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

SUMMARY RECORD OF THE FOURTEENTH MEETING

Held at Headquarters, New York,
on Tuesday, 18 November 1969, at 3.35 p.m.

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Consideration, pursuant to operative paragraphs 3 and 4 of
General Assembly resolution 2467 A (XXIII) of 21 December 1968, of
the reservation exclusively for peaceful purposes of the sea-bed
and the ocean floor, taking into account the studies and international
negotiations being undertaken in the field of disarmament (continued)

Chairman:

Mr. AMERASINGHE

Ceylon

Rapporteur:

Mr. GAUCI

Malta

CONSIDERATION, PURSUANT TO OPERATIVE PARAGRAPHS 3 AND 4 OF GENERAL ASSEMBLY RESOLUTION 2467 A (XXIII) OF 21 DECEMBER 1968, OF THE RESERVATION EXCLUSIVELY FOR PEACEFUL PURPOSES OF THE SEA-BED AND THE OCEAN FLOOR, TAKING INTO ACCOUNT THE STUDIES AND INTERNATIONAL NEGOTIATIONS BEING UNDERTAKEN IN THE FIELD OF DISARMAMENT (A/7741) (continued)

Mr. PAVICEVIC (Yugoslavia) said that his delegation welcomed the initiative taken by the Soviet Union and the United States in presenting the draft 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; and it also appreciated the Chairman's initiative in convening the Committee for a special series of meetings to consider the document in the light of its mandate and goals, before the text was discussed by the First Committee. His delegation had already expressed its views on the draft Treaty at the Conference of the Committee on Disarmament and would elaborate on them in the First Committee.

It was fitting that the Sea-Bed Committee should consider how the draft Treaty was related to its own efforts to establish an international régime governing the uses of the sea-bed and the ocean floor and the subsoil thereof and the exploitation of their resources - which were the common heritage of mankind - exclusively for peaceful purposes and in the interests of mankind as a whole, irrespective of the geographical location of States and taking into account the special needs and interests of developing countries. Many pertinent views and suggestions had been expressed during the present series of meetings; and his delegation hoped that they would all be reflected in the Committee's report and placed before the First Committee with a view to improving the text of the draft Treaty and making it acceptable to all States, so that it could be adopted as soon as possible.

As the Sea-Bed Committee could not examine the draft Treaty in detail during the short time now available to it, he hoped that the question would be discussed further, and in greater detail, within the particular context of the Sea-Bed Committee's mandate.

Mr. ZEGERS (Chile) said that as the text of the draft Treaty had only recently been circulated, and as his country was not a member of the Committee on Disarmament, his remarks would be of a preliminary nature.

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(Mr. Zegers, Chile)

The Sea-Bed Committee was fully competent to discuss the draft Treaty and should do so before the First Committee examined the document. The international community, in General Assembly resolutions 2340 (XXII) and 2467 (XXIII), had decided that the sea-bed beyond the limits of national jurisdiction should be reserved exclusively for peaceful purposes. Thus, any military use of the area was prohibited. The draft Treaty, in seeking to exclude the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed, represented a partial arms prevention measure, rather than a disarmament measure per se; and it should be clearly understood, first, that actions which were not expressly prohibited under the terms of the draft Treaty were not necessarily permitted and, secondly, that the draft Treaty was only a first step towards arms prevention.

His delegation regretted that the draft Treaty was not broader in scope. It welcomed the sponsors' commitment to continue negotiations on further measures to exclude the sea-bed, the ocean floor and the subsoil thereof from the arms race, but it had certain reservations concerning the complex procedures proposed for amending the Treaty. Also, as the representative of Malta had pointed out, the scope of the prohibition was very limited and did not embrace all the basic possibilities of using the sea-bed for military purposes. As a result, any future exploitation of the area for the benefit of all mankind, once the international régime had been established, could be seriously threatened. The Sea-Bed Committee should therefore undertake a detailed study of the effect of the draft Treaty on the reservation of the area exclusively for peaceful purposes, before the General Assembly took a decision on the text, and he hoped that the matter could be discussed at one of the Committee's sessions in 1970.

The Committee, according to its original mandate, was competent to discuss only the area which lay beyond the boundaries of present national jurisdiction; however, in operative paragraph 3 of General Assembly resolution 2467 A (XXIII), it had been instructed, with reference to the studies and international negotiations being undertaken in the field of disarmament, to consider the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor "without prejudice to the limits which might be agreed upon in that respect".

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(Mr. Zegers, Chile)

The latter phrase had been included in the resolution on the initiative of the Soviet Union, which had rightly maintained that there was no military jurisdiction beyond the territorial sea, and that the demilitarization of the sea-bed beyond the territorial sea would therefore be quite logical.

However, the prohibition contained in article I of the draft Treaty applied not to the area beyond the territorial sea or to the area beyond the three- or twelve-mile limits as proposed in the original United States and Soviet draft, but - for some reason which his delegation could not understand - to the area beyond the maximum contiguous zone provided for in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone. The Convention established a maximum contiguous zone of twelve miles, and did not set limits for the territorial sea. His delegation could not understand why the draft Treaty should refer to a convention which had been ratified by less than one third of the States Members of the United Nations; and it noted from the records of the Committee on Disarmament that its perplexity was shared by many other delegations, particularly those of Argentina and Brazil. The United States representative had given his assurance that no attempt was being made to establish, indirectly, the limits of the territorial sea; and the Chilean delegation hoped that the draft Treaty would be amended so that it said exactly what it was intended to say.

Like the representatives of Argentina and Brazil, he failed to understand why the draft Treaty - unlike the earlier drafts - did not contain a specific and unqualified definition of an area for the purposes of the Treaty; and his delegation would be unable to support the draft Treaty if the ambivalent reference to the Geneva Convention was retained. Furthermore, in the case of the Latin American sub-continent, it would be necessary to see whether the definition of the area was compatible with the provisions of the Treaty for the Prohibition of Nuclear Weapons in Latin America, which had recently entered into force.

Article III of the draft Treaty gave States Parties the right to verify the activities of other States Parties to ensure the observance of the Treaty's provisions. The unrestricted exercise of that right might infringe upon the internationally recognized rights of the coastal State over its continental

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(Mr. Zegers, Chile)

shelf and over areas of the sea-bed subject to its economic jurisdiction. It was essential to safeguard the rights of the coastal State, and some restrictions must therefore be placed on the verification rights of States Parties. Chile favoured the solutions which the delegations of Canada and Brazil had proposed at Geneva.

His delegation agreed that the draft Treaty did not give adequate recognition to the legal status which the General Assembly had sought to ascribe to the sea-bed beyond the limits of national jurisdiction, nor did it properly reflect the concept that the area was the common heritage of mankind.

The initiative under consideration could in general be regarded as a positive one in the sense that it was a step towards the complete reservation for peaceful purposes of the sea-bed beyond the limits of national jurisdiction, and provided that the text was revised to meet the objections raised by several delegations.

However, the Sea-Bed Committee should study the text of the draft Treaty very carefully, in the context of its own mandate, sometime in 1970.

Mr. BENITES (Observer for Ecuador), speaking at the Chairman's invitation, said that there were two aspects to the debate: one related to the Sea-Bed Committee's competence, and the other to the question of procedure. With regard to the question of competence, some members believed that the Sea-Bed Committee was fully competent to study the draft Treaty, whereas others felt that disarmament matters came exclusively within the purview of the Conference of the Committee on Disarmament and that, since the latter had reported to the General Assembly, the draft Treaty should be studied by the First Committee. As to procedure, some members believed that the Sea-Bed Committee, as a subsidiary body of the General Assembly, could not recommend that the First Committee should postpone its discussion of the draft Treaty: others, however, believed that the First Committee should postpone a decision on the draft Treaty until the Sea-Bed Committee had had the opportunity to study it in greater detail. His own delegation's views were as follows.

In accordance with its mandate, as defined in operative paragraph 3 of General Assembly resolution 2467 A (XXIII), the Committee was clearly competent and indeed, was obliged to examine the draft Treaty prepared by the Conference of the Committee on Disarmament.

(Mr. Benites, Observer for Ecuador)

With regard to the question of procedure, the Sea-Bed Committee - a subsidiary organ of the General Assembly - must report to it - and, in the present case, to the First Committee - on the results of its discussions. It could and should request the General Assembly to give it more time to study the negotiations initiated by the United States and the USSR for the purpose of drafting a treaty on the prohibition of the emplacement of nuclear weapons on the sea-bed and ocean floor, particularly in view of the important legal concepts involved, though it was for the First Committee to decide whether or not to postpone its own discussion on the relevant part of the Disarmament Committee's report.

The meeting rose at 4.25 p.m.