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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 FIFTEENTH MEETING

Held at Headquarters, New York,
on Wednesday, 19 November 1969, at 3.45 p.m.

CONTENTS

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)

Consideration of the draft report of the Committee

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. ENEC (Romania) recalled that his delegation's views on the contents of a treaty banning the use of the sea-bed and the subsoil thereof for military purposes had already been stated in the Committee on Disarmament. If it was not possible at the outset to prohibit all military activities in the area, the treaty should at least contain provisions clearly stating that the ultimate goal was the complete demilitarization of the sea-bed, and designed to ensure steady progress towards the attainment of that objective. The treaty should apply to the sea-bed and the ocean floor and the subsoil thereof beyond the twelve-mile limit. It should be specifically stated that nothing in the treaty should be interpreted as affecting the sovereign rights exercised by coastal States over the continental shelf in accordance with the existing norms of international law and in particular the Geneva Convention on the Continental Shelf. There should also be a proper international system of control, which would be used exclusively for the verifying compliance with the obligations assumed under the treaty and in which all parties should be able to participate effectively and on an equal footing. Romania had also supported the idea of including in the treaty a clause stating that control operations on the continental shelf should be carried out with the prior consent of the coastal State concerned.

The joint submission by the Soviet Union and the United States of a 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 Sub-Soil thereof was a positive step. The Romanian delegation would express its views on the various issues relating to the Treaty during the discussion currently being held in the First Committee on disarmament problems.

Mr. VINCI (Italy) said that his delegation shared the opinion voiced by the Chairman, and supported by other delegations, concerning the respective spheres of competence of the Sea-Bed Committee and the First Committee of the General Assembly. It felt, however, that the draft Treaty, although concerned primarily

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(Mr. Vinci, Italy)

with the military aspects of the régime governing the sea-bed, was relevant to the Committee's work. All the interests involved in the use of the sea-bed - political, economic and social - should be taken into account, and any body of regulations concerning the area should be viewed in the broader context of the use of the sea-bed for the benefit of all countries.

The sponsors of the draft Treaty had displayed an awareness of the more general problems involved. The disclaimer clause in article II, paragraph 2, represented a commendable attempt to avoid some controversial issues, but covered only one aspect of the problem. For instance, article III of the draft should contain an additional provision fully and unequivocally recognizing the rights of coastal States over the continental shelf. Agreement would also have to be reached on provisions governing observation and inspection in the waters above the continental shelf, which implied a greater degree of intrusion.

In addition to those problems of direct interest to coastal States, there were other questions of an even more general nature. For example, one might wonder whether the proposed draft might make it more difficult to define a régime for the exploration and exploitation of the resources of the sea-bed beyond the limits of national jurisdiction, and to attain the principal goal of the utilization of those resources for the benefit of all mankind; whether it would impose limitations or conditions on the exploration and exploitation of resources; whether it might indirectly prejudice the solution to the problem of the boundaries of the area, and whether the degree of arms limitation implied in the draft was fully adequate for the objective the Committee was pursuing - namely, the reservation of the area exclusively for peaceful purposes. There were no ready-made answers to those questions and the matter would require thorough consideration by experts. The initial reaction of the Italian delegation, however, was that a decision to exclude the sea-bed and ocean floor from the nuclear arms race would facilitate the use of the resources of the area for the benefit of mankind. Its views on the substantive aspects of the draft Treaty would be stated in the First Committee.

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Mr. HILDYARD (United Kingdom) expressed agreement with those who had stated that further consideration of the revised draft Treaty as a measure of arms control was within the competence of the First Committee rather than the Sea-Bed Committee. However, the latter Committee should certainly take into account in its future work both the draft Treaty and the current discussions in the First Committee and the General Assembly. Similarly, the United Kingdom delegation believed that article V of the draft should state specifically that the review conference should take into account the progress made in international co-operation in the exploration and exploitation of the resources of the sea-bed.

His delegation had welcomed the Chairman's statement to the effect that the Committee could in no way restrict the debate or freedom of action of the First Committee.

Mr. HOLDER (Liberia) said that his comments would be of a preliminary and general nature and would not prejudice his delegation's position on the subject under consideration.

It could be seen from General Assembly resolution 2467 A (XXIII) that the Committee's terms of reference did not coincide precisely with those of other international bodies concerned with the sea-bed. However, the study to be undertaken by the Committee would necessarily involve some overlapping with other studies. In the same resolution, the Committee had been instructed to work in close co-operation with other international bodies. It was therefore fully competent to consider the draft Treaty submitted by the Soviet Union and the United States. Whatever the fate of that instrument, however, the Committee's mandate to continue its study of the peaceful uses of the sea-bed and ocean floor beyond the limits of national jurisdiction would not be affected.

The sponsors of the draft Treaty were to be congratulated on the efforts they had made to produce an agreed text. It was regrettable, however, that they had based their Treaty on a definition of the term "contiguous zone" which related only to the superjacent waters of the high seas. In addition, the provisions of article II, paragraph 2, were inconsistent with the rest of the text and with the intentions revealed in the travaux préparatoires.

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(Mr. Holder, Liberia)

His delegation would need more time to consider the proposal and all its implications. It would therefore welcome further discussion at a future date on those aspects of the draft Treaty which were within the Committee's terms of reference.

Mr. BEESLEY (Canada) associated himself with the remarks of earlier speakers on the need to safeguard the exclusive rights of coastal States over the continental shelf. Unlike the problem of verification, on which a number of delegations had expressed views similar to those of the Canadian delegation, the problem of the rights of coastal States should not present any unsurmountable difficulties, if all agreed that the Treaty should not prejudice the position of any State. The same was true of the various unresolved questions concerning the territorial sea, which should not be prejudged by the provisions of the draft Treaty.

It was generally agreed that the Committee should take fully into account the current negotiations on the subject of disarmament. It should be remembered, however, that one advantage of having the Committee on Disarmament as the major forum for negotiations on arms control was that its terms of reference were not restricted to the area beyond the limits of national jurisdiction, as were those of the Sea-Bed Committee. Everyone agreed that the draft Treaty should apply to the widest possible area; and as it did in fact apply inter alia to areas which were within national jurisdiction, it might be possible to avoid the problem of defining in the Treaty exactly where and for what purposes national jurisdiction ended.

Mr. DENORME (Belgium) said that, although his delegation welcomed the draft Treaty and appreciated its political importance, it had been disappointed to find that the text was limited to the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction in the area concerned. The draft was therefore only a first step. His delegation interpreted the statements in the preamble to the effect that the Treaty constituted a step towards the

✓ exclusion of the area from the arms race, and that the parties were determined to

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(Mr. Denorme, Belgium)

continue negotiations concerning further measures leading to that end, as representing a solemn commitment on the part of the sponsors and as confirming that the two major Powers had not lost sight of the ultimate goal.

In implementing its terms of reference under General Assembly resolution 2467 A (XXIII), the Committee should not duplicate the work being done by the Conference of the Committee on Disarmament or examine texts drafted in that Conference before they had been submitted to the General Assembly. The need to avoid any duplication or overlapping had been stressed by his delegation, as one of the sponsors of resolution 2467 A (XXIII), when it had commented on the text in the First Committee. There was in fact a basic distinction between an instrument of limited arms control and a general principle of reservation exclusively for peaceful purposes, even if it was impossible to make recommendations on the latter without taking into account the studies and negotiations on the former. In the particular case in question, it seemed that the General Assembly could have sought the advice of the Committee if it had wished; in any case, the members of the Committee would have an opportunity to express their views on the question in the First Committee. Whether or not the draft Treaty was endorsed by the General Assembly, the Sea-Bed Committee would have to continue its study of the reservation of the area exclusively for peaceful purposes, in the light of that document and of the discussion held in the Committee itself and in the First Committee. It would not be able to produce any recommendations at its present series of meetings but it should not prevent the General Assembly from considering the draft Treaty which, although partial in nature, was a first step in the right direction.

CONSIDERATION OF THE DRAFT REPORT OF THE COMMITTEE (A/AC.138/L.1/Add.2)

Mr. GAUCI (Malta), Rapporteur, introduced the draft report, which was an addendum to the earlier report already submitted by the Committee. In view of the preliminary and limited nature of the exchange of views held at the present series of meetings, the report did not describe in detail the views expressed by individual delegations, which were reflected in the summary records. Instead, it listed in general terms the various points made during the discussion, in so far as they related to the Committee's terms of reference.

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The CHAIRMAN suggested that the meeting should be suspended so that delegations could have time to study the draft report.

The meeting was suspended at 4.25 p.m. and resumed at 5.10 p.m.

Mr. GAUCI (Malta), Rapporteur, said that a number of amendments had been suggested during the informal consultations held while the meeting had been in recess. In the second sentence of paragraph 3, it had been suggested that the words "revisions might be forthcoming in the light of further discussions to be" should be replaced by the words "further discussion would be". It had also been proposed that the words "the consensus on" in the second sentence of paragraph 5 should be deleted. In the twelfth line of paragraph 6, it had been suggested that the words "control and" should be inserted before the word "verification". Lastly, it had been proposed that the following paragraph should be inserted after paragraph 6:

"The related point was also made that while the mandate of the Sea-Bed Committee was restricted to the sea-bed beyond national jurisdiction, the mandate of the Geneva Conference on Disarmament was not so restricted; that the application of the draft Treaty included areas within national jurisdiction and that the positions of States on the continental shelf and on the territorial sea should in no way be prejudiced by the draft Treaty."

Mr. ENGO (Cameroon) felt that more time was required to consider the addendum to the report. The text circulated could serve as a useful basis for discussion, but there was room for improvement. For example, he regretted that there was no reference to one very important point, namely, that some members had expressed the hope that the discussions in the First Committee would not in any way prejudice the work of the Sea-Bed Committee.

Mr. MIGLIUOLO (Italy), referring to the third sentence of paragraph 5, said that while his delegation endorsed the concept that the resources of the sea-bed and ocean floor were the common heritage of mankind, it did not think it was correct to describe that concept as a legal principle. He therefore proposed that the phrase "legal principles" should be replaced by the phrase "a set of principles."

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(Mr. Migliuolo, Italy)

With regard to paragraphs 6 and 8, his delegation felt that the report should either itself reflect the views of all delegations or refer the reader to the summary records in every case.

Lastly, paragraph 7 should state that the hope had been expressed that the Sea-Bed Committee would discuss in greater depth only those implications of the draft Treaty which clearly came within its terms of reference, in order to ensure that it did not duplicate the work of the First Committee.

Mr. GAUCI (Malta), Rapporteur, replying to the Italian representative, pointed out that he had endeavoured to mention the major subjects discussed, rather than the particular views of delegations. Also, the draft text referred only to matters which came directly within the Committee's terms of reference. He felt that the Italian representative's statement at the present meeting was in general covered by paragraphs 6 and 7.

Mr. HOLDER (Liberia) believed it was unnecessary to refer, in paragraph 3, to the fact that the First Committee would be discussing the draft Treaty which, obviously, came within the First Committee's terms of reference.

The new paragraph read out by the Rapporteur was inconsistent with paragraph 8. The portion of the new paragraph beginning with the words "that the application" was not an accurate reflection of the views of the Committee as a whole.

Lastly, at least five representatives had expressed the view that the Committee should discuss the joint United States-Soviet Union draft Treaty at a future session: and a statement to that effect should be included in the report.

Mr. KIKHIA (Libya) proposed that the words "adhered to by a majority of Members" in paragraph 6 should be replaced by the phrase "universally accepted as an instrument of international law". It was not clear to whom the word "Members" referred.

In paragraph 7, the words "by the Committee" should be inserted after the words "in greater depth".

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The CHAIRMAN pointed out that the word "Members", to which the Libyan representative had referred, meant the States Members of the United Nations.

Mr. KIKHIA (Libya) said that he still preferred the more general wording he had suggested. A number of delegations had shared his objection to the reference in the draft Treaty to the Geneva Convention on the Territorial Sea and the Contiguous Zone, on the grounds that the substance of the Convention was not generally accepted by the international community.

Mr. MIGLIUOLO (Italy) agreed with the Cameroonian representative that more time was required to consider the draft addendum.

In the light of the Rapporteur's comments on the Italian delegation's remarks concerning paragraph 7, he felt that a statement should be included to the effect that all future discussion of the draft Treaty in the Sea-Bed Committee would deal only with matters falling within the Committee's terms of reference.

Mr. CABRAL de MELLO (Brazil) agreed with the Cameroonian representative that the Committee needed more time to consider the draft addendum.

He proposed that in paragraph 6, the words "verification procedures" should be deleted and that the following phrase should be inserted after the words "need for adequate": "control, particularly with a view to ensuring the participation in the verification procedures of representatives of the coastal State concerned and safeguarding the rights of the coastal State on its continental shelf in accordance with international law".

Mr. HACHEME (Mauritania) also agreed that more time was required to examine the draft addendum. A number of delegations, including his own, had stressed that the Committee should defer consideration of the report of the Committee on Disarmament until a future session; and a statement to that effect should be included in the draft addendum.

Mr. ZEGERS (Chile) said that the views referred to in the third and fourth sentences of paragraph 3 had been expressed by the USSR and United States representatives and should be attributed directly to them. He did not agree with

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(Mr. Zegers, Chile)

the Italian representative's comments concerning the phrase "legal principles" in paragraph 5. Some delegations had indeed referred to the Committee's work in formulating legal principles, and the phrase "legal principles" should therefore be retained in the report.

He could not accept the Libyan representative's proposal concerning paragraph 6. Paragraph 7 should be amended to indicate that some members had stated that the draft Treaty should be considered by the Committee at a later date within the context of the reservation of the sea-bed and the ocean floor exclusively for peaceful purposes.

Mr. BEESLEY (Canada) suggested that the proposed new paragraph should begin with the words "It was suggested by one member".

The meeting rose at 5.55 p.m.