinguish between fundamental oceanographic research or bona fide scientific research ...".

It was so decided.

Paragraph 46, as amended, was adopted.

Paragraphs 47, 48 and 49

Paragraphs 47, 48 and 49 were adopted.

Paragraph 50

Mr. STEINER (Secretary of Sub-Committee III) said that the following sentence should be added at the end of the paragraph: "On the one hand, the view was expressed that the refusal of coastal States to give consent for scientific research ought not to be arbitrary, and on the other hand, that the coastal State, in the exercise of its sovereignty, might withhold its consent without giving reasons".

It was so decided.

Paragraph 50, as amended, was adopted.

Paragraph 43 (the new paragraph 51) (concluded)

Mr. STEINER (Secretary of Sub-Committee III) said that paragraph 43 would become paragraph 51. The second sentence of the paragraph should begin with the words: "It was suggested" and the third sentence with the words: "It was also suggested." In addition, the following sentence should be added at the end of the paragraph: "on the other hand, it was stated that scientific research should be regulated in the area beyond national jurisdiction".

It was so decided.

Paragraph 43 (the new paragraph 51), as amended, was adopted.

Paragraph 51 (the new paragraph 52)

Paragraph 51 (the new paragraph 52) was adopted.

Paragraph 52 (the new paragraph 53)

Mr. STEINER (Secretary of Sub-Committee III) said that the words "or jurisdiction" in the first sentence should be deleted and the words "those sovereign rights" in the second sentence replaced by the words "that sovereignty".

It was so decided.

Mr. MIRCEA TUDOR (Romania) said that the paragraph posed many political and legal questions. If the ideas expressed in the paragraph were in keeping with what some delegations had actually said, his own delegation would have no objection to the maintenance of the proposed text. It was difficult, however, to speak of the "principle of scientific research" in the second sentence, or of "generally acceptable guiding principles" with respect to territorial waters, in the last sentence. As a lawyer, he could not see what principles were involved. If the existing text were accepted, therefore, a sentence should be added along the following lines: "It was considered that there was no justification for introducing scientific research into the territorial waters under the jurisdiction of a State."

The CHAIRMAN said that the difficulty arose from the translation into French, since the word "principle" did not appear in the English text. With respect to the expression "generally acceptable guidelines", it should be noted that the beginning of the sentence in question contained the words" ... it was hoped that", which considerably reduced the force of the words following.

Mr. MBOTE (Kenya) proposed that the paragraph should be deleted.

Mr. McKERNAN (United States of America) said that the idea expressed in the paragraph corresponded to a statement made by his delegation. It was a matter to which the United States attached great importance and which had already been discussed in various governmental bodies in his country. Moreover, his delegation intended shortly to propose the preparation of guidelines which would be acceptable to the coastal States and which would deal with the attitude of those States with regard to activities within the limits of their territorial seas. He therefore urged that the paragraph should be retained in its present form.

Mr. MBOTE (Kenya) said he would agree to the retention of that text, on condition that another sentence was inserted in the paragraph along the lines of that proposed by the Romanian representative.

The CHAIRMAN suggested that the text of paragraph 52 should be retained and followed by a sentence agreed upon by the representatives of Romania and Kenya.

It was so decided.

Paragraph 52 (the new paragraph 53), as amended, was adopted.

The meeting rose at 8 p.m.

SUMMARY RECORD OF THE THIRTY-SECOND MEETING

held on Wednesday, 16 August 1972, at 10.40 a.m.

Chairman: Mr. van der ESSEN Belgium

DRAFT REPORT OF SUB-COMMITTEE III (concluded) (A/AC.138/SC.III/L.24 and Add. 1)

Scientific research (concluded) (A/AC.138/SC.III/L.24/Add. 1)

Paragraphs 53 and 54 (the new paragraph 54)

Mr. STEINER (Secretary of Sub-Committee III) announced that an informal drafting group had agreed on the following amalgamated text of paragraphs 53 and 54:

"It was stated that the control of a coastal State over its jurisdictional zones was to be applicable to scientific research per se, independently of the particular means employed in the collection of data. Accordingly, the deployment of the Ocean Data Acquisition Systems (ODAS) or the use of satellites should remain subject to the obligations and rights deriving from such control, including the requirement to obtain the prior consent of the coastal State for research in areas within national jurisdiction. With regard to zones beyond the territorial sea, where the coastal State exercises exclusive jurisdiction, it was stated that the coastal State has a right to control scientific research. It was also stated that all data, samples and conclusions resulting from research should be made available to the coastal State. It was further stated that research by non-coastal States should be permitted, provided it complied with the requirements as established by the coastal State in relation to the exploitation of the resources of this zone. On the other hand, it was said that there should be minimal restrictions on scientific research in areas of limited national jurisdiction and that the Sub-Committee should consider what criteria might apply to research conducted in these areas."

Mr. METALNIKOV (Union of Soviet Socialist Republics) considered that the expression "obligations and rights deriving from such control" in the second sentence of the amendment read out by the Secretary of the Sub-Committee was not clear. Technical control could derive from certain obligations and rights but not vice versa.

The use of artificial satellites was a complex question, because it was regulated by a number of agreements and by space law. If what was meant in the second sentence was the use of artificial satellites to detect mineral resources on the continental shelf, it might be as well to make that point in so many words. In any case, it was not clear what area would be covered by the requirement to obtain the prior consent of the coastal State.

Mr. MBOTE (Kenya) thought the delegations which had produced the text read out by the Secretary of the Sub-Committee had agreed on the deletion of the expression "in relation to the exploitation of the resources of this zone" from the fifth sentence.

The Kenyan sub-amendment was adopted.

Mr. VALLARTA (Mexico) said that since the text of paragraph 53 reflected the views of his delegation, he would like it to remain unchanged, although he would, of course, have no objection to the addition of the views of other delegations.

He did not agree that the question of scientific research conducted by means of satellites should be studied exclusively within the context of space law. The important point was to take due account of national sovereignty.

Mr. METALNIKOV (Union of Soviet Socialist Republics) said that he had not in any way wished to restrict national sovereignty; he had merely requested clarification of the text. He would be grateful if the first point which he had raised could also be clarified.

Mr. VALDEZ ZAMUDIO (Peru) asked what decision had been taken by the drafting group on the words "the coastal State should have ... and that such" in the second sentence of the former paragraph 54.

Mr. ARCHER (United Kingdom) explained that those words had been deleted as a result of the deletion of the words "over fisheries" in the first sentence of the former paragraph 54, which had made them redundant.

Mr. WYNDHAM (Australia) proposed that for the sake of clarity, the words "non-coastal States" in the second sentence of the former paragraph 54, now the penultimate sentence of the new text, should be replaced by the words "States other than the coastal State".

The Australian sub-amendment was adopted.

The new paragraph 54 (the former paragraphs 53 and 54), as read out by the Secretary of the Sub-Committee, as amended, was adopted.

Paragraph 55

Mr. STEINER (Secretary of Sub-Committee III) read out the following amendments, which had been agreed on by the informal drafting group: the words "or be represented" should be added at the end of the first sentence; in the second sentence, the word "may" should be replaced by the word "should" and the word "would" should be replaced by the word "should".

The amendments were adopted.

Paragraph 55, as amended, was adopted.

Paragraph 56

Mr. STEINER (Secretary of Sub-Committee III) read out the drafting group's amendments to paragraph 56: in the first sentence, the words "the concept of access to" should be deleted and the words "in areas beyond the limits of national jurisdiction" should be inserted after the words "scientific research". The following sentence should be added after the second sentence: "On the other hand, it was stated that the concept of the common heritage should not be introduced in this context, because of the vagueness of its meaning."

Miss MARIANI (France) pointed out, in connexion with the original fourth sentence of paragraph 56, that it was hardly possible to make samples available to the public. It would be preferable to say that the public should have access to samples.

Mr. METALNIKOV (Union of Soviet Socialist Republics) supported the amendments proposed by the drafting group.

Mr. MAY (Canada) said that his delegation would have considerable difficulty in agreeing to the amendments read out by the Secretary. The original paragraph, with the exception of the third sentence, had referred to areas within national jurisdiction. Now that the words "beyond the limits of national jurisdiction" had been inserted, the whole purport of the paragraph had been changed. Many of the ideas in the paragraph seemed to reflect his delegation's statement on scientific research, which had not been intended to cover areas beyond national jurisdiction. In fact, those areas were adequately covered in paragraph 59.

Mr. McKERNAN (United States of America) supported the observations made by the Canadian representative. The United States conducted a considerable amount of scientific research in its territorial waters and was anxious to make information about such research available to all interested parties. The inclusion of the words "in areas beyond the limits of national jurisdiction" therefore seemed to be prejudicial to the interests of the dvveloping countries, which would thus be deprived of access to information derived from research in territorial waters. His delegation supported the original text.

Mr. YTURRIAGA BARBERÁN (Spain) considered that, as a matter of drafting, the proposed new sentence would not fit in at the point indicated by the Secretary, since it would interrupt the sequence of thought.

In his delegation's view, information obtained from research both beyond and within the limits of national jurisdiction should be made available to all States. However, a distinction should be made in the way information from the two sources was to be treated; information from the international area should be made available to States directly, since that was their right; information from national areas should be supplied either through international channels or, at the request of other States, directly.

Miss CASKEY (Canada) acknowledged the point made by the Spanish representative, but repeated that scientific research conducted beyond the limits of national jurisdiction was dealt with in paragraph 59. Paragraph 56 reflected almost exactly her delegation's observations concerning freedom of access to information - which also formed part of the common heritage of mankind - on research conducted within the limits of national jurisdiction.

Mr. PANIKKAR (India) said that he agreed with the representative of France concerning the distinction which should be drawn between data and samples. He would prefer the first sentence of paragraph 56 to remain as it originally was, with the deletion of the phrase "in areas beyond the limits of national jurisdiction".

Mr. BOHTE (Yugoslavia) said he very much doubted whether there had been general agreement in the informal working group on the sentence it was proposed to insert after the second sentence. It would be strange indeed to refer to the vagueness of the meaning of the common heritage, when it was the fundamental concept of the new régime. He proposed that the words "because of the vagueness of its meaning" should be deleted.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that, as he understood it, the original text of paragraph 56 was concerned with scientific research in territorial waters and paragraph 59 referred to scientific research in areas beyond national jurisdiction. He would like to know whether any delegation claimed that knowledge and information obtained as a result of scientific research in territorial waters was part of the common heritage of mankind. How could such information be put to use if it was part of the common heritage? No individual country would have the right to use it. In any case, there was as yet no definition of the common heritage of mankind.

Mr. MBOTE (Kenya) said that the words "beyond the limits of national jurisdiction" should not be inserted in the first sentence of paragraph 56, because such a limitation would be detrimental to the developing countries. Although it was for the country concerned to decide whether information obtained from research in territorial waters should be made available, it was in the general interest that it should be.

The CHAIRMAN asked whether the Sub-Committee agreed that the words "in areas beyond the limits of national jurisdiction" should not be inserted in the first sentence.

It was so agreed.

The CHAIRMAN said that the suggestion made by the representative of France that a distinction should be made between access to data and access to samples seemed to be a good one; if the Sub-Committee agreed, it could be left to the Rapporteur to find an appropriate wording.

It was so agreed.

The CHAIRMAN asked whether the Sub-Committee agreed with the Yugoslav representative's proposal that the words "because of the vagueness of its meaning" should be deleted from the proposed new sentence.

Mr. METALNIKOV (Union of Soviet Socialist Republics) said that the statement in question had been made by his delegation. In a spirit of compromise, however, he would accept the proposal made by the representative of Yugoslavia.

The Yugoslav sub-amendment was adopted.

Mr. YTURRIAGA BARBERAN (Spain) reminded the Sub-Committee of his point that to include such a text without modification would destroy the sequence of thought in the paragraph.

The CHAIRMAN said that the comments of the representative of Spain would be taken into account by the Rapporteur, who would make the necessary drafting changes.

The amendments to paragraph 56 read out by the Secretary of the Sub-Committee, as amended, were adopted.

Paragraph 56, as amended, was adopted.

Paragraph 57

Paragraph 57 was adopted.

Paragraph 58

Mr. STEINER (Secretary of Sub-Committee III) read out the changes to the paragraph proposed by the informal drafting group. A new sentence should be inserted after the first sentence, which would read: "It was stated, however, that no such freedom existed." The following sentence would begin: "It was also suggested that ..."

It was so agreed.

Paragraph 58, as amended, was adopted.

Paragraph 59

Mr. STEINER (Secretary of Sub-Committee III) said that the drafting group proposed that the second sentence should read: "On the basis of this principle, it was stated, scientific research beyond national jurisdiction would be facilitated by the publication and dissemination of results."

It was so agreed.

Mr. STRATIGIS (Greece) suggested that, in the last sentence, the word "problem" should be replaced by the word "concept" and the word "resolved" by the word "defined".

The Greek amendment was adopted.

Miss MARIANI (France) said that she failed to understand why the words "freedom to carry out" had been deleted from the original text, since the paragraph referred to scientific research beyond national jurisdiction. Many delegations had referred to freedom to carry out scientific research in that area.

The CHAIRMAN asked whether the Sub-Committee wished to reinsert the words "freedom to carry out" in the second sentence.

It was so agreed.

Paragraph 59, as amended, was adopted.

Paragraphs 60 and 61

Paragraphs 60 and 61 were adopted.

Mr. PARDO (Malta) said that the draft report of the Sub-Committee, and in particular paragraphs 52 - 61 which had just been adopted, did not make even a passing reference to the position of his delegation with regard to scientific research. That was perhaps due to the fact that it had not reiterated what it had said at previous sessions of the Sub-Committee. In the circumstances, he wished to remind members that his delegation sharply disagreed with the two trends of opinion which were reflected in the report. It could not agree with the excessive

restrictions which it was claimed that coastal States might impose at their discretion on scientific research in areas within their jurisdiction. It also strongly disagreed with those who believed in absolute freedom of scientific research in ocean space, subject only to certain general rules laid down by treaty, and who considered that existing independent or intergovernmental organizations already made adequate provision for scientific research or could do so with a little more effort.

In his delegation's view, scientific research was a vital activity and an eminently international one. The essential problem was not so much to determine the exact extent of the coastal State's rights, but to promote scientific research for constructive ends that really served the international community. Everyone should be in a position to participate actively in constructive research and to share without discrimination in the fruits of scientific research, which were part of the common heritage of mankind. Regulation should be essentially international because the nature of the activity was international. General standards might be laid down in a treaty, but the future international institutions should be in a position to draw up detailed regulations as occasion might require and to penalize abuses. Furthermore, his delegation believed that, in their regulation of scientific research within their jurisdiction, States should normally conform to the spirit of the rules set internationally. The future international institutions should play a pre-eminent role, far greater than was at present played by IOC, in scientific training and in making the fruits of research available in practice to all.

Since his delegation's views were in no way reflected in the section of the draft report dealing with scientific research, it reserved its position on that section of the draft report.

The CHAIRMAN said that, since the representative of Malta had now expressed his delegation's views on the subject of scientific research at the present session, he was sure that there would be no difficulty if the Rapporteur were to insert an additional paragraph in the report which would reflect his delegation's views.

It was so agreed.

Paragraph 62

Paragraph 62 was adopted.

Paragraph 63

Paragraph 63, with a minor drafting change, was adopted.

Paragraph 64

Mr. PARDO (Malta) expressed surprize at the comment made concerning IOC in the first sentence.

Mr. BALLAH (Trinidad and Tobago) said that the whole paragraph might be misleading. For example, his delegation certainly could not subscribe to the view that the results of research were meaningless for the developing countries unless and until they had the necessary trained personnel; on the contrary, it believed that those countries could benefit from research at the present stage and that their scientists, although few in number, could contribute effectively to such research.

Mr. McKERNAN (United States of America) agreed that the opening statement of the paragraph was surprizing, since many of those associated with IOC considered that training was one of the most disappointing aspects of its work and needed strengthening.

Mr. RANGANATHAN (India), supported by Mr. VALDEZ ZAMUDIO (Peru), suggested that the first phrase of the sentence, "It was stated ... training programmes", should be deleted, since a number of delegations did not consider that it was factually correct.

Mr. METALNIKOV (Union of Soviet Socialist Republics) pointed out that, if the phrase were deleted, the report would contain no reference to IOC's training work, whereas the representative of Trinidad and Tobago had said at the 23rd meeting of Sub-Committee III that he wished his delegation's gratitude for that work to be placed on record. The solution might be for the Rapporteur to tone down the statement, perhaps by deleting the word "considerable".

Mr. PARDO (Malta) said that his objection was not to mentioning IOC's work, but to the emphasis in the sentence and suggested that it should be amended to read "Greater effort was called for ... in developing countries; in this connexion, IOC has a [considerable] role to play."

Mr. KOVALEV (Union of Soviet Socialist Republics) said that his delegation could not accept the omission of any reference to IOC training programmes, although it could agree to the inversion of the phrases of the sentence.

The CHAIRMAN suggested that the Maltese and USSR delegations should prepare a text for the first sentence in the light of their suggestions.

It was so agreed.

Paragraph 64 was adopted on that understanding.

Paragraph 65

In reply to a question by Mr. KACHURENKO (Ukrainian Soviet Socialist Republic), the CHAIRMAN said that the first phrase in the English, French and Spanish texts did not convey the impression that there was a universal willingness to commit funds. The Secretariat would revise the Russian text accordingly.

Mr. McKERNAN (United States of America) said, in reply to a suggestion by Mr. ARCHER (United Kingdom), that in the second sentence he would prefer the word "emphasized", which reflected his delegation's statement, to be retained, but that he could agree to the word "was" being changed to "would be".

The United States amendment was adopted.

Paragraph 65, as amended, was adopted.

Paragraph 45 (concluded)

Mr. BALLAH (Trinidad and Tobago) asked the Sub-Committee's indulgence to allow him to raise a point that had been discussed at the 31st meeting in connexion with paragraph 45. It was, of course, extremely difficult to reflect all the views expressed in a completely balanced manner in the report; in his opinion, such a

balance had been achieved by the informal group with regard to paragraph 45, but had been upset during the debate. He had been unable to suggest an amendment at the time, because that text involved statements made by the Japanese and Brazilian representatives, and the latter had been absent; since then, however, his delegation had consulted with the Japanese and Brazilian delegations, and all three had agreed on some new wording: in the second sentence, the word "it" would be replaced by the words "such freedom", a full stop would follow the words "Convention on the High Seas", the last phrase would be deleted and a new sentence would be inserted, to read "It was also stated that, although article 2 did not even mention scientific research, it had been interpreted, on the basis of the travaux préparatoires, as including it". The addition adopted on the proposal of the Ukrainian delegation could then be omitted.

Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said that he could not agree to the omission of the sentence proposed by his delegation, which had already been incorporated in the paragraph. Moreover, the new sentence read out by the representative of Trinidad and Tobago did not specify what travaux préparatoires were meant.

The CHAIRMAN said that, since there had been an objection to the proposed changes, the debate could not be reopened. Paragraph 45 would therefore remain as it had been adopted at the 31st meeting.

Draft resolution on nuclear weapons tests in the Pacific (A/AC.138/SC.III/L.24/Add.1)

Paragraphs 66 - 75

The CHAIRMAN said that, since the Rapporteur had prepared the section on the draft resolution on nuclear weapon tests in the Pacific in close consultation with the delegations concerned, the paragraphs in question could be dealt with together.

Paragraphs 66 - 75 were adopted.

Introduction (concluded*) (A/AC.138/SC.III/L.24)

Paragraph 8 (concluded*)

Mr. VALLARTA (Mexico), Chairman of the Working Group on Marine Pollution, suggested that the last sentence of paragraph 8 of the draft report (A/AC.138/SC.III/L.24) should be replaced by the following text:

> "The Working Group, to be known as Working Group 2, held two meetings, at which it elected its Chairman, Mr. J.L. Vallarta, of Mexico. Its terms of reference, as laid down, are to draft texts leading to the formulation of draft treaty articles on the preservation of the marine environment and the prevention of marine pollution. The Working Group invited the members of the Sub-Committee to submit, at their discretion, written observations, including in particular draft treaty articles,

*Resumed from the 30th meeting.

on the question of the preservation of the marine environment and the prevention of pollution, for the use of the Working Group. These comments should be submitted as soon as possible, preferably before the end of the twenty-seventh session of the General Assembly, but in any event before 15 January 1973, assuming that the mandate of the Committee is continued by the General Assembly."

The amendment was adopted.

Paragraph 8, as amended, was adopted.

The draft report of Sub-Committee III (A/AC.138/SC.III/L.24 and Add. 1) as a whole, as amended, was adopted.

CONCLUSION OF THE WORK OF SUB-COMMITTEE III FOR THE SESSION

After the usual exchange of courtesies, the CHAIRMAN expressed his gratitude to all delegations for their co-operation, thanked the Rapporteur, the Secretary of the Sub-Committee and all the members of the Secretariat for their assistance, and declared that Sub-Committee III had completed its work for the current session.

The meeting rose at 1.10 p.m.