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

SUMMARY RECORDS OF THE TWENTY-NINTH TO FORTY-FOURTH MEETINGS

Held at the Palais des Nations, Geneva,
from 3 to 28 August 1970

The list of representatives attending the session appears in documents A/AC.138/INF.3 and Corr.1 and 2 and Add.1 and Corr.1, Add.2-4, Add.4/Corr.1 and Add.5.

Chairman:	Mr. AMERASINGHE	Ceylon
Rapporteur:	Mr. VELLA	Malta

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ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
GESAMP	Group of Experts on the Scientific Aspects of Marine Pollution
IAEA	International Atomic Energy Agency
IBRD	International Bank for Reconstruction and Development
IMCO	Inter-Governmental Marine Consultative Organization
IOC	Intergovernmental Oceanographic Commission
OAU	Organization of African Unity
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
WMO	World Meteorological Organization

SUMMARY RECORD OF THE TWENTY-NINTH MEETING

Held on Monday, 3 August 1970, at 11.35 a.m.

Chairman: Mr. AMERASINGHE Ceylon

OPENING OF THE SESSION

The CHAIRMAN declared open the second 1970 session of the Committee and welcomed the members.

ORGANIZATION OF WORK

The CHAIRMAN said that, at the Committee's twenty-seventh meeting, towards the end of its first 1970 session, he had made certain proposals regarding the programme of work for the present session and had drawn attention to the priorities set for the Committee by the relevant General Assembly resolutions, namely, first, the preparation of a comprehensive and balanced statement of principles, in pursuance of operative paragraph 4 of General Assembly resolution 2574 B (XXIV) of 15 December 1969 and, secondly, the consideration of the Secretary-General's report entitled "Study on international machinery" (A/AC.138/23), which had been prepared in accordance with operative paragraph 2 of General Assembly resolution 2574 C (XXIV).

He had suggested that at the present session the Committee should begin by discussing the Secretary-General's report on international machinery and that if during that discussion, it should find that certain questions falling within the competence of the Economic and Technical Sub-Committee or the Legal Sub-Committee called for detailed consideration, it should refer them to the Sub-Committee concerned. He had also suggested that the Legal Sub-Committee should continue its study of legal principles. Those suggestions had been approved by the Committee.

The Committee had further agreed that, in the interval between the two 1970 sessions, informal consultations should be held among members of the Legal Sub-Committee in the search for agreement on the text of a comprehensive and balanced statement of principles. Those consultations had taken place but final agreement had not yet been achieved. It was therefore necessary that further time should be allowed for the completion of that task.

Meanwhile, the Committee itself would proceed with the discussion of the question of international machinery and the Secretary-General's report. As soon

as the Chairman of the Legal Sub-Committee was in a position to report on the question of principles, the Committee would interrupt its other work in order to consider that report.

He suggested that the detailed programme of meetings should be left to be settled between himself and the Chairmen of the two sub-committees. The last week of the session, however, should be left for consideration of the Committee's report. The actual preparation of that report should commence as soon as possible. One suggestion that had been made was that the report should include a synopsis of the political discussions that had taken place.

The Chairman of the Economic and Technical Sub-Committee, in his statement at the 27th meeting, had referred to paragraph 11 of that Sub-Committee's interim report (A/AC.138/SC.2/L.6) regarding further study and identification of "the most suitable alternative solutions to the issues raised" as constituting the Sub-Committee's main task for the present session. He had also referred to the Maltese delegation's proposal that the members of the Sub-Committee be requested to give particular attention to two questions: first, that of the extent to which responsibility for administering provisions and rules of the exploitation régimes should be assigned to States instead of to an international resource management authority, and secondly, that of whether the right to participate in sea-bed resources development should be accorded to States, State-authorized authorities or international organizations. In his opinion, those two questions had a mixed legal and technical character and the Committee, during its consideration of the report on international machinery, could decide on the need to refer any specific aspect requiring detailed consideration to the sub-committee concerned. The Chairman of the Economic and Technical Sub-Committee should be given time to conduct informal consultations regarding the appropriate treatment of those questions.

While on that subject, he would suggest that, to save time, one sub-committee should avoid discussing the implications as far as it was concerned of any question assigned specifically to the other sub-committee. For example, the Legal Sub-Committee's main task related to operative paragraph 2(a) of General Assembly resolution 2467 A (XXIII) of 21 December 1968, while that of the Economic and Technical Sub-Committee related to the economic and technical requirements of the régime referred to in operative paragraph 2(a) of resolution 2467 A (XXIII) and to

the study of ways and means of permitting the exploitation and use of the resources of the area as stated in operative paragraph 2(b) of that same resolution. So far as the Legal Sub-Committee was concerned, the economic and technical implications of all other questions could be discussed in the main Committee. That was a special arrangement proposed for the present session. Its sole purpose was to save time without impairing the efficacy of the treatment of any question. It would be open to the chairmen of the two sub-committees to indicate their wishes with regard to procedure in specific instances.

It had been suggested that two other subjects should be discussed. The first was the demilitarization of the sea-bed, and some provision would be made for consideration of that subject. The other was the question of pollution, and if time permitted, that too would be taken up for discussion.

Lastly, although no provision was being made for a general debate, an opportunity would be given to any member who wished to make a general statement.

Mr. DENORME (Belgium), Chairman of the Economic and Technical Sub-Committee, said that the suggestions which he had made at the twenty-seventh meeting regarding the programme of work had been approved by the Committee and provided a satisfactory basis for the work of the first week of the present session.

With regard to the Chairman's suggestion to restrict to some extent the mandate of the two sub-committees, he would remind members that the terms of reference of those two subsidiary bodies had been the subject of prolonged discussion in the main Committee, a discussion which had led to the adoption of a text on the allocation of tasks between them (A/7622, annex 1[1]). It was essential to avoid a fresh debate on such procedural matters.

As far as the Economic and Technical Sub-Committee was concerned, his understanding of the Chairman's words was that there was no intention to criticize its past activities but merely to call upon it to make renewed efforts to assist the Committee in the performance of its tasks.

Speaking as the representative of Belgium, he said that the Committee itself had to approach the present session in an ambitious spirit and to envisage carrying out all the tasks entrusted to it by the General Assembly. It was only if experience showed that it was not possible to perform all those tasks that the question of priorities would arise.

1/ See Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22.

He noted with satisfaction the Chairman's remarks regarding an early consideration of the type of report to be submitted by the Committee to the General Assembly at the end of the present session. It was all the more necessary not to await the end of the session for that purpose because the report would come at a time when the Committee would have completed two years work. It would be of interest if the report included a two or three page synopsis of the political discussions that had taken place at the March session. The report should also contain, if possible, a statement on the future strategy of the Committee once the General Assembly had adopted a declaration of principles on the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction, which would be applicable until such time as international legal instruments on the subject entered into force.

Personally, he had no doubt that the General Assembly would adopt such a declaration of principles. The only question in doubt was whether the declaration would be based on a draft from the Committee or whether the General Assembly would formulate a draft itself. If the latter course were adopted, it would be a severe reflection on the Committee, and his own delegation would spare no effort to avoid such an outcome.

The CHAIRMAN said he could assure the representative of Belgium that the slight procedural variations which he had suggested were not intended as a criticism of the work of the sub-committees; they merely constituted a device to facilitate the work of the present session.

Mr. ZEGERS (Chile) said he noted from the Chairman's statement that priority would be given to the preparation of a comprehensive and balanced statement of legal principles in pursuance of operative paragraph 4 of General Assembly resolution 2574 B (XXIV). That work would be the subject of informal consultations in the Legal Sub-Committee and of a formal report by that Sub-Committee.

As for the Economic and Technical Sub-Committee, the economic and technical aspects with which it was called upon to deal had some connexion with legal matters. That interconnexion required co-ordination between the two sub-committees, and that would no doubt be arranged through the offices of the Committee.

Another matter which also required co-ordination, since it affected both economic aspects and legal principles, was the question of international machinery, on which the Commission had a report of the Secretary-General.

The Economic and Technical Sub-Committee would be called upon to deal with the question of methods and criteria for the sharing by the international community of the proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction, and with the Secretariat note on the subject (A/AC.138/24).

He noted the Chairman's statement that provision would be made for discussion by the Committee of the subject of the demilitarization of the sea-bed. If the Committee on Disarmament was to formulate a draft treaty, it was desirable that the Committee on the Peaceful Uses of the Sea-Bed should allocate one or two meetings for a discussion of the text.

The CHAIRMAN said that, if there were no other observations, he would take it that the Committee agreed to adopt his proposals on the programme of work.

It was so agreed.

GENERAL STATEMENTS

Mr. PHILLIPS (United States of America) said he was optimistic that the Committee would be able both to complete successfully its immediate tasks and to make substantial progress towards fulfilling the broad responsibilities entrusted to it by the General Assembly. An informal drafting group set up by the Committee had already reached provisional agreement on certain principles concerning the sea-bed beyond the limits of national jurisdiction and there seemed good reason to hope that agreement might be reached at the present session on a complete and balanced statement of principles to be submitted to the twenty-fifth session of the General Assembly for consideration and adoption. Over the past two years, the Committee had also made progress in its consideration of alternative forms of régime and machinery; his delegation, which considered that the time had come to draw up detailed and comprehensive proposals in that respect, hoped that the task of narrowing down the available alternatives would be undertaken at the present session.

In accordance with the promise given by President Nixon on 23 May 1970 (A/AC.138/22), he was happy to submit to the Committee a draft United Nations Convention on the International Seabed Area (A/AC.138/25) which, it was hoped, would contribute to the modernization of the international law of the sea, serve the interests and needs of all mankind, and promote rational and sensible use of

the marine environment. The draft, which constituted a deliberately new and bold approach to the law of the sea, contained provisions to place the exploitation of marine resources under continuing and comprehensive international regulation and to ensure, for the first time in history, the equitable division of the benefits of that exploitation, regardless of the advantages of technology or geography enjoyed by any State.

The draft which had been prepared after painstaking examination of relevant national and international interests and was based almost entirely on reports of the Secretary-General, the Committee and its Sub-Committees, was considered by his Government to do justice to the interests of all members of the international community, whether States with long and exposed coastlines, States with developed economies, land-locked States or developing countries. Whether the efforts of the authors had been successful or not would be for the Committee and its Sub-Committees to decide after detailed examination of the text. It was the hope of his delegation that the draft would enhance the prospects for agreement on principles, an international régime and international machinery and would be improved by the Committee at its present and future sessions in such a way as to represent ultimately the work of all delegations rather than of only one.

Although the draft Convention spoke for itself, he would like to single out some of its provisions for special mention. The international sea-bed area would begin at the 200-metre isobath and would be the common heritage of all mankind. No State would have, or be able to acquire, any right, title, or interest in that area or its resources except as provided in the draft Convention. The international sea-bed area would be open to use by all States and reserved exclusively for peaceful purposes. The Convention would guarantee the use of revenues for the economic advancement of developing countries; some revenues would also be used for the promotion of international knowledge and technological know-how concerning the safe and efficient use of the marine environment. Strict and adequate safeguards for the protection both of human life and safety and of the marine environment would be guaranteed; for instance, many of the Convention's regulatory provisions were designed to prevent pollution.

Uniform rules, both general and detailed, for the exploration and exploitation of all sea-bed resources beyond the 200-metre boundary were contained in the draft

Convention and its appendices; those rules were designed to ensure both maximum revenues for the international community from exploitation of marine resources and a favourable climate for investment. Provision was made for a coastal state trusteeship in the area beyond the 200-metre boundary embracing the continental margins, the seaward limit of that area to be determined on the basis of factors such as ease of determination, the need to avoid dual administration over single resource deposits, and the undesirability of including excessively large areas in the International Trusteeship Area. The draft Convention proposed that a gradient formula be used to determine that boundary.

The rights and responsibilities of the Trustee State to be defined in the Convention would include the obligation for the Trustee State to comply with the rules of the draft Convention and of the International Seabed Resource Authority, and would guarantee the Trustee full discretion in respect of the issue of licences for exploration and exploitation. The Trustee would be entitled to retain a portion of the required payments as well as any other charges it levied on exploration and exploitation. The discretion exercised by the Trustee in the issue of licences for the exploration and exploitation of sea-bed resources in the International Trusteeship Area constituted the only exception to the draft Convention's provision that the entire area beyond the 200-metre boundary should be open to use by all States on a non-discriminatory basis.

Over half the articles of the Convention concerned the powers and duties of a new international organization to be called the International Seabed Resource Authority, whose functions would include comprehensive rule-making authority beyond the 200-metre boundary, functional responsibilities including inspection of all licensed activities in the same area, licensing responsibilities beyond the Trusteeship Area and adjudication of all disputes arising under the draft Convention, with special procedures for approving the delimitation of all boundaries required by the draft Convention. The Authority's principal organs would be an Assembly composed of all Contracting Parties, a Council composed of twenty-four Contracting Parties, and an independent tribunal; provision had also been made for three commissions to deal with rule-making, operations such as licensing, and boundaries. The Authority would be responsible for promulgating its rules in the form of annexes to the Convention, and the procedure to be followed in that respect would be sufficiently flexible to enable the Authority to adapt to changing technology.

Since the entry into force of the Convention would entail renunciation of certain existing rights, provision was made for the protection of the integrity of prior investments. In addition, the transitional clauses had been designed to avoid both discouraging exploration and exploitation and encouraging speculation, as well as to ensure the protection of the international community if interim licences were issued under terms and conditions not in accordance with the provisions of the Convention.

In submitting the draft Convention at the beginning of the present session of the Committee, his Government had been guided by the desire to facilitate the process of reaching agreement on principles and to contribute to the discussions on régime and machinery. His delegation intended to draw upon and elaborate on the provisions of the draft Convention during the Committee's examination of the various items on its agenda. For example, the draft Convention contained basic principles which reflected the work done by the Committee on a Declaration of Principles; the principles in the draft Convention were not, however, intended as a substitute for the principles being drawn up for the Declaration.

He hoped that the draft Convention would constitute a timely and useful contribution to the present and future work of the Committee.

The CHAIRMAN said that the draft Convention would be of assistance to the Committee in its discussions on the establishment of an international régime and the drawing up of the Declaration of Principles.

The meeting rose at 12.20 p.m.

SUMMARY RECORD OF THE THIRTIETH MEETING

Held on Tuesday, 4 August 1970, at 10.50 a.m.

Chairman:	Mr. EVENSEN	Norway
later,	Mr. AMERASINGHE	Ceylon

In the absence of the Chairman, Mr. Evensen (Norway), Vice-Chairman, took the Chair.

Mr. ZELERS (Chile) said that the Committee had reached a crucial stage in its work; it was called upon by the General Assembly to formulate a declaration of principles to serve as a basis for the future international régime of the sea-bed and the ocean floor beyond the limits of national jurisdiction, and thereby fill an existing legal vacuum.

In his proposals relating to the programme of work, the Chairman had stressed (twenty-ninth meeting) that the Committee's primary task was to reach agreement on a "comprehensive and balanced statement" of principles. For that purpose, those principles should contain all the essential elements of an international régime, to serve as a basis for the future international convention on the subject. They should also be regarded as guidelines for the future régime and not in any way as constituting an interim or provisional régime.

The formulation of legal principles on the sea-bed and the ocean floor beyond the limits of national jurisdiction was clearly a matter of urgency for a number of reasons, one of which was the rate of technical progress, which was now making exploration and exploitation at very great depths a practical proposition. But the need for urgent action should not prevent proper attention being given to the issue of substance. While it was desirable that legal principles should be formulated, it was also essential that the principles themselves should be significant. Principles were not an end in themselves; they were a means to obtain benefits for humanity as a whole, in particular for the less endowed, as repeatedly stressed in unanimous resolutions of the General Assembly.

The draft convention submitted by the United States delegation at the twenty-ninth meeting (A/AC.138/25) was of great interest and developed some of the views previously put forward by the United States delegation concerning the régime of the sea-bed and international machinery. The draft, however, did not fit in with the concept of the common heritage of mankind as defined by the developing countries,

which understood that concept as a sort of condominium over areas of the sea-bed beyond the limits of national jurisdiction. Furthermore, in its provisions on limits, the draft discriminated against those countries which did not have a geographical or physical continental shelf, thereby departing from the criteria laid down by international law during the past twenty years.

Now, however, was neither the time nor the place to deal with the substance of the United States draft. It was not the time, because under the priorities laid down by the General Assembly, the Committee was called upon to formulate a declaration of principles, whereas the purpose of the draft convention, on the basis of the limitation which it embodied, was to establish a definitive régime. And the Committee was not the appropriate forum for such a discussion, because the General Assembly had already decided that the Committee's jurisdiction was limited to the formulation of a régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction; as for those limits, the Assembly had stated in operative paragraph 1 of its resolution 2574 A (XXIV) that they would be a matter for a conference on the law of the sea to decide "in the light of the international régime to be established", as a result of the work of the Committee.

At the same time, he welcomed the fact that a great country, possessing the technical knowledge and the capital necessary for the exploitation of the sea-bed, should formulate concrete proposals which contained some positive elements. There was no obstacle to the Committee's taking advantage of such elements in the draft as might appropriately be used in carrying out the task assigned to it in accordance with its agreed order of priorities.

The countries of Latin America were at present attending a meeting at Lima to formulate a joint position regarding the law of the sea, in particular with regard to the sea-bed. The conclusions of that meeting would be useful to the future work of the Committee and could be expected not to depart materially from the position taken by all the developing countries in the Committee.

It was his delegation's earnest hope that the work of the Committee would result in the formulation of a comprehensive and balanced declaration of principles.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said it was essential that the Committee should complete the task entrusted to it by the General Assembly at its twenty-fourth session. The purpose of the draft declaration of legal principles which it had been called upon to prepare was to define in

general terms the activities of States on the sea-bed beyond the limits of national jurisdiction, in order to protect the resources of the sea-bed from indiscriminate and predatory exploitation. The draft declaration should contribute to the establishment of wide international co-operation in the exploration of the sea-bed and its resources and form the basis for an international régime for the exploration and exploitation of mineral resources in the sea-bed and its sub-soil beyond the limits of national jurisdiction. The preparation of a draft declaration would facilitate the formulation of the rules of the international régime.

Many difficulties arose as a result of the different economic and social systems of the States represented on the Committee, and it was therefore important to find a solution that would be acceptable to all its members. The Committee must persevere in its efforts to reach agreement on outstanding issues, and that might be achieved if the draft declaration contained general provisions which did not conflict with generally accepted norms of international law.

Among the issues which had given rise to divergencies of opinion was the concept of the sea-bed as the "common heritage of mankind". At the Committee's previous session, some delegations had interpreted that term rather vaguely as meaning "common property", while other delegations had preferred the more realistic interpretation that the sea-bed and the ocean floor beyond the limits of national jurisdiction should be used jointly by all States without any discrimination whatsoever, that they should not be appropriated by individual States or persons, physical or juridical, and that no State could claim or exercise sovereign rights over any part of them.

The question of defining the limits of national jurisdiction of coastal States was obviously of great importance. Some delegations had stated that the problem could only be solved by revising existing régimes applying to the open sea, territorial waters, the continental shelf and so forth. However, the proposal that the 1958 Geneva Conventions should be revised had been opposed by a number of delegations, including the Soviet delegation, which believed that the foundations on which international co-operation in the matter now rested should be strengthened rather than undermined. Solutions should be found to important questions such as the breadth of territorial waters, a more accurate definition of the limits of the continental shelf, and the formulation of basic principles governing the activities of States on the sea-bed beyond the limits of national jurisdiction.

As was clear from the Secretary-General's report (A/AC.138/23), the question of international machinery was extremely complex and would require careful study. Such machinery could not be set up in a vacuum, but must have a realistic legal basis. It should be established by a universal international agreement on a régime for the exploitation of the resources of the sea-bed and the sub-soil thereof beyond the limits of national jurisdiction. The main function of such machinery should be to ensure compliance with the obligations assumed by participating States. Only if such an agreement were open to all States without discrimination and on the basis of the principle of sovereign equality, irrespective of whether a State was a member of the United Nations or its specialized agencies or not, could such machinery function effectively. A reference to that idea was made in the Secretary-General's report. It would be a serious mistake if such machinery were to be set up in the interests of an international capitalist consortium rather than of all States. The exploration and exploitation of marine resources must be carried out for the benefit of all mankind, and any possibility that activities on the sea-bed might be carried out in the interests of a State or group of States to the detriment of others must be excluded. International machinery must also provide for the protection of marine flora and fauna, the prevention of pollution and the maintenance of the ecological balance of the marine environment.

With regard to the economic and technical conditions and regulations governing the exploration and exploitation of marine resources, some delegations had, at the previous session, proposed subjects for consideration by the Committee, but most of those subjects had been legal, rather than economic or technical, and many had been either abstract or based on existing operational practice on the continental shelf. The USSR delegation believed that those economic and technical conditions and regulations should form part of an international agreement on a régime for the exploration and exploitation of marine mineral resources. They should be based on fuller research data and more modern means of exploiting mineral resources on the sea-bed. Marine pollution and the many hazardous and harmful effects resulting from such activities were urgent problems which should be considered first. Other questions, such as the definition of the size of lots of the sea-bed which might be made available for exploitation were of importance but they could be considered later in the light of the conditions prevailing at the time.

Some delegations were contemplating proposals relating to methods and criteria for the participation of the international community in the proceeds and benefits of the exploitation of resources on the sea-bed beyond the limits of national jurisdiction. But it was not known how profitable such operations would be in the near future, and the USSR delegation had therefore drawn attention, at the previous session, to the fact that consideration of that question was premature. The USSR delegation believed that the question could best be studied when the agreement on a régime was prepared. It must always be borne in mind that no progress could be achieved without systematic research based on international co-operation.

The Committee's efforts could not succeed unless all military activity on the sea-bed was halted; it was essential to include that point in the draft declaration of principles.

The USSR delegation reserved the right to comment later on the draft convention submitted by the United States.

Mr. Amerasinghe (Ceylon) took the Chair.

Mr. FERNAND-LAURENT (France) said that he did not propose to reply immediately to the important general statements which had been made in the Committee; those statements deserved more than a hasty reply.

His delegation felt that the time had come to submit the views of the French Government in the form of a document (A/AC.138/27) which was now being distributed. Before analysing the contents of the documents, he would like to make a few preliminary remarks about it.

The document was intended as a constructive contribution to the formulation both of the general principles and of the rules of a régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction. It was in no sense a counter-proposal to the proposals of certain other delegations. So far as the United States draft was concerned, for instance, it was obvious that that could not be the case, since there would have been no time for the French delegation to prepare a counter-proposal. The French draft was simply the result of efforts to weightand clarify data which were always complex and in some cases still obscure. In view of the very diverse and sometimes conflicting interests involved in the exploration and exploitation of the sea-bed for peaceful purposes, it was natural that differing opinions should have been expressed during the past work of the

Committee. His delegation's aim had been to try and find a middle road which would reconcile as far as possible demands that at first appeared hardly compatible.

The document presented what was still little more than a general outline but an effort had been made to include provisions sufficiently precise to serve as a basis for discussion. His delegation believed that the sea-bed was the common heritage of mankind and that its exploitation should benefit all States without discrimination, including States shut off from access to the sea, and more expecially the developing States. It believed that the primary objective should be to distribute the proceeds of exploitation on an equitable international basis and that for that reason the rules of law which would form the future régime of the sea-bed should be based on considerations of economic efficiency. It would be unrealistic to seek perfection and absolute uniformity in a field in which the geographical factors, both physical and political, were so imperfect and so varied. For example, as had already been pointed out, some States had a continental shelf while others had not. His delegation had endeavoured to achieve a legal construction that was both realistic and flexible and could be progressively adapted to the actual situation obtaining when the exploration and exploitation of the sea-bed began.

His delegation's document did not specify where national jurisdiction ended and the proposed international régime began; the controversial problem of limits could only be discussed when the elaboration of the régime of the sea-bed was sufficiently advanced. Once agreement had been reached on the principles and on the broad outlines of a régime, a great step would have been taken towards the solution of the problem of limits. The French Government would not fail to make known its views on that problem in due course.

For the time being, he would not comment at length on his delegation's document but confine himself to mentioning only those proposals which, in the view of his Government, were of fundamental importance.

First, the States themselves must have an essential role within the régime of exploration and exploitation of the sea-bed, not because there was any reason to mistrust an international body but because the States were the only possible link between such a body and the public or private companies undertaking the exploration and exploitation. If the necessary steps were taken to ensure equitable distribution of both the marine zones and the proceeds of exploitation, only the

States would be in a position to deal with the exploiting companies and to undertake international commitments for the distribution of profits.

Secondly, in view of the above considerations, the international body's role would be a vital one. While the central office proposed by his delegation would have the power of decision and control in respect of routine matters, certain issues would need to be dealt with at a higher level, whence the proposal that a plenipotentiary conference, assisted by a technical committee, should be responsible for inter-State negotiations and arbitration and for decisions on the sanctions to be taken against States which violated the convention or failed to respect their commitments.

Thirdly, the proposed system of fees and royalties, considered by his delegation as an essential part of the overall system, would be based on the principles he had already mentioned. States would be responsible for collecting fees and royalties for the activities carried out in their respective zones and for undertaking vis-à-vis the international body to allocate a sizeable portion of those revenues to assistance for the developing countries. The international body would be responsible for ensuring that States respected their commitments under that heading. Fourthly, the proposed technical provisions governing relations between States and companies, and the rules for the issue of research and exploitation licences were designed to ensure equitable treatment through economic efficiency.

He hoped that the proposals submitted by his delegation would constitute a useful contribution to the Committee's work.

Mr. GALLAGHER (United Kingdom) said he had listened with great interest to the statements on legal principles made by the representatives of Chile, the Union of Soviet Socialist Republics, and France. The Committee's two priority tasks were to reach agreement on a declaration of principles and to study the establishment of international machinery. As the first of those questions was still being discussed by an informal group, he would confine his remarks to the second.

The report of the Secretary-General entitled "Study on international machinery" and the earlier report of the Secretary-General (A/7622, annex II) gave a clear analysis of the types of international machinery which might be thought appropriate to various types of régime for the sea-bed beyond the limits of national jurisdiction. His delegation strongly endorsed the view expressed in the

Secretary-General's report that specific provisions for machinery could only be formulated after agreement had been reached on the most appropriate kind of régime. The question of international machinery was inextricably linked with that of the international régime; indeed, if the two questions had to be separated, the question of the régime should logically take precedence over the question of machinery.

His delegation had noted with great interest the statement made on 23 May 1970 by President Nixon on United States ocean policy (A/AC.138/22). While it was not at present prepared to suggest any precise formula or figure, his Government had been inclined to favour a simpler division of the sea-bed between national areas and areas subject to the international régime, and a reasonably deep limit to national jurisdiction or a combination of depth and width, to give a broad deep limit. It would also be prepared, however, to consider the United States proposal for a shallow limit to national jurisdiction and a trusteeship zone beyond that limit, if that idea appealed generally to members of the Committee. Although he was not yet able to comment on the important and complex draft convention submitted by the United States delegation, he was certain that the ideas it contained would prove a valuable contribution to the discussion by the Committee and its sub-Committees of the various items on the agenda.

He welcomed the working paper submitted by the French delegation, which at first sight appeared to contain many ideas that corresponded closely to those held by his own delegation.

At the Committee's March session, the United Kingdom delegation had submitted a working paper[2/] outlining the kind of international régime which his Government considered appropriate and expanding the eight propositions set out by the United Kingdom delegation in the First Committee of the General Assembly on 4 November 1969. In the hope that it would assist the Committee's discussions, his delegation was now submitting a new, more comprehensive working paper on the same subject (A/AC.138/26).

The new working paper outlined the type of international machinery favoured by his Government, and set it in the context of rather more detailed ideas for the international régime. The United Kingdom's concept of the régime was based on the belief that the principal function of an international sea-bed resources organization

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2/ See interim report of the Economic and Technical Sub-Committee (A/AC.138/SC.2/L.6), annex V.

should be to issue licences for exploration and exploitation to States parties to the agreement establishing the régime. The area subject to the international régime would be divided into blocks for the purpose of the issue of licences, and equitable allocation of areas between States parties would be ensured by providing each State with a quota of blocks. The criteria for such quotas would need to be determined. Batches of blocks would be opened for licensing at intervals. States would be free to apply for licences for blocks within the ceiling imposed by their quota and subsequently to sub-license operators to explore or exploit those blocks on their behalf. The working paper also contained suggestions for the solution of the problem of conflicting applications, with recourse in the last resort to random selection, in the interests of equality between States.

Finally, the working paper described the two types of licences which his Government considered should be provided for, and also dealt with the financial arrangements that might be made, chiefly in respect of licensing fees and royalties to be paid by the State holding the licence. It was suggested that licensing fees might cover the administrative costs of the international organization, while royalties would be distributed for the benefit of States parties to the agreement establishing the régime, taking account of the special needs and interests of the developing countries.

The working paper was intended to be exploratory only and his Government was not firmly committed to the proposals it contained.

The meeting rose at 12 noon.

SUMMARY RECORD OF THE THIRTY-FIRST MEETING

held on Wednesday, 5 August 1970, at 10.45 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (continued)

Mr. SOTO (Peru) said that his comments would be of a general nature and would contain no specific reference to the question of international machinery. His delegation reserved the right to comment at a later stage on the Secretary-General's study on that subject (A/AC.138/23).

There seemed to be general agreement that the Committee's priority task was the preparation of a balanced and comprehensive declaration of principles. Indeed, General Assembly resolution 2574 B (XXIV) specifically instructed the Committee to draw up such a draft declaration.

Since the opening of the present session, three working papers of considerable interest had been circulated by the delegations of the United States (A/AC.138/25), France (A/AC.138/27) and the United Kingdom (A/AC.138/26). As he understood it, the United Kingdom document was an elaboration of a set of proposals made at the 24th session of the General Assembly and outlined in a working paper submitted to the Committee at its previous session (A/AC.138/SC.2/L.6, annex V), on which occasion his delegation had voiced its misgivings as to the usefulness of tabling the document at that time in view of the possible repercussions on the preparation of the declaration of principles.

The French document was intended for review by Governments pending its examination by the Committee on a future occasion, and his delegation endorsed that procedure.

The proposals contained in the United States working paper had been preceded by an announcement by President Nixon on 23 May 1970 (A/AC.138/22). The draft Convention, on the substance of which he would not comment at the present stage, seemed to have the drawback of advocating the establishment of some type of interim régime, an arrangement which would be unacceptable to his Government. Another shortcoming was that it seemed to be an attempt to replace or revise the Convention on the Continental Shelf. Although his Government was not a Party to that Convention, it did not consider it desirable to interrupt the work being carried out in accordance with General Assembly resolution 2574 A (XXIV), which

requested the Secretary-General to consult Member States on the desirability of convening a conference on the law of the sea to review the various existing régimes in order to arrive at a definition of the area of the sea-bed lying beyond the limits of national jurisdiction. All three working papers were, however, constructive, in the sense that they gave a clear indication of the position adopted by the Governments concerned in respect of the international régime to be established.

The Secretary-General's study on international machinery and the preliminary note by the Secretariat on possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction (A/AC.138/24) deserved careful study. As he had already said, however, the highest priority should be given to the preparation of the declaration of principles for submission to the forthcoming session of the General Assembly, as such a declaration must necessarily form the basis for the establishment of the international régime.

Mr. KHANACHET (Kuwait) said that the present session would be of vital importance in determining the future course of the Committee's work, the principal objective of which was the establishment of an international régime for the area beyond the limits of national jurisdiction. Delegations were now familiar with one another's views and aware of their obligations towards the international community; they also had a clearer idea of the form which the future régime might take and the concepts on which it should be based. The legal concepts had been discussed very thoroughly and their precise implications were now apparent. The two studies on international machinery (A/7622, annex II and A/AC.138/23) contained sufficient data to enable the desired type of machinery to be selected. The preliminary note by the Secretariat (A/AC.138/24) would, in spite of its shortcomings, be of assistance in determining how the proceeds of exploitation could be used for the benefit of mankind, taking into account the special interests and needs of the developing countries.

The remaining obstacles, although numerous, were not insurmountable. The Committee's work had both benefited and suffered from the application of the consensus rule. On the one hand, absence of voting had obliged delegations to take account of one another's views and attempt to reconcile divergent opinions; on the other hand, strict application of the consensus rule might result in total

paralysis of the Committee's activities. The possibility that a consensus might not be reached should not be overlooked. Any matters which the Committee was not able to settle would ultimately have to be taken up by the General Assembly. It was the Committee's solemn duty to discharge in full the mandate with which it had been entrusted.

The informal consultations which had been taking place in the Legal Sub-Committee had proved extremely useful, but it was essential that a declaration of principles should be drawn up by the Committee during its present session. The establishment of a legal régime for the sea-bed was all the more urgent and vital as some Governments had either rejected General Assembly resolution 2574 D (XXIV) or announced their intention to take advantage of the interim period to extend their activities in the area beyond the limits of national jurisdiction. The interim period concept was regarded by his delegation as a subterfuge devised by the advanced countries to enable them to misappropriate the resources of that area. If such activities were allowed to continue unhindered during the interim period suggested, the advanced countries would lose interest in the establishment of an international régime and become less willing to think in terms of the benefit to mankind in general and to the developing countries in particular. Although his country, like other small countries, had neither the power nor the technological resources necessary to prevent the technologically advanced countries from starting to exploit the area's resources forthwith, his Government would have no truck with any attempt to lend a semblance of legality to such activities. It would be quite unthinkable for the Committee to grant a licence for depriving mankind of its common heritage.

His delegation would state its views on the question of international machinery in a separate statement. At the present stage, he wished only to pay tribute to the Secretary-General for a comprehensive, stimulating and honest report on the problem.

The working papers submitted by the delegations of the United States, France and the United Kingdom and the comments to which they gave rise during the Committee's discussions would be carefully studied by his Government; however, his delegation itself would have neither the time nor the necessary instructions to discuss such complex documents during the present session. No matter what new issues might be raised, the Committee's first duty was to carry out the mandate it

had received from the General Assembly, namely, to draw up norms for an international legal régime and to lay the foundations for appropriate international machinery.

WORK OF THE LEGAL SUB-COMMITTEE

Mr. GALINDO POHL (El Salvador), Chairman of the Legal Sub-Committee, said that two informal meetings of the Legal Sub-Committee had been held since the last session of the Committee. The first of those meetings, held in New York in June, had enabled agreement to be reached on a number of points. The existence of an area which should be brought under an international régime had been recognized, although no decision had been taken as to whether that principle should be stated in the preamble or in the operative part of the draft declaration. It had been agreed that no Member State might claim sovereignty or exercise any other rights over the area, that the area's resources should be exploited for the benefit of mankind as a whole, and that due provision must be made for rationalized administration of the area, equitable participation in the proceeds of exploitation, and the safeguarding of the interests of third parties and of scientific research. It had also been agreed that the area should be utilized for peaceful purposes.

The second informal meeting of the Sub-Committee, held in Geneva immediately prior to the present session, had been less productive because of the absence of a number of delegations. The only further point on which agreement had been reached was on the prevention of pollution.

The New York meeting had left unsettled a question on which a number of proposals had been made, namely, that of property, ownership and the acquisition of rights over the area's resources. Also left unsettled was the question of respect for the rights and interests of all Member States and of coastal Member States in particular; agreement on that question, however, seemed imminent. The complex question of responsibility and liability in respect of activities undertaken and the question of liability for damages caused through exploitation had also been discussed; one of the problems which had arisen in that connexion was that of whether liability should be limited to cases of violation of the law or extended to cases of absolute liability, what Latin-American law termed "liability without fault". It should be possible to reach agreement fairly rapidly on the question of the settlement of disputes.

Among the questions remaining to be discussed were those concerning the economic effects of exploitation, the applicability of international law, and the concept of the common heritage of mankind. The latter question had been discussed at the New York meeting and should not prove too difficult to settle.

While he had no wish to minimize the difficulties ahead, he considered that a certain amount of progress had been made and that agreement would be reached very shortly on some of the questions still outstanding.

The meeting rose at 11.25 a.m.

SUMMARY RECORD OF THE THIRTY-SECOND MEETING

Held on Friday, 7 August 1970, at 10.40 a.m.

Chairman: Mr. AMERASINGHE Ceylon

INTERNATIONAL MACHINERY (A/AC.138/23)

Mr. PHILLIPS (United States of America) said that the Secretary-General's excellent "Study on international machinery" (A/AC.138/23), like his previous study on the same subject (A/7622, annex II), would be helpful not only in the Committee's consideration of machinery but also in its examination of the problem of the régime to govern sea-bed exploration and exploitation. Indeed, as recognized in both those reports, it was not possible to consider international machinery without regard to the régime of which it was necessarily a part.

The first of those reports put forward three alternative régimes: one involved the registration of sea-bed resource activities, the second involved their licensing, while the third involved implementation by machinery with exclusive rights to conduct sea-bed exploration and exploitation.

The present study envisaged four systems. The first would merely call on States to exchange information. The second would provide for co-operation in working out rules governing sea-bed activities, to be enforced voluntarily by States. The third would involve international registration or licensing of activities. The fourth would involve the regulation, supervision and control of all sea-bed activities.

The United States draft convention (A/AC.138/25) which he had submitted to the Committee at its twenty-ninth meeting, combined elements of the third and fourth of those alternatives.

The draft convention would establish an International Seabed Area beyond the water depth of 200 metres as the heritage of mankind, to be explored and developed under an international régime. Revenues from mineral production would be used for international community purposes, taking into account the special needs of developing countries. That part of the International Seabed Area which extended from the 200-metre depth to the seaward edge of the continental shelf, however, would be designated as a Trusteeship Area in which coastal States would act as trustees for the international community. The Trusteeship Area would not be separate from the International Seabed Area, but the coastal State would receive a

share - say one-third or one-half - of the international revenues derived from it, whereas in the rest of the International Seabed Area the whole of the revenues would be used for the benefit of the international community.

No State would be allowed to exercise sovereignty over the International Seabed Area, which would be open to use by all States without discrimination except that, in the Trusteeship Area, the Trustee Party could decide whether, how and to whom licences should be issued. The entire International Seabed Area would be reserved exclusively for peaceful purposes. All exploration except scientific research, as well as exploitation of mineral deposits in the International Seabed Area, would be licensed and would be subject to general provisions governing the entities admitted to apply for licences, the conditions under which licences would be used, the size of the areas to which licences might be applied, their duration, the minerals to be covered by the licences and the magnitude of fees and payments. Trustee States would be permitted discretion in establishing some of those terms in the Trusteeship Area.

The international régime would cover also such matters as the establishment of safety standards and the protection of the marine environment from pollution, as well as State responsibility for violations of standards and rules and for damage arising from activities authorized or sponsored by a State.

In order to implement that régime, the United States proposal called for the establishment of an International Seabed Resource Authority, to be supplemented by State machinery. The main organs of the proposed Authority would be the Assembly, the Council, the Tribunal and the Secretariat, in addition to three Commissions of experts: a Rules and Recommended Practices Commission, an Operations Commission and an International Boundary Review Commission.

The Assembly, consisting of all Contracting Parties, would meet at least once every three years. It would elect members of the Council and approve budgets proposed by the Council; it would also consider Council proposals for changes in allocation of net income and for amendments to the convention, and if it approved them would submit them to the Contracting Parties for ratification.

In addition to its role in proposing budgets and changes in allocation of net income, the Council would have power to amend rules and recommended practices, on the recommendation of the Rules and Recommended Practices Commission, and to issue emergency orders to protect the marine environment. It was proposed that the six

most industrially advanced Contracting Parties should serve as designated members of the Council, to which eighteen additional Contracting Parties - including at least twelve developing countries - would be elected. Two of the Council's twenty-four members would be land-locked or shelf-locked countries. The Council would take its decisions by a concurrent majority of designated and elected members.

The Tribunal, consisting of five to nine judges elected by the Council, would decide all disputes and advise on all questions concerning the interpretation and application of the convention. It would have compulsory jurisdiction over any complaint brought by one Contracting Party against another for alleged failure to fulfil obligations under the convention. Whenever the Operations Commission considered that a Contracting Party or licensee had failed to fulfil such obligations, the Tribunal would have the power to impose upon the defaulting Party or licensee a fine not exceeding $1,000 for each day the offence continued and to award damages to the other Party. In the event of a gross and persistent violation by a licensee, it would be for the Council to revoke the licence or request the Trustee Party to do so. In the event of the failure of a Contracting Party to carry out the terms of a judgement of the Tribunal, the Council might suspend the rights of the defaulting Party temporarily, in whole or in part. In addition, any Contracting Party or any person directly affected could request the Tribunal to rule on the legality of any measures taken by the Council or one of the commissions and the Tribunal could declare such measures null and void.

The States would be responsible for supervising the licensees whom they sponsored in a Trusteeship Area or authorized elsewhere in the International Seabed Area. The Authority, however, would have full power to inspect all exploration and exploitation operations throughout the International Seabed Area. The Authority would possess an international legal personality and have the power to collect and disburse its own revenues. It would be allowed to borrow money but, after its first few years, it should become self-supporting.

In the draft convention, the final clauses had been left blank because it was felt that any such proposal would be premature at the present stage. In view of the broad powers envisaged for the Authority, entry into force should require a large number of ratifications, perhaps at least forty, including the six most industrially advanced nations.

The international machinery thus proposed might appear over-elaborate but that was mainly due to the fact that provision was made for an organ for each of the most important functions to be performed. An Assembly of all the Contracting Parties was essential for the approval of budgets and of amendments to be referred to the Contracting Parties; the Council was the executive body; the commissions might have been lumped together or combined with the Council, but his delegation believed that a separate existence was more appropriate. The scheme recognized the complexity of the tasks that must be performed under the proposed international régime. It was true that little exploration and no exploitation was as yet under way in the area that would become the International Seabed Area, but it was necessary to look ahead to a time when such activities would assume substantial proportions. It would take several years for agreement to be reached on an international régime and machinery and, by that time, those activities could be expected to grow.

It could be assumed that the Contracting Parties would bear the cost of their representatives on the Assembly and the Council; the cost of the other organs would probably be small in the early years. Later on, both staff and costs could be expected to increase but even then the provision for States to utilize their own machinery in supervising the operations of licensees whom they sponsored or authorized should help to keep down the administrative costs of the Authority, thus leaving the maximum amount available for development purposes. The possibility, however, should not be ruled out that certain coastal States might wish the Authority to conduct certain supervisory functions in their Trusteeship Areas.

The view had been expressed at the first 1970 session that if the international machinery were so designed as to have full competence to deal with the complex problems to be faced, the régime and rules need be defined only in general terms. Such a régime would be easier to negotiate and administer than one calling for elaborate rules and machinery. The United States proposal represented something of a compromise between those two alternatives in that it provided for a strong organization but limited its discretionary powers in certain areas. For full discretionary powers to be conferred upon an international organization, it was essential that there should be confidence in it and such confidence would in fact be based on the organization's own record of impartiality and efficiency. The United States proposal envisaged only a limited discretionary power at first in such matters as establishing standards and recommended practices and fixing rates of fees and payments. The amendment procedure could be used later to confer

additional powers on the Authority if its own success and other circumstances so warranted it in the eyes of the Contracting Parties. Flexibility was generally recognized as desirable in any machinery and he believed that the United States proposal made ample provision for flexibility. Its machinery did not have any close counterpart among existing international organizations, but neither did the functions it was to perform; that was why it was necessary to break new ground.

He had already stated (29th meeting) that it was not his intention to propose action on the draft convention at the present session; he preferred to draw on it in order to facilitate discussion of the various items of the agenda. He would adopt that same approach in setting forth his delegation's views on international machinery.

Mr. KHANACHET (Kuwait) said that the Secretary-General's comprehensive report on international machinery would undoubtedly assist the Committee and Governments in reaching a decision on the type of machinery they wished to be established. Sufficient data were not available, and active measures should be taken to initiate the process of establishing the machinery. Since the exchange of information and preparation of studies were already being ably carried out by the United Nations Secretariat and the specialized agencies, any such functions assumed by the international machinery would be ancillary to its licensing and operational activities.

His delegation did not favour the establishment of international machinery with intermediate powers because the objective of the proposed machinery was not merely to avoid friction between individual States engaged in the exploration and exploitation of sea-bed resources, but to ensure the optimum utilization of those resources for the benefit of the international community as a whole. It was argued that international machinery with intermediate powers would provide a means whereby States might discuss the issues and adopt common solutions for them; that, however, should form part of the negotiations leading to the establishment of international machinery, which should not be relegated to the role of drafting resolutions, conventions and international regulations once it was set up. The possibility of establishing international machinery for registration and licensing had been dealt with in the earlier study of the Secretary-General. The concept of international machinery confined to the passive role of registration had been rejected by a substantial majority both in the Committee and in the General Assembly. Licensing

was desirable, but the cardinal question whether licences should be confined to States or might be extended to entities which were not subjects of international law had not yet been answered.

The Kuwait delegation had from the outset favoured the creation of international machinery with comprehensive powers, some of which it might exercise immediately while others would be exercised later, when the necessary material and human resources were available. The international treaty under which the proposed régime for the area beyond the limits of national jurisdiction would be established should be of a universal character so as to maintain the unity of the régime and prevent States from accepting some aspects and rejecting others; States should not be allowed to make reservations incompatible with the object and purpose of the treaty which would undermine the régime. The proposed international machinery should be an integral part of the régime, and the basic treaty should therefore provide for the establishment of the machinery and define its legal status, structure, powers and function. The detailed operational and regulatory functions of the machinery should be embodied in a separate constitutional instrument.

Kuwait did not agree with the view that there should be an interim régime, since such an arrangement would benefit the technologically advanced countries and prejudice the interests of the developing countries, which could only be protected by a permanent régime based on the concept of the common heritage of mankind. All activities on the sea-bed should be conducted from the outset under the strict control of the international machinery, the constituent instrument of which should provide for most comprehensive powers to enable it to discharge its functions. Those powers, however, should be exercised in accordance with political, economic and technical realities.

The basic treaty establishing the international machinery should fully recognize its institutional international character as a subject of international law, and should grant it the legal personality and comprehensive powers, which would enable it to acquire and dispose of movable and immovable property and to institute legal proceedings. He did not think the constituent instruments of international organizations provided an adequate model because there was no precedent within the United Nations system for the type of international machinery proposed.

The report contained a comprehensive section on the functions and powers of the international machinery. Licensing would clearly be one of its major functions, and

he noted with satisfaction that the international machinery suggested in the report would have wide powers in accepting or rejecting applications. However, he did not agree with the view that licences should be granted exclusively to States, associations, and international organizations. His delegation believed that licences might be granted to private enterprises or joint ventures, Government enterprises or international consortia representing private or joint enterprises, and governmental and inter-governmental concerns representing various economic systems. While the proposal that operators should be State authorized had some merits, Kuwait favoured a direct system under which the international machinery would be free to deal with all entities, whether subjects of international law or not. Licences should be subject to a new set of rules embodied in the basic treaty establishing the international régime, rather than in accordance with the domestic law of States. International inspection of operations would have to be conducted by the international machinery or under its supervision.

Among the criteria to be applied in granting licences must be the merits of the applicants, the needs of developing nations, the necessity of preventing disproportionately large areas from being placed under the control of a single operator, and protection of the world market from severe fluctuations in the prices of minerals. His delegation noted with satisfaction that a significant role was envisaged for the international machinery in regard to price fluctuation, a vital issue for which the Secretary-General's report suggested as a practical solution the conclusion of international commodity agreements for specific products. The machinery should enforce a ceiling for the production of minerals of which there was a surplus on world markets, rather than enter into compensatory arrangements implying the expenditure of funds that could be better used in accelerating economic and social progress in the developing countries.

His delegation also noted with satisfaction the functions assigned to the international machinery in the organization and implementation of training programmes. The importance of ensuring the machinery's universality and the objectivity of the régime to be established was stressed in the Secretary-General's report, but no criminal jurisdiction was contemplated for the international machinery. The machinery could ensure compliance with its standards and criteria by suspending or revoking the licences of operators and depriving of their voting rights States which committed serious violations. A prior commitment to extend full

co-operation in the enforcement of regulations should also be required from States. Finally, a specific procedure for the settlement of disputes with States and operators would have to be agreed.

Mr. AHMED (Pakistan) said that the work of preparing a comprehensive and balanced statement of legal principles pursuant to General Assembly resolution 2574 B (XXIV) was still in its initial stages, despite the laudable efforts of the Legal Sub-Committee. The absence of such draft legal principles was an obstacle to substantive discussion of the question of international machinery and his delegation would therefore confine itself to general and preliminary observations, while reserving its right to make more detailed comments at a later stage.

He welcomed the excellent study by the Secretary-General and hoped that the model envisaged in part III might serve as a basis for the elaboration of a suitable system of international machinery. His Government saw no reason to modify the views it had already expressed on a number of previous occasions concerning the nature of the international machinery to be established.

A disorderly scramble for the riches of the sea-bed and ocean floor could and should be avoided. Given the necessary political will, it should be possible to subordinate narrow national interests to the wider interests of mankind and to ensure an equitable distribution of the benefits to be reaped from marine resources. However, that objective could only be achieved in an orderly way if an internationally controlled agency, acting for and on behalf of all, was set up. The international machinery should take the form of an autonomous, universal organization possessing full legal personality and having jurisdiction over the sea-bed to ensure the rational exploration, conservation, exploitation and development of its resources. Any other concept of international machinery or, indeed, the absence of a system of the kind he had just described would serve only to perpetuate vested interests and frustrate the legitimate aspirations of mankind in general and of the developing countries in particular.

The proposals contained in the working papers tabled by the delegations of the United States, France (A/AC.138/27) and the United Kingdom (A/AC.138/26) had been transmitted to his Government for the careful study they deserved. His delegation would give serious consideration to all the comments which had been or were to be made on those proposals, as well as to the statement on international machinery just made by the United States representative. After preliminary study of the three

working papers, it seemed to his delegation that present stands would have to be considerably modified if a consensus was to be obtained on the issues involved, and he sincerely hoped that such a compromise would be possible.

Any international order which declared the sea-bed area open to use by all States but omitted to safeguard the interests of the technologically less advanced countries could not but be detrimental to the latter. Furthermore, an interim régime based on such a scheme had the potential danger of becoming self-perpetuating. Such a pattern would, he trusted, be unacceptable to the enlightened conscience of the international community. The latter must take advantage without delay of the opportunity to devise something better than the present "non-system", for that opportunity would not last long.

The meeting rose at 11.45 a.m.

SUMMARY RECORD OF THE THIRTY-THIRD MEETING

Held on Monday, 10 August 1970, at 11.10 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (resumed from the 31st meeting)
and
INTERNATIONAL MACHINERY (A/AC.138/23, A/AC.138/25-27) (continued)

Mr. RAMANI (Malaysia) said that the Committee was reaching out to a new and last frontier, and as the London 'Times' had pithily commented, "We all know what happens to frontier areas; they are fought over, exploited, ruined and their inhabitants destroyed". It had needed two years of debate for the Committee to reach the conclusion that an area of sea-bed and ocean floor actually did exist. Its resources, both living and mineral, had been catalogued with great care, but no one could say whether what had been discovered was the treasure of Croesus or Pandora's box. The developing countries were claiming a share in that supposedly immeasurable wealth which had been described as the "common heritage of mankind", a phrase singularly devoid of legal content, and the developed countries were already making plans to carve up that immense area with the help of their sophisticated technology while magnanimously offering to share the spoils with the developing countries.

But the possibilities offered by modern technology often masked its real peril, the pollution of the human environment. A recent issue of a well-known magazine contained the significant sentence: "In offshore drilling for oil, a bit may puncture a natural fault in the ocean floor and release huge and virtually uncontrollable outpourings of petroleum, like those which destroyed marine life off Santa Barbara, California, in 1969". Again, the decision of the United States Government to dump a vast quantity of nerve-gas in the Atlantic Ocean, despite world-wide protests, including one by the Secretary-General of the United Nations, had been mentioned by the London 'Times' in an article a few days ago dealing with the present session of their Committee, which concluded with the words: "One element of the American proposals will not wait, the protection of the ocean against pollution. The American Government itself might get a better hearing if

it would set the world a better example". The United States should have given more consideration to the possibility of burying the gas underground, thereby at least exposing to risk only those who had created it.

Of the three different proposals already submitted to the Committee, that prepared by the French delegation (A/AC.138/27) was extremely difficult to understand in the inadequate unofficial translation, while the United Kingdom working paper (A/AC.138/26) was characterized by elegant ambiguities. The United States draft convention (A/AC.138/25), for all its nine chapters, 78 articles and 5 appendices, in the final analysis was over-elaborate and misconceived; one could not see the wood for the trees. The proliferation of United Nations committees and other organs, and the resulting duplication and overlapping, had already gone far enough, and it would be preferable to control activities on the sea-bed, at least initially, through already existing machinery such as the United Nations Conference on Trade and Development (UNCTAD) rather than by establishing new institutions. Authority over such activities should be vested in the United Nations and a moratorium declared on all exploration and exploitation of the resources of the sea-bed and the ocean floor pending the establishment of an international régime.

The idea of trusteeship over the continental shelf beyond the limit of 200 metres was a novel concept but had the disadvantage that the continental shelf beyond a distance of 200 metres would be defined in terms of exploitability. If, as was possible, the proposal had been motivated by considerations of national security, what had been offered with one hand might well be taken away with the other.

At the twenty-fourth session of the General Assembly, an addendum[3/] to the Committee's report (A/7622 and Corr.1) had been produced, summarizing the discussions on a draft treaty prohibiting the emplacement of nuclear weapons on the sea-bed. Now bilateral and multilateral treaties had their uses, but they were not what was needed in the present context. What was needed was universally

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3/ Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 22A (A/7622/Add.1).

binding obligations, not merely voluntarily undertaken by States but obligations capable of enforcement by an extra-national body. The assistance of the Security Council rather than of the General Assembly should be sought to prevent any military activity on the sea-bed and the ocean floor. Under Article 25 of the Charter, decisions of the Security Council were binding on all Member States, and its jurisdiction could also, under Article 2, paragraph 6, extend to non-Member States when international peace and security were threatened. The Malaysian delegation therefore suggested that the Committee should authorize its Chairman to discuss with the Secretary-General of the United Nations and the Secretary-General of UNCTAD the possibility of Security Council action in that sphere as well as the possibility of adapting existing machinery to control all activities on the sea-bed.

Mr. ODA (Japan) said that the Secretary-General's report on international machinery (A/AC.138/23) was a comprehensive document which would undoubtedly be of assistance to his delegation in determining its position regarding the type of machinery that ought to be set up. The proposals submitted by the delegations of the United States, the United Kingdom and France required careful study and it was to be hoped that those delegations would give the Committee further explanations regarding the suggestions they contained.

The fundamental issue, as he stated, was the international machinery's function and powers, concerning which he reserved the right to speak again when the matter was discussed in detail.

His Government had taken the position since the session in August 1969 that, inasmuch as the exploration and exploitation of the resources in that area should be undertaken for the benefit of the whole of mankind, some kind of organizational arrangements would come to be needed in order to ensure the orderly realization of that purpose and that machinery of that nature should and could only be established by a treaty.

His delegation supported in principle the idea of international machinery competent to issue licences and to collect fees and royalties. However, the question of the criteria to be applied in assigning areas was a crucial one, which must be thoroughly studied, as was the question whether States alone, or private entities also, might apply for licences. In his delegation's view, the international machinery as the licence-issuing authority should be guided

primarily by objective criteria which would have to be incorporated as part of the régime, and should not introduce elements of arbitrariness in granting a licence to one or another particular applicant.

In his delegation's view, the international machinery should not, at least in the initial stages, have functions and powers other than those governing the exploration and exploitation of resources; the four types of functions and powers listed in part III, section 4.B of the Secretary-General's report on international machinery were already subject to certain rules and regulations of international law.

As to the laying of submarine pipelines and cables, there already existed, in his delegation's view, certain rules and regulations of international law which were applicable to it. His delegation could not find any compelling reason why the laying of submarine pipelines and cables should be included in the competence of international machinery.

His delegation would support the establishment of a general principle that the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction should be reserved exclusively for peaceful purposes. However, proposals for prohibition of military activities in that region were, as pointed out in the Secretary-General's report, still under consideration by the Conference of the Committee on Disarmament; it was, therefore, difficult at present to envisage international machinery competent to deal with the reservation of the area for peaceful purposes as well as the development of natural resources.

His delegation supported the view that the area should be open to scientific research exclusively for peaceful purposes by or on behalf of all States, which should promote international co-operation in such research. Ffom the institutional aspect, however, it did not see why scientific research in that area should be separated from scientific research in the high seas, and the idea of an International Decade of Ocean Exploration was worth pursuing.

His delegation believed that the functions of international machinery should be confined to the question of exploring and exploiting the natural resources of the area, although it did not deny future possibilities that the international machinery might expand and strengthen its functions and competence as needs and requirements would dictate in the future.

On the other hand, his delegation realized that functions and powers of the type indicated in part III, section 4.C of the Secretary-General's report, such as prevention of pollution, could properly be conferred on the international machinery.

It was his Government's view that only the mineral resources of the area should be included in the natural resources governed by the proposed international machinery; all living resources - even creatures which remained on the sea-bed - should be excluded from the category of resources, and international regulations on fishery resources conservation should be made applicable to sedentary species.

The idea of direct exploitation by international machinery did not seem to his delegation to be practical, although the time might come in the future when such exploitation by international machinery eventually became both practical and useful.

Mr. MOJSOV (Yugoslavia) said that the Committee's main task, at its present session, was to formulate a declaration of principles which would be significant and meaningful in its content as well as in its influence upon the establishment of an international régime. The declaration should represent a step forward in the development of international law, establishing new relations and providing a new means to meet the developing countries' urgent needs. Furthermore it should be comprehensive and balanced so as to reflect all the major aspects of the problem and the interests of all groups of States. The Committee should lay down guidelines for a permanent international régime for the sea-bed and the ocean floor beyond the limits of national jurisdiction which would regulate activities in that area for the benefit of mankind as a whole. It could not be expected to support the creation of an intermediary régime.

His delegation expressed its appreciation to the French, United Kingdom and United States delegations for their proposals, which his Government would examine carefully; in particular, the United States proposals would require considerable time for study.

The Secretary-General's report was an objective analysis of the alternative forms of international machinery, as well as of the various aspects of the latter's competence and functions. The main problem was to decide on the substance of an international régime and accordingly on the substance and functions of international machinery as its integral component. It was essential that the international régime, including the international machinery, should be sufficiently effective to

safeguard the interests of mankind as a whole and to ensure that all States, particularly the developing countries, benefit from the exploitation of the area's riches. Moreover, the international régime, including the international machinery, should provide for alternatives that would be more acceptable to all and more attractive than other means to which States might have recourse in securing their own interests in the area. Failure to deal with such problems could have undesirable consequences. The whole problem was not only a problem of the law of the sea; the broader question of international relations had also to be considered. For the developing countries, it was of paramount importance to find such solutions as would meet the urgent problems of the under-developed regions and to narrow the ever-widening gap between the developed and the developing countries, a problem which had not yet been met with the necessary understanding on the part of the developed countries.

The jurisdiction of the international machinery would cover the area of the sea-bed beyond national jurisdiction, the resources of that area being the common heritage of mankind. Consequently that machinery should be given appropriate powers and functions in order to be able to secure the uses of the common heritage of mankind in the interests of mankind. Therefore it should be machinery in which all States would be represented and the interests of all groups of States reflected. It should strive for international co-operation, harmonization and economic integration rather than for the securing, in one way or another, of the interests of only one group of States or association of interests. It should function on the basis of the principle "one State, one vote" and without discrimination against any State.

The international machinery should not be a mere copy of existing international bodies but should be, in some aspects, an organization sui generis. It should possess full legal status and established legal personality acting within the framework of the United Nations.

It was evident from discussions so far that international machinery having a very limited scope and competence, such as a registering body or intermediary organization, was neither acceptable to the majority of States nor corresponded to the basic concept that the area and its resources were the common heritage of mankind. That was the reason why he welcomed the conclusion, contained in part III of the report of the Secretary-General, that machinery having a comprehensive structure and powers was the one type of machinery which corresponded to that concept.

He agreed with the conclusion of the report that one of the functions of a machinery of that type could be to license activities for the development of resources in accordance with certain standards which would, in effect, comply with the general principles governing the international régime.

Changes in the classical licensing system, as based on the national legal systems of some countries, would adapt that system to the functioning of the international machinery in the actual sharing of benefits derived from the exploration and exploitation of the area and its resources, taking into account the particular needs and interests of the developing countries. He viewed the principle of the sharing of benefits not only as the sharing of some of the financial proceeds accrued through various taxes and royalties, but also as a sharing in the profits from exploitation, the sharing of all kind of information about the sea-bed and its natural resources, and as the sharing of technological know-how, etc., taking into particular account the needs of the developing nations.

The system of sharing in benefits derived from the exploration and exploitation of the sea-bed and its resources should be specially elaborated as a part of the international régime. Funds obtained in that way should be used primarily to meet the needs and interests of the developing countries. They could also be used for some general needs of the international community in the area and, eventually, they could be partly appropriated to the budget of the international machinery itself.

It was his considered opinion that a part of the benefits, or its financial equivalent, intended to meet the needs and interests of the developing countries, should be divided among the developing nations on the basis of specific regulations that would reflect the various situations, levels of development, etc., of each developing country. The developing countries would be primarily responsible for the distribution of that part of the benefits and also for use of financial resources accrued in that way for their specific needs and interests, in accordance with the priorities they, themselves, had decided upon.

His delegation hoped that the international machinery would not develop into a large bureaucratic body, lacking effectiveness and expending the major part of the benefits accrued from exploration and exploitation for its own functioning. The machinery, however, should have political powers, as it could not be limited only to some technical or mechanical functions similar, for example, to those of a classical registering body.

The international machinery could have authority in respect of all activities connected with the exploration and exploitation of the sea-bed and the ocean floor beyond the limits of national jurisdiction, and have powers to regulate, co-ordinate, supervise and control development of various other activities in the area, such as the protection of life, property and living resources, the settlement of conflicts among users of the sea-bed concerning different uses of the sea.

He agreed with the previous speakers that the Committee had received sufficient information and suggestions, from the Secretary-General and members of the General Assembly, to be in position to develop the concept of appropriate international machinery within the framework of an international régime. It would be helpful if the international régime and the international machinery could be discussed simultaneously as a second stage, following the adoption of a declaration of principles.

Mr. ENGO (Cameroon) said that, while welcoming the Secretary-General's report on international machinery, he doubted the wisdom of entrusting the Secretary-General with such a task. The field was a new one which in the final analysis would be covered by political considerations. In a world in which might still took precedence over right, the Secretary-General must be aware that his idealistic schemes for the good of the international community might be reduced to idle dreams, particularly since no decision had yet been taken on the régime itself.

His delegation welcomed the various proposals submitted to the Committee. It was impossible for a small delegation like his own to make detailed comments on the United States proposals, submitted in the form of a draft convention several aspects of which would need careful study by his Government's experts. He would, however, attempt to outline certain general views both on those proposals and on the Secretary-General's report.

His interpretation of the expression "various types of international machinery" seemed to differ somewhat from that of certain delegations and of the Secretary-General himself. The latter had been requested to examine the various types of machinery which might be set up to implement the régime's provisions, and that task had been rendered particularly difficult by the absence of a régime. However, the instructions contained in General Assembly resolution 2574 C (XXIV) seemed to have been misinterpreted, as the types of machinery requested were to have been alternatives and nothing more.

The study requested by the General Assembly was intended to cover in depth the status, structure, functions and powers of an international machinery having jurisdiction over the peaceful uses of the sea-bed and with the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation of marine resources for the benefit of mankind. Of the four types of international machinery proposed by the Secretary-General in part II of his report, neither the first, international machinery for exchange of information and preparation of studies, nor the third, international machinery for registration and licensing, should be considered as independent forms but as only part of the functions of the machinery to be established. The suggestion in paragraph 42 of the report that "further distinctions and refinements, as well as combinations, could be made as regards the various types of international machinery which might be established" did not compensate for that shortcoming. The correct combination would be one of functions, not of forms. His Government could not support any form of organization or authority whose impotence or ineffectiveness was guaranteed in advance; what it favoured was a strong and effective machinery which would be an integral part of the international régime.

His Government was opposed to the idea of interim machinery, which might be prejudicial to a proper consideration of the future régime, and was in favour of the immediate establishment of an organization with full jurisdiction over the peaceful use of the sea-bed area, including the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation of the area's resources and to ensure that the benefits of those activities would

accrue to mankind as a whole, taking into account the special interests and needs of the developing countries. The organization should be composed of all States parties to the convention; the International Seabed Resource Authority proposed by the United States delegation would only be acceptable if it formed an integral part of the organization and, as such, was responsible for the supervision, regulation, co-ordination and control of all exploration and exploitation activities. Another such authority might be established to deal with the other aspects of the peaceful uses of the sea-bed.

Peace, rather than development, was the most important consideration; growth, no matter how well planned, could be impaired by the absence of peace. Although important, the exploitation of sea-bed resources and the deployment of the benefits accruing therefrom for the well-being of mankind were not the only factors to be taken into consideration. The United States' proposals concentrated too much on materialistic aspects and too little on the ocean floor's potentiality for peace. The institution to be established must be sufficiently flexible to meet the growing challenges to international peace and order, as it was impossible to rely for that purpose on the inspiration or devotion of any one State. Only through the participation of all States, without discrimination, could realistic foundations for international peace be laid.

He saw no valid reason to support the suggestion made in the United States draft that the six most industrially advanced contracting parties should serve as designated members on the proposed Council, and he wondered on what criteria such a selection would be made. It would be better to encourage the active participation of existing regional organizations or to establish such organizations where they did not already exist. Collective strength, exercised through regional groupings, was indispensible if young, relatively vulnerable States were to avoid being exploited. His Government therefore proposed the establishment of machinery which would provide for the participation of regional organizations such as the Organization of African Unity (OAU) wherever participation by individual developing States would be ineffective. Such regional organizations should also be encouraged to set up joint research centres and institutions of learning for the promotion of the Charter's provisions.

The establishment of trusteeship zones was not to be recommended. Cameroon's experience under the mandates system of the League of Nations and the trusteeship system of the United Nations showed that such systems failed to promote economic and social growth because no State had ever been able to subordinate national interests to those of the international community as a whole. He could see no justification for the creation of a trusteeship system involving intermediaries who would collect vast profits, thus reducing the capacity of the international community to meet its needs for development and peace. If a trusteeship system was considered essential, regional organizations would be the only satisfactory type of trustee. Although his country might reap some individual benefit from a trusteeship arrangement of the type suggested in the United States draft, his Government recognized that the strengthening of the international community as a whole was the most effective means of strengthening the nation. That was why Cameroon had given active support to OAU and participated in other regional organizations and economic groupings.

The manner in which profits and benefits would be distributed was of vital importance. Such distribution should not be reduced to a patronizing form of foreign aid. Benefits must be used to meet the developing countries' needs, bridge existing gaps, and create conditions under which peace and well-being could be established and maintained.

He welcomed the United States suggestion for the establishment of a secretariat and an institution for the arbitration of disputes. It was indispensable to ensure that both bodies were of an impartial and neutral nature. He also welcomed the recognition of the fact that the prevention of pollution and damage to the environment would be one of the most important concerns of the international machinery to be established; the regulations to be drawn up in that respect must be strict and stringently applied.

Another important principle was that concessions should be granted only to States, which would thus assume responsibility for all activities carried out by the governmental agencies or private firms authorized to operate under licence. Under such a system, the States would not be mere intermediaries but would be free to use both private and public resources as they thought fit. It would be easier to deal with a State or with regional or other internationally recognized organizations than with private corporations, which lacked a clearly defined status in international law.

The fact that he had not referred to all the proposals before the Committee did not mean that his delegation either endorsed or rejected them. The two interesting documents submitted by France and the United Kingdom required examination and reflection. His Government would not fail, in due course, to make known its opinion on all the questions he had left untouched.

Mr. PHILLIPS (United States of America) said that the Malaysian representative had expressed concern at the pollution caused by releases of petroleum deposits as a result of deep-sea drilling. At present, any State whatsoever could exploit marine resources in whatever way it wished, and unless agreement were reached on an international régime and international machinery, the dangers for the marine environment would increase. It was because his Government recognized the dangers of deep-sea drilling that it had proposed certain provisions to govern the issue of licences.

With regard to the disposal of nerve gas in the Atlantic Ocean, his Government had taken its decision only after fifteen months of extensive review by experts and scientists who had concluded that there was no safe alternative. His Government regretted that it was necessary to dispose of the gas in that way and would not have decided to do so if it had not been convinced that no damage to human life was involved and that the damage to marine life would be very limited and only temporary.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE THIRTY-FOURTH MEETING

Held on Wednesday, 12 August 1970, at 10.25 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (continued)
and
INTERNATIONAL MACHINERY (A/AC.138/22-27)(continued)

Mr. PINTO (Ceylon) said that the Secretary-General's study on international machinery (A/AC.138/23), prepared in accordance with General Assembly resolution 2574 C (XXIV) of which his delegation had been a sponsor, was a welcome document. In his delegation's view, any international machinery of the type considered in part III of that study must form an integral part of the régime to be established; indeed, such a régime would require an organization competent to administer it fairly and efficiently, in order to ensure the rational management of the area's resources and the equitable sharing of the benefits derived therefrom. In March 1970, a number of delegations, including his own, had submitted to the Economic and Technical Sub-Committee a background paper outlining the type of machinery they thought desirable. The text of that paper had been reproduced in the Secretary-General's study which elaborated many of the powers and functions contemplated in the paper. Less was said, however, about the structure of the proposed organization. The Secretariat note on possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction (A/AC.138/24) gave some useful information and he hoped it would be followed by more detailed studies.

His Government would favour an organization consisting of four main bodies: first, a plenary assembly of representatives, one from each member State, responsible for deciding all major issues of policy; secondly, an executive organ of not more than twenty-five members, to deal with the day-to-day interpretation and implementation of policy; thirdly, a secretariat; and fourthly, possibly a judicial body to settle disputes between parties. As an alternative to the last-mentioned body, some special arrangement between the international machinery and

the International Court of Justice might be possible, whereby the Court under Article 26 of its Statute, might form a special chamber for sea-bed disputes. The foregoing observations were without prejudice to his country's subsequent position as to whether the proposed judicial body's jurisdiction should be consensual or compulsory.

The voting system in the proposed organization should be based on the principle of one State one vote; no veto system, manifest or disguised, should apply in the deliberations of either plenary or executive organs. The organization should have full international legal personality. Although its competence might, in practice, be restricted to the peaceful uses of the area and its resources, its constitution should be so drafted as to allow it wider functions and powers - for example, in connexion with a verification system in a possible sea-bed demiliterization treaty.

In his delegation's view, the Committee's next step should be to try to reach a decision, as soon as possible, on certain basic points of principle concerning the proposed international machinery's structure, functions and powers. Its licensing powers for the exploitation of sea-bed resources would be especially important. Licensing rules and procedures should not prohibit a certain amount of negotiation between applicants and the organization, since that would ensure that the successful applicant not only had the greatest financial and technical capability but offered the organization the most attractive financial return. The organization should be able not only to act independently but to collaborate with existing entities such as the Inter-Governmental Oceanographic Commission (IOC), the Inter-Governmental Maritime Consultative Organization (IMCO) and perhaps the International Atomic Energy Agency (IAEA).

It would certainly be difficult to ensure that all minerals extracted from the sea-bed were used exclusively for peaceful purposes; that consideration should not, however, prevent the organization from requiring users to enter into binding legal commitments to use resources for peaceful purposes, or from assuming powers to take whatever follow-up measures might be feasible. The experience of IAEA might be useful in that respect.

The organization must be set up by a new international agreement, negotiated and drafted at an international conference convened for the purpose. His Government would have no objection to the new organization forming part of the United Nations family, but in order to secure the widest acceptance for the régime proposed, and therefore its maximum effectiveness, the international agreement must be open to accession by all States, whether members of the United Nations family or not.

The proposals submitted to the Committee by the United States delegation (A/AC.138/25) would, if adopted, introduce a so-called "international trusteeship". In most national legal systems, trusteeship meant the administration by one person of property for the benefit of another; under the United States proposal, however, the so-called "trusteeship area" referred to property held by a coastal State as an exploitation concession held in perpetuity from the international community, the "trustee" thereby receiving most of the benefits. That being the case, his delegation, without prejudice to its Government's eventual decision concerning such an arrangement, felt that the term "trusteeship" was, in the context, hardly the most apt.

Moreover, it seemed inconsistent that the United States, having accepted the concept that the continental shelf beyond the 200-metre isobath should be declared the common heritage of mankind, should go on to propose that coastal States should have certain preferential rights in that area, to the exclusion of the international authority, whose sources of income would then be seriously reduced and its viability in the early years severely strained. The proposed organization's functions and jurisdiction should apply to the international sea-bed area as a whole, not simply to its resources, as implied in the United States proposal.

His Government could accept, broadly speaking, the organizational structure outlined in the United States proposals. Since, however, the sole plenary body, the assembly, would meet only at three-year intervals, effective control would lie with the council, where six major industrial countries would be able to exert

undue influence and would, in fact, be able to determine the organization's success or failure. In his delegation's view, the formula finally decided upon should provide for decisions by a simple majority.

The proposed division of revenue, as set out in the United States proposals, looked more like a grant of foreign aid to selected countries than the receipt by each State of its due share of property to which it had an unquestionable right. Although the channelling of revenue to some such organizations might, for purely administrative reasons, be agreed to, it must not be allowed to resemble in any way the traditional loan or grant facilities from foreign institutions.

His delegation, having been a sponsor of General Assembly resolution 2574 D (XXIV), could not accept the proposed issue of permits for exploration and exploitation of the sea-bed area beyond the 200-metre isobath, whether or not authorized by the State of the exploiting entity, prior to the establishment of the régime and therefore not subject to the controls thereby provided.

His Government wished to study the United States proposal, the French proposal (A/AC.138/27) and the United Kingdom proposal (A/AC.138/26) in greater detail and would make known its further views at the appropriate time. International machinery with wide powers was required in order to ensure that the sea-bed and its resources beyond the limits of national jurisdiction were developed and used exclusively for peaceful purposes.

Mr. HUDSON-PHILLIPS (Trinidad and Tobago) said that the General Assembly, by instructing the Committee to draw up a comprehensive and balanced statement of principles, had implied that it would reject any partial or interim declaration of a few general principles on which some consensus might have been reached; by requesting the Committee to expedite preparation of the declaration, it had unequivocally expressed its fear that uncontrolled developments in the sea-bed area might render the Committee's work meaningless.

The progress achieved during the informal consultations of the Legal Sub-Committee had been slow and negotiations had been difficult, but that was only to be expected in an area where international law provided no substantive rules. Since there was an organic link between principles and the international régime, it was difficult to discuss one subject without reference to the other. The

régime should be based on a complete and balanced declaration of principles, and its functional mechanism should have the power to regulate activities in the area. As long as agreement had not been reached on the objectives of the régime, it would be premature to discuss the structures, functions and powers of the international machinery. Some delegations favoured a strong mechanism with full powers to regulate and control all sea-bed activities, others favoured a lighter mechanism which would merely co-ordinate the activities of States in the area, while yet others wanted no mechanism at all. Until those positions could be reconciled, little would be achieved.

The Secretary-General's excellent studies on international machinery (A/7622, annex II and A/AC.138/23) had been supplemented by three useful working papers submitted by the delegations of the United States, the United Kingdom and France. The latter had been transmitted to his Government and his comments at the present stage would therefore be preliminary and tentative.

The French paper appeared to be based on the concept of the common heritage of mankind, which must be the mainspring of the international machinery. In its application, therefore, it must be universal and have multilateral rather than bilateral effects. The distribution of benefits at the discretion of States clearly conflicted with the concept of the common heritage of mankind, which had been accepted by the majority of the international community.

The statement in article 1 of the draft convention submitted by the United States delegation that "the International Seabed Area shall be the common heritage of all mankind" appeared to be a slight departure from the proposal in President Nixon's declaration of 23 May 1970 (A/AC.138/22) that States should agree to regard the resources of the area beyond the 200-metre isobath as "the common heritage of mankind". The proposal for the establishment of an "International Seabed Resource Authority" rather than an "International Seabed Authority" seemed to confirm the view that it was now the intention of the United States Government to restrict the application of the convention to the resources of the sea-bed, instead of supporting its application to the whole of the sea-bed. In his view, conflicts of a colonial type could be avoided only if provision were made for the rational and equitable management, not only of the resources, but of the area itself.

The United States draft contained provisions for the dedication of a substantial portion of royalties to "international community purposes", a term which to many delegations smacked of economic assistance to the developing countries. The objective of the international machinery should not be to hand out development aid or subsidize organs such as the United Nations Development Programme (UNDP), thereby relieving the richer nations of the world of their responsibilities in that respect. The machinery to be established must provide for the non-appropriation of the area, its administration by all, and progressive and equitable distribution of benefits. Each State had a right to its share, and that share did not constitute aid; it should be used by each State at its discretion, without prejudice to any other forms of aid received from international or other sources. He agreed, however, that the administrative costs of the machinery would have to be borne from the proceeds of the use and exploitation of the area's resources. It was clearly impossible to give detailed consideration to the structure of the international machinery until agreement had been reached on those essential elements.

The majority of delegations appeared to consider an International Registration Authority inadequate, and to prefer a strong managerial mechanism, "a trustee who will maintain and defend the status, conserve the properties and distribute equitably the benefits derived from it". Those were the words used by the representative of Ceylon at the thirty-first meeting of the Legal Sub-Committee. That interpretation of the term "trustee" his delegation would endorse but it had doubts about the concept of a "trustee" outlined in the United States working paper. The term "trustee party" was not clearly defined with reference to the coastal State, but it was implied in article 27 (2) that the coastal State would be the trustee party in the International Trustee Area off its coast. The terms of article 28 seemed to indicate that the trustee might, by collecting and retaining the maximum fees, payments and additional taxes, become the principal beneficiary to the detriment of the international community on whose behalf the property was theoretically being managed. Such a concept was not common to all systems of jurisprudence and even in cases where it did apply, the trustee could under no circumstances be the sole beneficiary. He therefore had strong reservations on the question of the international trusteeship area.

His delegation considered that the question of limits did not fall within the competence of the Committee, and had reservations regarding the 200-metre isobath. The solution of the problem of limits might require the conclusion of an international agreement, perhaps within the framework of a new conference on the law of the sea.

The machinery to be established would never be able to exercise any power over exploitation and realism demanded the establishment of a strong mechanism which would manage the area but not concern itself with exploiting the resources. The administering authority must however be different fr[illegible]he authority responsible for distributing the benefits derived from exploitation, and his delegation accordingly looked forward to an additional study from the Secretary-General on the question of criteria for the apportionment of such benefits.

The long-term objective of the international régime must be participation on an equal footing by marine scientists and engineers, physical oceanographers and sea-bed administrators from both the developing and the developed countries. That would involve the organization of training programmes and they should form an essential part of the machinery's functions.

Mr. YANKOV (Bulgaria) said he would confine his remarks to two fundamental questions relating to the over-all concept of international machinery, namely, the relationship between the international régime and its appropriate institutional arrangements, and the basic requirements for an international machinery.

Attention had already been drawn to the inherent relationship between the nature and legal framework of the international régime and the institutional arrangements required for its operation, irrespective of the type of machinery chosen. Even if the establishment of a régime which would not necessitate the creation of a new international institution for the exploration and exploitation of the sea-bed could be visualized, it was impossible to conceive of international machinery which could stand by itself, outside the framework of rules on which the régime would be based. So, if the international machinery was considered as the régime's institutional superstructure, it was only logical that the elaboration of the régime's legal framework should take precedence over the creation of adequate machinery.

Discussion of the question of machinery should not, however, be deferred but should proceed hand in hand with consideration of the scope of the régime. Efforts should be concentrated first on drawing up the guidelines for the régime and negotiating a basic international instrument containing provisions for appropriate institutional arrangements. The detailed provisions concerning the status, powers and functions of the institution might subsequently be embodied in a separate instrument. At the present stage, top priority should be given to reaching agreement on the régime, its scope and nature, and its main objectives and functions. His delegation therefore endorsed the course of action described in the third and fourth sentences of paragraph 69 of the Secretary-General's study.

The general principles to be agreed upon by the Committee and its Legal Sub-Committee could provide the basis for a régime governing the exploration and exploitation of the sea-bed resources, to be established by an international treaty open to accession by all States in accordance with the principles of sovereign equality and universality. The extensive discussions which had taken place on those principles had been extremely useful; not only had they led to the formulation of a set of general rules of international law, but they had also promoted a better understanding of certain basic concepts such as that of the common heritage of mankind. The next step should be the elaboration of a clearer definition of the area beyond the limits of national jurisdiction as one which was not subject to national appropriation and whose resources were to be used exclusively for peaceful purposes, for the benefit of all States without discrimination. The main objective of the present session should therefore be to reach agreement on the general principles to be submitted to the twenty-fifth anniversary session of the General Assembly, and thereafter to proceed with establishing the international régime.

The important working papers submitted by the delegations of the United States, France, and the United Kingdom deserved more careful study, and his delegation did not intend to comment on them at the present stage.

With regard to the question of the régime's institutional arrangements, the Secretary-General's study described a wide range of possible alternatives, the

most suitable or which could not be determined until agreement had been reached on certain basic principles. First, the institutional arrangements should be based on a universal international agreement, and his delegation shared the view expressed in paragraph 142 of the Secretary-General's study that "it would be highly important to ensure universal participation in the régime to be established". Secondly, the institution should be intergovernmental and not supra-national, for States must play a predominant role in both the law-making process and the application of the rule of law; even if special provision were made for the participation of intergovernmental organizations, the establishment and operation of the institution should be based on the consent of States, which would have full international responsibility for any activities carried out in the area under their auspices. Thirdly, there should be full respect for the principle of sovereign equality of all States without discrimination, and it was most important to avoid domination by powerful economic interests, in particular big corporations and other private industrial enterprises. Fourthly, the régime and its institutional arrangements should be designed to promote international co-operation in the exploration and exploitation of sea-bed resources. Fifthly, provision should be made for the strict observance of the rules governing exploration and exploitation. Sixthly, the machinery should co-ordinate all measures for the prevention of pollution, for the protection and conservation of the natural resources of the area, and for the prevention of damage to the marine environment. Seventhly, the machinery should be efficient, have clearly defined powers and functions, and cumbersome bureaucracy with high administrative costs should be avoided. Finally, the machinery should answer the institutional requirements of the régime itself and be adaptable to new developments in the field of exploration and exploitation of marine resources.

Mr. SARAIVA GUERREIRO (Brazil) said that the Committee's main task was still that of drafting a declaration of principles in time for adoption by the General Assembly at its twenty-fifth session. A significant degree of understanding had already been achieved, as a comparison of the two sets of principles submitted to the Ad Hoc Committee and the drafts prepared at the past and current sessions would show. Despite some outstanding difficulties, the main elements of the future declaration had been determined, and his delegation welcomed the

proposal, made during informal consultations last March, which had made it possible to agree that the main purposes of the proposed international régime should be the orderly and rational development of the area's resources and the equitable sharing of the proceeds thereof by the international community.

Thanks largely to the efforts of the representative of El Salvador, the Committee was on the point of producing a statement of principles comprehensive enough to be balanced. It had also been devoting increasing attention to the proposed international régime, and the progress made was shown by the work accomplished by the Economic and Technical Sub-Committee and by the French, United Kingdom and United States proposals, which his delegation would study and comment on once the declaration of principles had been adopted.

In his delegation's view, the proposed international régime must fulfil two main conditions. First, it must be flexible enough to take account of geographical, economic and legal differences - for example, certain regional measures and agreements. Although the ultimate aim was to establish a world-wide régime, such existing measures and agreements must be taken into account when rules were drafted; otherwise it would be impossible to ensure fulfilment of the second condition which was universal participation in the régime; as pointed out in paragraph 142 of the Secretary-General's study, that was necessary to ensure fully effective functioning of international machinery of the type in question. In his delegation's view, universality was necessary also in other types of régime or machinery, including the registration and licensing of activities. The principle of the common heritage of mankind would be meaningless if the régime failed to avoid the fate of the Geneva Conventions on the Law of the Sea, to which, after 12 years, only a small part of the international community had acceded.

Consideration of the institutional arrangements within the régime was a matter of extreme delicacy where the different interests - and not only those of the major technological Powers - must be duly recognized. With regard to the sharing by the international community of the benefits of exploitation of the resources of the sea-beds beyond the limits of national jurisdiction, his delegation had warned both the General Assembly and the Committee against attempts

to make the sharing of benefits a part of foreign aid programmes, whether bilateral or multilateral. Since each State had a rightful share in the heritage which the area represented, it should itself be able to decide how the benefits accruing to it were to be utilized. The distinction between such rights and foreign aid had been made in the General Assembly at its previous session, and paragraph 38 of the Secretary-General's study spoke of "a method of direct channelling of benefits to States".

His delegation was disappointed by the reference in the Secretariat's note (A/AC.138/24) to the difficulty of preparing a paper on possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction. Similar difficulties had not prevented the Secretariat from preparing the two studies on international machinery. The Secretariat had been asked to outline possible methods and criteria for the sharing of benefits, and it ought not, therefore, to make recommendations or pass judgement thereon; those tasks were the responsibility of the Committee.

Mr. JAGOTA (India) said that the Secretary-General's study on international machinery was necessarily descriptive and analytical, since, as the report itself recognized, specific provisions for machinery could only be formulated when agreement had been reached on what kind of régime would be most appropriate. The Committee would therefore have to agree on the basic principles governing activities on the sea-bed as a foundation for the subsequent preparation of an international régime for such activities. Once that foundation had been laid, the appropriate machinery for implementing the régime would have to be devised.

The various proposals made by delegations during the present session had facilitated the consideration of those basic principles. There was an increasing recognition that the area involved was the common heritage of all mankind and that, whatever the differences about the precise legal implications of that concept, title to the sea-bed and its resources, in which every community would have an indivisible share, should be vested in mankind as a whole. It followed from that basic policy that the sea-bed should be reserved exclusively for peaceful purposes

and should be opened for use by all States without discrimination. It was gratifying that those fundamental postulates had been incorporated by the United States delegation in the draft Convention which it had submitted.

The international régime and machinery must rest on those foundations. If the sea-bed was to serve the common heritage of mankind and not just the interests of the few, the international machinery must ensure that the technology, equipment and human and financial resources now concentrated in the hands of a few States were available to the international community as a whole. If that was recognized, agreement on the status and structure of the machinery should not be difficult.

One important question was whether the international machinery should be limited to the exploration and exploitation of resources or should also deal with other peaceful uses of the sea-bed. If the wider view was accepted, the machinery would have to have an economic, technical and commercial wing to regulate and control the exploration and exploitation of resources, and a general or political wing to deal with co-ordination with other international organizations concerned with specific aspects of the marine environment and questions relating to the exclusive use of the sea-bed for peaceful purposes. The economic, technical and commercial wing would deal with the manner in which the sea-bed should be parcelled out into smaller units and would determine the area to be opened for exploration and exploitation. It would also assess the resources available within the area opened for exploration or exploitation. Such assessment should initially be concentrated in the machinery itself; subsequently, further exploration, evaluation and exploitation of sea-bed resources should generally be regulated by licences, although the machinery would still reserve the competence to undertake exploitation by itself or in combination with others.

Another major question to be decided was that of the entities to be granted licences. The restriction of licensees to States, groups of States or international organizations authorized to sub-license operators for the exploration and exploitation of sea-bed resources would ensure that it was States that were responsible for observing the general regulations of the machinery and supervising the work of operators. Difficult questions might, however, arise if

an operator had no genuine link with the sponsoring or authorizing State, and it was doubtful to what extent a State could be held responsible for the actions of such operators. Those problems might, however, be avoided if the international machinery were empowered to grant licences not only to States, groups of States or international organizations, but also to international business organizations of repute.

The provisions of the international machinery would have to be set out in an international agreement or treaty. Such an agreement should contain a statement of basic principles as well as provisions concerning the structure and functions of the international machinery and the various organs. The agreement should be as nearly universal as possible: its basic principles should apply to all States, whether or not they were parties to the agreement. It should be open to all States and be acceded to by as large a number as possible. The machinery should have comprehensive functions, and might perhaps be called the "International Sea-bed Authority (INSA)" or the "United Nations Sea-bed Authority (UNSA)". It should have international legal personality.

The structure of the machinery should comprise an Assembly representing the contracting parties to the treaty, a Council, technical Commissions, a Tribunal and a Secretariat. Effective powers would be vested in the Council, which should be representative of all regions of the world and responsible to the Assembly. The Assembly would decide, on the recommendation of the Council, how revenue should be collected and distributed.

The role of the international machinery in its relations with other international organizations would be mainly that of co-ordinator in such matters as the prevention of pollution, protection of life and property and oceanographic research. Co-ordination with the Economic and Social Council would be needed on the development and conservation of marine resources and the marine environment, and with UNCTAD on the stabilization of commodity prices.

A link would also have to be established with the United Nations in the delicate task of ensuring that the sea-bed was used exclusively for peaceful purposes, and the international machinery should have competence to give its views on the legality of measures such as the dumping of nerve-gas cylinders on the sea-bed. Such a link would be still more necessary if the machinery was assigned

a role in regard to the demilitarization or denuclearization of the sea-bed. In view of the drafting by the Committee on Disarmament of an international treaty on demilitarization of the sea-bed, it was not clear how the basic principle that the sea-bed should be used exclusively for peaceful purposes was to be implemented by the proposed machinery.

He wished to make some preliminary comments on the draft convention proposed by the United States, to which his delegation was giving further study. The Indian delegation agreed with many of the basic principles contained in the draft convention, although it would have preferred the concept of the common heritage of all mankind to have been recognized in the present tense in article 1 rather than in the future tense.

Its first reaction to the concept of a trusteeship area was not favourable, since that area would constitute between 25 and 30 per cent of the sea-bed area, where most of the known petroleum and mineral resources might be available. If each State became a trustee for the continental margins, there would be greater scope for the development of a monopoly or trusts by a few technically advanced countries which alone had the necessary skills, equipment and resources. In effect, therefore, some foreign companies rather than the coastal State concerned would become trustees. In addition, the proposal would create difficulties in determining boundaries, particularly in relation to islands.

The developing countries would, in the view of the Indian delegation, gain far more from the effective functioning of an international machinery than from the concept of trusteeship. The régime proposed by the United States for the residual sea-bed appeared to provide for another form of trusteeship, since all decisions of the proposed Council would require a majority, including a majority of the six most advanced countries, which would have a permanent place in the Council. The transitional provisions of the United States proposal, too, were unacceptable; the emphasis should be on establishing an effective international régime and machinery as rapidly as possible.

The Indian delegation would comment on the proposals submitted by the United Kingdom and France at a later stage.

Mr. MATORF (Poland) said that if the Committee was to fulfil its appointed task of submitting a draft declaration of principles to the twenty-fifth

session of the General Assembly it would have to find out how much common ground there was between the various interests and try to secure compromise solutions to outstanding problems as a means of obtaining unanimous agreement on the most suitable wording. The principles should be general but at the same time clear and unambiguous; they should be couched in terms acceptable to all States and they should not prejudge the issue with regard to certain controversial matters which would have to be solved in the international agreement.

The question of international machinery, on which two studies had been prepared by the Secretary-General, was also dealt with in three working papers submitted to the present session, which his Government had not yet been able to study and evaluate. The Polish delegation had always maintained that there was an essential link between the declaration of principles, the régime and the machinery, and that it was not possible to choose any specific type of machinery, to define its functions and powers, to fix its structure and to define its legal status until agreement had been reached on the wording of the declaration. The Secretary-General's second study, which described various types of international machinery together with other possible functions and powers, could not be considered an adequate basis for a decision, since specific provisions for machinery could only be formulated when agreement had been reached on the most appropriate régime. Certain general ideas could, however, be advanced on the main features of the international machinery: it must be universal and open to all States, it must not be dominated by any single State or group of States, it must ensure equal treatment for States with different economic and social systems and at different levels of economic development, and must promote the orderly development and rational management of the area's resources.

There was also a close link between the problems of the international machinery and the determination of precise boundaries for the area beyond the limits of national jurisdiction, as had been recognized by the Secretary-General in his first report (para. 165). The choice of a particular type of international machinery and the definition of its functions and powers would be determined to a large extent by the way the area was delimited. Any international machinery would have but an empty role if all the mineral riches of the sea-bed and its subsoil

were placed under the administration of coastal States acting as trustees for the international community. Advantage had been taken of the imprecise language of the Geneva Convention on the Continental Shelf which had been utilized to justify extravagant claims in which only the criterion of exploitability had been retained and the remainder disregarded. There was now talk of extending the rights of coastal States to the entire continental margin. As his Government had stated in paragraph 2 of its reply to the Secretary-General's note verbale of 29 January 1970 (A/7925), the problem of the precise definition of the outside limit of the continental shelf called for urgent solution before going on to tackle the complex problems of the international régime and the international machinery.

The lack of an agreed set of general principles, of a precise delimitation of the area, and of a clear concept of the international régime constituted serious impediments to any fruitful discussion on international machinery. A first step must obviously be to reach unanimous agreement on the text of the declaration of general principles. If any group of countries tried to impose a majority decision not acceptable to others, only the illusion of progress would be achieved, and the success of the Committee's future efforts to reach agreement on the international régime would be compromised.

Sir Laurence McINTYRE (Australia) said he welcomed the initiative of the United States, the United Kingdom and France in submitting comprehensive working papers to the Committee. The Committee had embarked on a historic enterprise; it was faced with a unique challenge and must therefore produce positive ideas and suggestions which must be considered with an open mind, since there would have to be a great deal of compromise if a workable international régime for the sea-bed was to be established. Because of the great complexity of the problems involved, that régime and its supporting machinery were unlikely to be completely satisfactory to any single member of the Committee.

Taken together, the three working papers submitted to the Committee could be regarded as constituting a frame of reference for the discussion of a possible régime and of the machinery to operate it. A novel feature of the United States paper was the concept of an intermediate trusteeship zone together with renunciation of national claims beyond the 200-metre isobath, which seemed to

offer to the developing countries the prospect of an early and substantial share of the proceeds of any mineral exploitation of the outer areas of the continental shelf. The proposal might perhaps be even more appealing if the suggested depth limit of 200 metres were to be combined in some way with a distance limit. However, agreement on a more precise definition of the boundary between national and international jurisdiction was obviously still some way off, and it would be difficult to find a formula that could command enough support to supersede the provision of the 1958 Geneva Convention on the Continental Shelf. For the present, the Australian Government continued to favour a simple division of the sea-bed, with the area of national jurisdiction extending rather further than the 200-metre bathymetric contour, and areas beyond being directly subject to an international régime; it would, however, take note of the extent to which other ideas such as the proposed trusteeship zone gained support.

The Committee appeared to be agreed on the importance of preparing a draft declaration of principles at the present session, and it was therefore incumbent on all delegations to reconcile outstanding differences. The essential purpose of the declaration of principles was to provide a series of guidelines for the creation of a properly constituted régime for the international sea-bed; some of the principles might perhaps also be regarded as constituting a guideline for the conduct of States and their nationals pending the establishment of the permanent régime. He did not wish to suggest that the principles should themselves constitute an interim régime, but there might be agreement that some of the principles, such as that relating to conservation, could begin to constitute a guideline immediately, since the establishment of the permanent régime would necessarily take time.

Effective international machinery was clearly necessary to ensure the orderly development and proper protection of the international sea-bed area. However, it was essential that any machinery that might be established commanded the support and confidence of the entire community of nations and that it inspired confidence on the part of operators that concessions granted would be upheld and decisions given justly, impartially and without undue delay.

Of the four main forms which international machinery might take, listed in paragraph 42 of the Secretary-General's study, the first two - machinery for exchange of information and preparation of studies, and machinery with intermediate powers - seemed to his delegation to be quite inadequate for the task ahead. In paragraph 56, the Secretary-General drew a qualitative distinction between registration and licensing. The Australian delegation considered that, although it might be found appropriate for international machinery to register some kinds of activities, registration on its own would be an inadequate procedure, since it would leave the way open for disputes and provide little or no control. In the view of the Australian delegation, licensing was the appropriate form of machinery on which the Committee should concentrate at the present stage. The international machinery should be resource-oriented rather than endowed with authority over all uses of the sea-bed. The major objective must be effective regulation of the management of mineral resources of the international sea-bed area, including the protection of the sea-bed and the marine environment against pollution and other forms of misuse.

Australia had consistently taken the view that the Committee should avoid creating machinery so expensive that it absorbed most, if not all, of the proceeds that might accrue from production of sea-bed resources for the benefit of all mankind, bearing in mind the particular needs of the developing countries. One way in which the burden on the international machinery could be eased was by authorizing Governments to act on behalf of the international machinery in the supervision of operations under their sponsorship, but such authorization should be granted only to Governments that had demonstrated their competence to supervise effectively. The international machinery should have the right to inspect any operation conducted within the international area.

Mr. BADAWI (United Arab Republic) said that the Secretary-General's report on international machinery showed the various options that might be open and emphasized a number of problems which would have to be solved if agreement on international machinery was to be obtained, in the light of the political, economic and technical realities to which the representative of Kuwait had referred at the

thirty-second meeting. Since the form which the international machinery would take depended on the international machinery to be set up, his delegation's remarks would necessarily be of a preliminary nature.

The United Arab Republic did not favour machinery restricted to the exchange of information and preparation of studies, which would fail to ensure that activities on the sea-bed were carried out for the benefit of all mankind and would lead to unnecessary proliferation of organizations; nor did it favour machinery with intermediary powers, which would be entrusted with tasks which could be carried out by existing bodies. Nor again was the establishment of a mere international registry for claims acceptable, since that would run counter to the Committee's fundamental objective that sea-bed activities should be carried out for the benefit of mankind as a whole, taking into account the special interests and needs of the developing countries.

It was essential that the international machinery should be established by a universal international agreement, since the exploration and exploitation of sea-bed resources could obviously not be carried out for the benefit of mankind as a whole if a substantial part of mankind was excluded from the international régime. The machinery should include an effective licensing authority which should restrict the granting of licences, at least initially, to States, so as to avoid adding the complexities of international responsibility to the already difficult problems of an entirely new sphere of endeavour. That did not mean, however, that States granted licences would not be free to apply their national legislation to sub-contractors.

The international machinery should not be overburdened with too wide a range of responsibilities and activities, and care should be taken to avoid duplication and overlapping with the work of existing bodies, such as UNCTAD, in certain areas. The co-ordinating role of the international machinery should therefore be emphasized.

In view of the fact that the economic gap between rich and poor nations was rapidly giving way to a technological chasm, his delegation attached particular importance to the question of training programmes. It was stated in paragraph 105

of the Secretary-General's report that the international machinery to be established under the international régime could perform important tasks in that respect, but his delegation considered that the establishment of training programmes should not await the creation of the international machinery.

The United Arab Republic would give careful and thorough study to the three working papers which had been submitted to the Committee. At the present stage, he wished to state only that the conclusions reached in those working papers regarding the disposal of the benefits and proceeds of activities on the sea-bed and the ocean floor beyond the limits of national jurisdiction were not in accordance with the concept of the common heritage of mankind, to which the countries which had submitted the working papers appeared to be paying lip-service while actually seeking solutions which were the very negation of that principle.

The meeting rose at 12.55 p.m.

SUMMARY RECORD OF THE THIRTY-FIFTH MEETING

Held on Wednesday, 12 August 1970, at 3.30 p.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (continued)
and
INTERNATIONAL MACHINERY (A/AC.138/23, A/AC.138/25-27) (continued)

Mr. NJENGA (Kenya), agreeing with the Chairman that the Committee should concentrate on the Secretary-General's report (A/AC.138/23), said he thought the study followed General Assembly resolution 2574 C (XXIV) to the letter, and covered in depth the status, structure and functions of the various possible types of machinery.

However, some of those types seemed at variance with the resolution, which said that the machinery should have "the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation /of the resources of the sea-bed and the ocean floor/". He had in mind the international machinery for exchange of information and preparation of studies and the international machinery with intermediate power (part II, chaps. 1 and 2). He hoped that those two types would be excluded from any future study.

As to the third type, international machinery for registration and licensing, it might collect fees and royalties, but it should have no direct power in either exploration or exploitation of the sea-bed; for then it might well serve only the interests of the few developed countries that could apply for licences. Observance of the principle of mankind's common heritage demanded more than merely giving developing countries largesse in the form of royalties or fees. The countries at present able to exploit the sea-bed were those largely responsible for wasting the wealth of developing countries where they had also practised a system of concessions and royalties, with well-known results. That must not happen again.

In his delegation's view, the only acceptable formula was therefore the type of international machinery with extensive powers described in part III of the Secretary-General's report. While such machinery did not imply that States could play no part in the exploration and the exploitation of the sea-bed, all such activities must be pursued within the framework of the international machinery, which should have full legal personality, with the right to make contracts, to acquire and dispose of

property and to institute legal proceedings. It should also be itself liable to be sued, while enjoying privileges and immunities comparable to those of, for instance, the International Bank for Reconstruction and Development (IBRD). Its functions should include licensing, direct exploitation of resources, control of production (to avoid excessive price fluctuations), collection of fees and royalties, prevention of pollution and implementation of training programmes. With regard to its structure, which as the Secretary-General had pointed out, should be determined by its functions, it should have a representative organ, an executive organ and several technical organs. It should also have a body for the peaceful settlement of disputes. It would be for the Legal Sub-Committee to determine the status vis-à-vis such a tribunal of persons and companies carrying out activities on the sea-bed.

He supported those delegations which had stated that no machinery could be set up before agreement on the legal principles that would govern the régime applicable to the sea-bed. He therefore welcomed progress made in the informal discussions on a draft declaration on those principles. His delegation would fully co-operate in that task, in the hope that a complete and balanced proposal could be submitted to the General Assembly at its twenty-fifth session.

Referring to the French, United Kingdom and United States proposals (A/AC.138/27, A/AC.138/26 and A/AC.138/25 respectively), he said that they at least had the merit of underlining the urgent need to create international machinery. That need had, he might add, been highlighted by the irresponsible decision of the United States to dump nerve gas in the Atlantic - in his delegation's opinion, an arbitrary decision with no justification, even with law as it stood. He regretted, however, that the proposals he had mentioned paid attention mainly to the interests and needs of developed countries. In particular, the 200 metres limit suggested by the United States would discriminate against countries, such as Kenya, which had a narrow continental shelf. The United States proposal to set up a trusteeship area beyond the 200 metres limit, to include the continental slope, was also unacceptable to his delegation, as that, rather than the deep sea-bed, was precisely the area rich in petroleum, natural gas, manganese nodules, and so on. It was not clear how a coastal State could be prevented from reserving for its exclusive use a trusteeship area off its own coast, especially if that State had the technical capacity of the United States. Kenya could not agree to any kind of trusteeship not controlled by the international machinery.

The concept of "blocks", suggested in the United Kingdom working paper would also benefit the most developed States. With special reference to the conditions proposed in paragraphs 8(c) and 9(g) of that paper, he wondered which developing countries could meet them.

Mr. VINCI (Italy) said that the Secretary-General's report was a remarkable document in that it not only outlined the various working hypotheses for the international machinery but also gave a clear analysis of the structures and tasks of the main types of machinery contemplated; and he therefore suggested that the Committee should start by congratulating the Secretary-General on his achievement.

Discussions over the past few days had shown, however, that only a few of the Secretary-General's suggestions had commanded the general support of most delegations To make the wisest choice among those suggestions, the Committee must carefully examine them in all their aspects in order to bring out their advantages and drawbacks.

The international machinery for exchange of information and preparation of studies was the simplest and most limited type. It did represent an essential stage which the international community would have to reach, but it would not be adequate, since the area situated beyond the limits of national jurisdiction would have no practical organization and no effective administration at all, and the international community would have no protection against unfettered appropriation and exploitation of the sea-bed.

The international machinery with intermediate powers would have certain obligations, set out in paragraph 32 of the Secretary-General's report, attached to it, but the régime of rights and obligations might be inadequate, and any conventions to ensure fair distribution of peripheral zones and areas of exploitation might fail of acceptance precisely by those States able to operate on the sea-bed.

With the third type of machinery the actual content of its powers of registration and licensing must be specified. The terms of paragraph 57, for instance, would have to be supplemented with a definition of the right for the exercise of which registration was required and the nature of the obligations which would arise from failure to comply with the registration formality. The form that type of international machinery took would depend on the effective powers with which

it was invested; it might for instance, theoretically, take the form of a body empowered to confer the right of exploration and exploitation, where such operations could not be undertaken by States or entities without obtaining appropriate title.

The international machinery with comprehensive powers described in the third part of the Secretary-General's report would mean setting up a huge apparatus which might well be paralysed by the very complexity of its legal, economic, technical and scientific functions. Such machinery could probably only be set up if based on a series of multilateral treaties. It would require a full and detailed study of marine resources and their uses, and the completion of such a project could conceivably take a long time. Moreover, any such body engaged in direct exploitation might show a loss for a number of years, since exploitation costs increased with depth.

The choice of a type of international machinery would therefore be a complex matter. The main points to be taken into consideration would be: first, that the machinery would have to be established on the basis of an international agreement with the largest possible number of parties to it; secondly, that it should not contemplate direct exploitation of the resources of the sea-bed, but should be an administrative structure restricted to issuing licences; thirdly, that the licences should be issued to States rather than to persons or corporations; fourthly, that the machinery would have to operate in a well-defined legal framework which laid down specific criteria for the issuance of licenses; fifthly, that the benefits to the international community would have to be distributed in a way in which an adequate economic inducement to exploitation was ensured; and, lastly, the administrative structure of the machinery would have to be devised so as to obviate bureaucratic complication and to keep costs as low as possible.

The document embodying the declaration of principles should be drafted as soon as possible. It should take account of the link between the international régime and the definition of the area to which it was to apply. Among the principles under discussion Italy had a particular interest in that concerning the peaceful uses of the sea-bed, and hoped there for positive results from the Conference of the Committee on Disarmament. It also wished to stress the high priority that should be given to the principle relating to safeguards against the pollution of the sea and the importance of the principle concerning liability for damage arising from exploration and exploitation.

The Committee could not comment to much purpose on the working papers submitted by the United States, France and the United Kingdom until Governments had examined them carefully. He would therefore merely stress the value of the proposals they contained. In the United States draft convention, which he considered very complete, he welcomed the special provision for enclosed seas contemplated in article 26. Italy was prepared to collaborate fully in drafting such a clause. The Italian delegation concurred in several of the ideas in the French and United Kingdom proposals and would support them at the appropriate time.

Mr. NURIM (Czechoslovakia) said that he would confine himself for the time being to a few general comments. What the United Nations had to do at that stage in connexion with the peaceful uses of the sea-bed beyond the limits of national jurisdiction was to settle two basic problems. It had to work out two sets of measures to ensure that the resources of the sea-bed and the subsoil thereof were used, first, exclusively for peaceful purposes and, secondly, in the interest of all mankind. To do so it would have to proceed by stages and try first to solve the problem how to ensure that the resources were used exclusively for peaceful purposes. In particular, measures would have to be devised to protect the sea-bed, the ocean floor and the subsoil thereof from spoliation by the great imperialist monopolies which had, or would soon have, the technical and financial means to exploit them. At all events, there should be no undue haste in seeking a solution to the main problems: the international régime, the machinery, and fair distribution of the proceeds of the exploitation of marine resources; for that would run counter to most countries' interests and ultimately be playing the monopolies' game. After a careful reading of the very valuable documentation prepared by the Secretariat or submitted by Member States, and after listening closely to statements in the Committee, the Czechoslovak delegation was convinced that not enough information was yet available for an immediate attempt to settle the practical and complicated questions whose solution demanded their thorough examination. Moreover, the regulation of the practical side of the exploitation of the sea-bed and subsoil thereof involved regulating other matters. Thus, the United Kingdom Government, in paragraph 2 of its reply to the Secretary-General's note verbale of 29 January 1970 (A/7925), commented that an international régime of exploitation could hardly be devised and made acceptable without definition of the areas to which

the régime applied. A thorough study of such complicated problems would obviously require much time and attention. In the circumstances, the Committee should avoid a dispersion of effort and should concentrate on the aim set for the current session - the preparation of the text of a declaration of principles. In doing so it should take as its basis the existing legal instruments. The solution of the problems could in no case lie in the revision, advocated by some delegations, of the 1958 Geneva Conventions, which had been recognized as valuable and useful. Though Czechoslovakia had no sea-coast, it had nevertheless participated in the 1958 and 1960 Geneva Conferences on the Law of the Sea and firmly adhered to the principles laid down in the Conventions which had issued from them. Progress on the technical problems involved would come, not for undermining the relevant norms of international law, but rather from ensuring that they were observed and strengthened, as the USSR delegation had so clearly demonstrated.

Another point on which the Czechoslovak delegation, representing as it did a land-locked country, felt that it should lay particular stress was the principle of the equality of rights of all States with regard to the resources of the sea-bed beyond national jurisdiction and the need to ensure observance of that equality in practice. The principle had been recognized verbally and in general terms in some statements and some documents; but, when some specific problem came up, there was a noteworthy tendency to favour the maritime countries at the expense of the land-locked countries, a tendency to substitute de facto inequality for equality in principle. That trend came out very clearly in proposals in which the emphasis fell on the special rights of coastal States in respect of marine resources. Czechoslovakia's position there was clear, namely, that according any special right whatsoever in that sphere to one group of States could only damage all other States.

Mr. HOLDER (Liberia) said that the Secretary-General's study on international machinery, especially its parts II and III, satisfactorily met the requirements of operative paragraph 1 of General Assembly resolution 2574 C (XXIV).

In his report, the Secretary-General had outlined the alternative types of régime that might be applied to the sea-bed and ocean floor beyond the limits of national jurisdiction. It was a question on which a number of delegations had expressed views, not only in the Committee but also at the General Assembly. And his own delegation wished to thank those of Cameroon, France, the United Kingdom and the United States for the proposals they had submitted to the Committee.

He was surprised, however, that no account was taken in the Secretary-General's report of certain important details regarding difficulties that might arise from exploitation of the sea-bed because of existing uses of that area. Foot-note 39, for instance, referred only to cases where exploitation of the sea-bed preceded the laying of submarine cables or pipelines, no mention being made of cases where the chronological order was reversed. Nevertheless, the Secretary-General's report was adequate as a basis for an agreement on the régime to be applied to the sea-bed and ocean floor beyond the limits of national jurisdiction.

Referring to the French, United Kingdom and United States proposals, he said that, while there were similarities on a number of points, there were also differences. All three provided, for example, that the sea-bed area considered should be subject to a régime under which exploitation works would have to be licensed. All three also proposed similar responsibilities for the licensees. But the three proposals differed in specifying who would have power to grant licences and to whom the licences would be granted.

His own delegation thought that the proposed international régime and the international machinery with responsibility for controlling uses of the sea-bed and ocean floor should be established under as general an international agreement as possible. Other methods, such as the adoption of a General Assembly resolution, would not be sufficient to command universal co-operation in the matter. Such co-operation would only be forthcoming if it were voluntarily agreed to by the various parties, and experience unfortunately showed that successful enforcement of an international rule depended greatly on the identity of the offending party.

His delegation also thought that, under the régime established for the exploration and exploitation of the sea-bed and ocean floor, the power to control exploitation should not be confined to the resources they contained. For that reason his delegation would be inclined rather towards the French, and against the United Kingdom, proposal; the latter being more restrictive in that it referred only to natural, and particularly mineral, resources.

With regard to the settlement of disputes, his delegation took the view that provisions should include an obligation on the parties concerned to negotiate before taking legal action, and on that point was therefore more attracted to the French proposal. That matter had, he might add, been omitted from the United States proposal.

With regard to exploitation licences, his delegation thought they should be granted only to persons or entities coming under international law. Any other procedure would, as the Secretary-General had emphasized in his report, entail immense difficulties.

His delegation also thought that the agreement setting up the international machinery should be subject to periodic review, as provided in the French and United Kingdom proposals.

Referring to the two separate régimes contemplated in the French proposal according as submarine exploitation required mobile or fixed equipment, he wondered what the exact situation would be where both types of operation were being carried on at the same time in the same area.

The French proposal also provided that the assignment of an area to a State was subject to the submission of an application from a company for a licence within that area (II.B.2), and that every company applying for a licence must have an establishment in the territory of the State applying for the assignment of that corresponding area (III.A.(c)). His delegation wondered how those two proposals could be reconciled with the principle that States must undertake to explore, and later to exploit, the areas assigned to them (II.B.4). He asked whether it should be concluded that only States which could sponsor national entities capable of actually performing sea-bed operations would be eligible, and whether the purpose of the proposal was to exclude political systems which made no distinction between State and industrial undertaking, as was done in a free enterprise system.

Turning to the United States proposal, in his view a very carefully prepared document, he said that his delegation had doubts about the depth of 200 metres proposed for the limit of sea-bed area under the international régime. His Government might have objections to make on the granting of trusteeship of coastal States over any area of the sea-bed or ocean floor beyond the limits of national jurisdiction, whatever limits might eventually be set to that jurisdiction.

His delegation also wished to express reservations on the proposed composition of the Council under the system described in the United States proposal.

In view of the preferences it had already expressed on the subject of the scope of the régime to be applied to the sea-bed and ocean floor, his delegation would prefer reference to the setting-up of an "international sea-bed authority" rather than an "international sea-bed resource authority".

Lastly, it would like some clarification of the meaning of the word "licensee" as used in the first and second paragraphs of article 19 of the draft convention proposed by the United States, in view particularly of the concept of licensing contained in the first paragraph of article 13 of the same documents.

Mr. PARDO (Malta), assuring the Chairman that his delegation would spare no effort to make an effective contribution to the review of the declaration of principles, said it hoped that despite difficulties which might at times seem insuperable the Committee would be able to submit the declaration to the General Assembly at its twenty-fifth session.

The report of the Secretary-General to the General Assembly at that session (A/7925 and Add.1) showed that views still differed considerably. One major State held that certain specific questions, such as a more precise definition of the outer limits of the continental shelf and the formulation of basic principles to govern activities beyond the limits of national jurisdiction, should be settled first, followed by arrangements for international co-operation on the basis of a régime like that now governing the high seas. Another State, on the contrary, held that it was neither necessary nor desirable to amend the definition of the continental shelf given in article I of the 1958 Convention, since any such amendment might adversely affect the existing rights of coastal States. But it was quite obvious that no international régime could be effective unless the area to which it applied was precisely defined, that such a definition was not possible without amending article I of the 1958 Convention on the Continental Shelf, and that technology for the exploitation of the sea-bed was advancing rapidly. It followed that, if the second State's viewpoint was adopted, the international community would be called upon to undertake the arduous task of formulating a comprehensive régime and establishing complex machinery to govern activities in an area so small as to be unlikely to have any real economic or political importance. In any case, the two points of view were obviously incompatible, since the objective of the first was the maximum freedom within a wide and clearly defined international area, while that of the second was the maximum regulation within a minimum and poorly-defined international area. Neither Government concerned, each thinking in terms of an assessment of the present balance of their national interests, would compromise.

It was only to be hoped that they would agree to review their positions in the light of contemporary developments, particularly with regard to the human and scientific aspects of the exploitation of the sea-bed. Otherwise, there would be no possibility of agreement on a declaration of principles.

In addition, his delegation considered incompatible with the establishment of an effective régime for the sea-bed beyond national jurisdiction the second paragraph of the Montevideo Declaration of 8 May 1970, in which the signatory States affirmed the right of coastal States to establish the limits of their maritime sovereignty and jurisdiction in accordance with their geographical and geological characteristics. Obviously, if those States maintained their position there would clearly be no hope of establishing an international régime. Such a failure would be a resounding blow to the United Nations: the law of the jungle would be introduced on the sea-bed, multilateral decisions would be taken by States or groups of States, new sources of conflict would arise, and the developing countries, deprived of any share in any benefits to be derived from exploiting sea-bed resources, would take the brunt.

Until other related questions had been settled, it would be premature for his delegation to submit the proposal it intended to make concerning, first, the limits of national jurisdiction and secondly, the criteria on which to base an international régime for the sea-bed. While he might raise the subject again at the appropriate time, he wished to make clear at once that in his Government's opinion at least two international conventions would be required, one dealing with activities relating to the sea-bed beyond national jurisdiction, the other, which would in fact be a revision of the 1958 Convention on the Continental Shelf, dealing with activities within that jurisdiction.

The study on international machinery submitted by the Secretary-General was worthy of the highest praise. While he would make no detailed comments for the moment, he would point out that paragraph 117, entitled "Other uses", was based on somewhat outdated information, and that it should include a number of other uses, in particular: permanent sea-bed habitats at moderate depths for tourist and scientific purposes; air-conditioned civil and military installations up to 500 metres or more below the ocean floor; conventional, non-conventional and nuclear power stations; and, probably in the more distant future, permanent sea-bed villages, floating cities and airports anchored or otherwise connected to the

sea-bed, transportation by means of vehicles designed to operate on the sea-bed. Japan had already begun research in those new areas, and the Committee would do well not to confine its work to the exploration and exploitation of sea-bed resources, but to consider the other prospects for man opened up by scientific and technological progress.

The French Government's proposals called for some reservations, especially regarding the exploitation of manganese nodules. Professor La Que had demonstrated that demand for cobalt, which at present totalled 30 million pounds annually in the market economy countries, could be satisfied by the harvesting of some 6 million tons of nodules, which would also provide some 3,000 million pounds of manganese, 122 million pounds of nickel and 88 million pounds of copper. The 6 million tons of nodules could be harvested from an area no greater than 216 square miles (18 x 12 miles). Extrapolating from those figures, it could reasonably be postulated that the harvesting of less than 400 square miles (20 x 20 miles) would amply satisfy total present world demand for cobalt, together with an appreciable fraction of world demand for nickel and copper. Manganese would then be in over-production. Even if the calculations was based on nickel or copper instead of cobalt, the conclusion would be the same: that only a small fraction of the sea-bed need be exploited to satisfy world demand, and that exploitation of a greater area might seriously affect the economy. That simple example showed the need for an international régime of much wider scope than that envisaged by the French Government.

He had already had occasion to comment briefly on paragraph 2 of the United Kingdom proposal and, in passing, to give his opinion on the purport of paragraph 7, and would deal with the other paragraphs when his delegation and his Government had had time to give them proper attention.

At first sight, the tentative draft convention presented by the United States appeared satisfactory, especially its article 25. Article 3 of chapter 1 and about all of chapter 3 would probably raise difficulties for certain States; but the Maltese Government was gratified to find a number of ideas in the draft with which it agreed whole-heartedly, and would certainly study all the articles with the utmost care. He might have occasion to revert to the draft when the Committee was in a position to begin a serious debate on the establishment of a régime and international machinery.

Mr. SCHRAM (Iceland), complimenting the Secretary-General on the excellence of his study on international machinery as a useful basis for discussions, stressed the importance of reaching an agreement on the régime to be introduced for the sea-bed and ocean floor beyond the limits of national jurisdiction and on the international machinery which should be set up without delay. In that connexion, the French, United Kingdom and United States proposals represented very useful contributions to the Committee's work.

In the Secretary-General's report, special importance attached to the section dealing with the functions and powers concerning standards which would apply to all peaceful uses of the sea-bed (part III, sect. C), and above all to the conclusions relating to the protection of living resources (paras. 127 and 128). Considering the growing importance of the sea as a source of protein-rich food for the under-nourished peoples of the world, the protection of living resources should clearly be a major consideration when regulating the conditions in which activities relating to the sea-bed should be conducted. In support of that argument he would recall that between 1958 and 1968 the total world fish catches had increased from 33 to 64 million metric tons; according to fishery experts that figure might be about trebled - to 200 million metric tons a year - without any change in present fishing gear and methods.

In view again then of the importance of marine biological resources, his delegation thought great attention should be paid to the recommendation in the Secretary-General's report (para. 126, (3)) concerning the interests of States which might be adversely affected by activities on the sea-bed. It was reasonable, when setting up international machinery, to give coastal States the right to decide whether operations could be conducted in areas of vital importance to their national economies, for example on fishing grounds just beyond the limits of their national jurisdiction. That principle was considered fair by many countries, and in the informal consultations held during the previous week on the drafting of general principles there had emerged a large measure of support for recognizing the special position of the coastal States in matters pertaining to the exploitation of the sea-bed. His delegation was very much in favour of embodying in the proposed Declaration a clear-cut principle on that question, providing for consultations with the coastal States wherever necessary. Similarly, the decision concerning the setting-up of the proposed international machinery should include provisions

concerning arrangements for consultations with the coastal States and their right of intervention, as described in the Secretary-General's report. When drafting the rules on which the international machinery would be based, a balance should be sought between the different interests involved in the major uses of the oceans.

He would refer next to the Secretary-General's report on marine pollution (A/7924), which shed new light on the vital question of pollution of the marine environment, an important issue with which the Committee should concern itself. It was frightening to think that at present there was no international standard in that field and no international regulation to prevent nations from dumping harmful and toxic substances such as radioactive waste and nerve gases into the sea, where they would remain dangerous for hundreds of years and might cause untold damage.

The Committee's main concern should therefore be to adopt adequate international standards and regulations for incorporation in the texts relating to the international machinery, in order to safeguard the whole marine environment from the destructive effects of sea-bed pollution. Nor would that issue be settled by merely establishing a sea-bed régime; an international treaty was urgently required, the text of which should be drawn up by the United Nations in the near future, as the General Assembly had unanimously recommended in its resolution 2566 (XXIV).

In that connexion, he drew attention to paragraphs 26 to 28 of the Secretary-General's report on marine pollution, and in particular to article I, paragraph 1, of the Inter-Governmental Maritime Consultative Organization's International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, referred to in paragraph 27 of that document. The provisions of that paragraph of the new IMCO Convention might usefully be incorporated in the texts relating to the proposed international machinery and in the general principles to be drawn up by the Committee at its present session. It was fair and just, when accidents occurred in sea-bed exploitation, that the coastal State should be allowed to take such measures as it deemed necessary beyond the limits of its national jurisdiction to prevent imminent damage to its interests. If that principle was well-defined and adequately qualified, as in the recent IMCO Convention, it could not threaten the interests of the world community by bringing up the old principle of the freedom of the seas. Under the recent Canadian Act to Prevent Pollution of the Arctic Waters adjacent to the Mainland and Islands of the Canadian Arctic,

Canadian jurisdiction for pollution purposes was extended up to 100 miles from the coast. Inside that zone, commercially-owned ships would be required to comply with Canadian navigation safety standards, and their owners would have to provide evidence of their financial ability to meet their liabilities. Civil liability for any damage caused was total.

That action by the Canadian Government proved that it was necessary to reach agreement on international regulations permitting coastal States to protect their legitimate interests in areas immediately beyond their present national jurisdiction. That step by the Canadian Government had, as was well known, not met with universal approval, because of its unilateral character. It would therefore seem desirable to try to frame an internationally acceptable legal rule on the subject, along the lines of article I of the IMCO Convention he had mentioned.

He hoped that all the members of the Committee would agree on the need to preserve and protect marine biological resources and to establish adequate international standards to prevent pollution of the marine environment, as well as to recognize the relevant interests of coastal States.

The meeting rose at 5.30 p.m.

SUMMARY RECORD OF THE THIRTY-SIXTH MEETING

Held on Friday, 14 August 1970, at 10.35 a.m.

Chairman: Mr. AMERASINGHE Ceylon

GENERAL STATEMENTS (concluded) and INTERNATIONAL MACHINERY (A/AC.138/23-27) (concluded)

Mr. ZEGERS (Chile) said he would refer specifically to the Lima declaration and to certain remarks made in the Committee about the principles it contained. In so doing, he would confine himself to the questions of the internationcal agency or machinery to be established and the methods for sharing the benefits derived from the sea-bed and ocean floor.

The Secretary-General's study (A/AC.138/23) described four possible types of international machinery, the first two of which did not, in the view of his delegation, correspond exactly to the meaning attached by the Committee to the term "international machinery".

With regard to the machinery's functions, his delegation endorsed the view expressed in the United Kingdom working paper (A/AC.138/26) that such machinery should form part of the régime itself and should be contained in the convention or basic instrument defining the régime. There should therefore be no need to establish the type of interim machinery described in the Secretary-General's study.

The relationship between the régime and the machinery was of the highest importance. A number of functions could be entrusted to the instrument itself while others would necessarily have to be performed by the machinery; a certain degree of flexibility would therefore have to be introduced. Both the machinery and the régime should be given jurisdiction over both the area and its resources. In other words, the régime should not only deal with exploitation of resources but should also have other essential functions in order to ensure that the area was used exclusively for the benefit of all mankind.

He endorsed the view of the Brazilian and Cameroon representatives (34th and 33rd meetings respectively) that regional agencies should be established, because the different economic and geographical characteristics of the world's maritime regions would call for different treatment.

As well as performing all the functions concerned with exploitation of resources, the machinery should also ensure compatibility among the various activities undertaken in the marine environment and provide for the conservation of living resources and of the marine environment, the prevention of pollution, the effective exercise of international responsibility and, in general, care of the marine environment, the safeguarding of the rights and interests of coastal States, and the channelling of the economic benefits to the proprietors of the common heritage. Co-ordination with existing organizations concerned with the marine environment would of course be necessary.

With regard to the economic effects of exploitation and the methods for the sharing of benefits, it would be essential to prevent, particularly in the interest of the developing countries, market and price fluctuations in the case of commodities which might be affected by new mineral exploitation. The necessary measures should be taken within the framework both of the régime and the machinery and of UNCTAD.

The working papers submitted by the United States (A/AC.138/25), France (A/AC.138/27) and the United Kingdom had been transmitted to his Government for examination. He had already had the opportunity to comment on the United States proposals. The French paper, coming as it did from one of the most advanced countries in the field of oceanography, represented an important step forward. The United Kingdom paper advanced a number of positive ideas which would be most helpful to the Committee in its work. Despite their positive aspects, however, the proposals contained in both those working papers seemed to depart somewhat from the basic concept of the common heritage of mankind. His delegation considered that all three papers should be examined by the Economic and Technical Sub-Committee within the framework of its terms of reference.

With regard to the question of the sharing of benefits, the preliminary note by the Secretariat (A/AC.138/24), listed certain interesting alternatives, but was incomplete and laid undue emphasis on questions such as the estimation of the amount of resources which had not been uppermost in the minds of the countries at whose request it had been prepared. Consequently, he intended to formulate a number of concrete suggestions for submission by the Committee to the Secretary-General with a view to the preparation of a new document to be examined at the

Committee's first session in 1971. The question should be discussed by the Committee itself and should also form part of the Economic and Technical Sub-Committee's examination of the economic aspects of the régime.

The Latin American States had met in Lima at the beginning of the present month to study the law of the sea and, in particular, the sea-bed and ocean floor. The declaration drawn up on that occasion would be made available officially by the Peruvian Government[4/] and would assist the Committee in its work. That declaration, together with others drawn up over previous years, should be considered as a statement of Latin American doctrine. Its basic principle was that there existed a geographical, economic and social link between the sea, the earth and man. A coastal State therefore had the right to explore, conserve and exploit the natural resources of the sea and its subsoil adjacent to its shores in order to promote maximum economic development and raise the standard of living of its people. In other words, the Latin American States, all of which were developing countries, proclaimed their right and duty to exploit the sea's natural resources for the benefit of their populations.

From that basic principle emerged another equally important principle, which had been called in question by the Maltese representative (35th meeting), namely, the right of a coastal State to establish the limits of its maritime sovereignty or jurisdiction on the basis of reasonable criteria, in accordance with national geographical, geological and biological characteristics and with the need for rational exploitation of resources. That right, which had an economic basis, did not conflict with any existing provision of international law. Its economic nature had been strengthened by the reiteration, during the Lima meeting, of the principle of freedom of navigation.

The Latin American States, whose representatives in the Committee had participated in the drawing up of the general recommendations contained in the draft resolution submitted by the developing countries members of the Committee (A/AC.138/SC.1/L.2), rallied to the concept of the common heritage of mankind, subscribed to the principle that economic activities should be brought under an international régime which would ensure universal participation in the administration of the area and in the benefits accruing therefrom, and endorsed the establishment of appropriate machinery, including regional or sub-regional systems.

4/ Subsequently circulated as document A/AC.138/28.

With regard to the question of limits, the Latin American countries approved the provisions of General Assembly resolution 2574 A (XXIV) concerning the convening of a conference on the law of the high seas after the régime had been established. Under General Assembly resolutions 2340 (XXII) and 2467 A (XXIII), the Committee was not competent to make recommendations concerning limits. The General Assembly had made it quite clear that the establishment of the régime should take precedence over the question of limits, and that the latter should be discussed at a special conference. He wished to make it clear that no reference to the problem of limits was necessary but if his delegation should go as far as to accept it in a spirit of compromise and out of a desire to facilitate negotiations, it could only approve it if it was clearly related to resolution 2574 A (XXIV), since the Committee was a Committee of the General Assembly and naturally could not amend its resolutions.

Finally, the Lima Declaration excluded the possibility of an interim régime, and any discussion of that subject would serve only to complicate the Committee's task unduly.

The Maltese representative had referred to the Montevideo declaration, on which the Lima declaration was based, and had said that the right of the coastal State to determine its own jurisdiction would be incompatible with an effective régime for the sea-bed and ocean floor. Immediately after that attack on the Latin American concept of jurisdiction, he had praised the definition of jurisdiction proposed by the United States Government, which could result in a fourfold increase in the most extensive Latin American jurisdiction. He himself could see no reason why the determination by a State of its own jurisdiction on the basis of economic and geographic realities should be incompatible with the régime. The limits set by the Latin American States were reasonable but, even if someone did not think so, there was no doubt that a State could, as a sovereign entity, sign an international agreement. The limits for jurisdiction fixed by the Latin American States at least had the merit of being precise, a virtue lacking in the United States proposals praised by the representative of Malta, and of being open to large stretches of ocean.

The Latin American group had participated actively in all aspects of the Committee's work and had collaborated with its African and Asian colleagues in drawing up a basic set of principles for submission to the Ad Hoc Committee at its

third session in 1968 in Rio de Janeiro. The Latin American States had always adopted an unambiguous stand and had always been prepared to discuss any problems and to seek compromise solutions. He regretted, therefore, that they should have their good name blackened, even unintentionally.

Mr. BARBOZA (Argentina) said that at the present session the Committee should concentrate on completing the first part of its task, which was to draw up a declaration of principles to provide a basis for the formulation of a comprehensive legal régime to govern the peaceful uses of the sea-bed and the ocean floor beyond the limits of national jurisdiction. There were a number of basic elements which must be incorporated in the declaration if the Committee's future task of formulating more detailed and specific rules was to be carried out successfully. The declaration should therefore lay down all the criteria destined to serve as guidelines for the future legislative work both of the Committee and of the other international bodies concerned with related questions, such as the Intergovernmental Oceanographic Commission (IOC), of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

The declaration of principles would not be complete without a decision of a general nature on the type of international machinery to be established. Such as decision, which could be taken in the light of the excellent report of the Secretary-General might be incorporated in the declaration itself, and would enable many of the difficulties encountered by the Legal Sub-Committee to be overcome.

Drawing up a set of detailed rules for the international machinery was quite another matter. The working paper submitted by the United States delegation was a constructive effort to provide a comprehensive solution to the problem. In the view of his delegation, however, it would be better first to draw up a general outline to serve as a basis for the Committee's future work. Although the working papers submitted by the delegations of France and the United Kingdom corresponded more closely to that type of general outline, they were still somewhat too ambitious in that they dealt with several aspects of the international machinery on which it was impossible to take decisions at the present stage. It would be much simpler to incorporate in the declaration, or in an annex thereto, some reference to the principles which should guide the Committee's future work on international machinery.

His delegation considered that the first decision to be taken was whether or not to establish an international body having jurisdiction over the international sea-bed and ocean floor area. If so, a decision would be needed on the type of functions and powers which the body would exercise. Any declaration of principles which did not contain a decision on those two questions would be incomplete. His delegation would abstain from describing the type of machinery it favoured until other delegations had given their views on that suggestion.

The working papers submitted by the delegations of the United States, France and the United Kingdom would be of great assistance to the Committee in its work and had been transmitted to his Government. His delegation did not consider the limits of the continental shelf was a question which fell within the competence of the Committee. His Government's position, stated in its reply to the Secretary-General's note verbale of 29 January 1970 (A/7925, p.6), was that a special conference should be convened to deal with that question, and that no one aspect of the law of the sea could be dealt with in isolation from the others. That position had been confirmed during the recent Lima conference on the law of the sea.

The international régime should govern a single area subject to international jurisdiction. His delegation did not favour the establishment of an interim régime, under which the area would be neither entirely under national jurisdiction nor entirely under international jurisdiction. An interim régime would only serve to widen the gap between the developing and technologically advanced States and to undermine the powers of coastal States under existing international law.

If the régime was to be universally accepted, as indeed its very nature demanded, it was important to ensure a proper balance between the developing and the technically advanced States. A system which enabled a minority group of highly industrialized countries to exercise a collective power of veto would not appear to be compatible with that pre-requisite. The concept of the common heritage of mankind should be given effective force by ensuring, for example, that a particular group of States would not benefit from the régime more than others, and by achieving a proper balance between the various national interests. The principles on which the régime was to be based might be applied provisionally, as a guide, until such time as the régime itself came into force. Such a solution would be preferable to the establishment of a temporary régime which, although conceived for a short period of time only, would tend to be self-perpetuating.

Mr. DENORME (Belgium) said that the Committee's task of preparing an international régime based on a declaration of principles and administered by international machinery would be greatly facilitated by the excellent working papers presented by France and the United Kingdom, by the report of the Secretary-General on international machinery and by the draft convention submitted by the United States. The United States draft convention was a contribution of the highest importance, and the fact that the country possessing the most advanced oceanographic technology had submitted it as a working paper of the Committee was a good omen for the future.

He would confine his statement to a few comments on the international machinery. Since it was to form an integral part of the future international régime to regulate activities in the international zone of the sea-bed and the ocean floor, such machinery must be considered in the context of that régime. In principle, the proposal to establish a registration and licensing system was acceptable, although its provisions would have to be studied in greater detail in the forthcoming months. The proposal in the French working paper that the régime governing exploitation with mobile equipment should take the form of simple registration had the merit that it did not overburden the machinery in cases where the economic viability of sea-bed resources development still had to be proved. However, the Belgian delegation would prefer, particularly for the exploitation of hydrocarbons, a system of licences.

The major difficulties to be expected in the event of the international machinery itself undertaking operations on the sea-bed had been described in the United Kingdom working paper. It seemed certain that any system of direct exploitation would imply burdensome administrative machinery ill-fitted to the needs of promoting such activities and would be neither desirable nor viable. The system of service contracts described in paragraphs 96 to 98 of the Secretary-General's report deserved consideration, but, as the representative of Kuwait had recognized (32nd meeting), there were undeniable advantages in the proposal that operators should be sponsored by their Governments.

With regard to the question of discretionary powers, the Economic and Technical Sub-Committee had drawn a distinction between the rules to be included in the convention establishing the régime and the regulations which would not be included.

The problem was how the administering authority would be able to enact such regulations without being given excessively wide discretionary powers. The compromise solution proposed in the United States draft, whereby the international machinery would be a strong administering authority with all the necessary powers to control activities on the sea-bed but with limited discretionary powers with regard to such matters as exploitation standards and licence fees, was attractive. If included in an international convention, it would inspire confidence both in the States expected to sign and ratify the Convention, and in operators, whose investments were needed for any development of sea-bed resources. Once the confidence of the international community had been gained, the procedure for amendment would enable supplementary powers to be granted to the administering authority.

A problem which had slowed the work of the Committee and was causing concern was the criterion of exploitability, which was sometimes taken as justification for a flexible interpretation of the definition of the area which should constitute the common heritage of mankind and for its progressive reduction. The fact that it was now possible to exploit marine resources at great depths meant that the jurisdiction of coastal States was being extended, even if they had expressed no intention of exploiting resources at those depths.

As for the criterion of contiguity that was implied in the concept of "underwater areas adjacent to coasts", it had not been clearly defined in the 1958 Convention on the Continental Shelf. The Belgian delegation, which had considered that the criterion of contiguity should be expressed in terms of distance from the coast, had noted with great interest the proposal advanced by the Stratton Commission that the continental shelf should be limited to a depth of 200 metres or a distance of 50 miles, countries being free to choose whichever criterion was the more favourable to them.

His delegation would also give careful consideration to the United States proposal for a trusteeship system, in the knowledge that it was put forward as a compromise solution.

Two arguments had been advanced concerning the delimitation of the international area. Some delegations believed that the area beyond the limits of national jurisdiction must be defined before any international régime could be established, while

others considered that once the régime was known it would be easier to delimit the area to which it should apply. The Belgian delegation believed that work should continue in both spheres, and that the preparation of an international convention on the sea-bed and the ocean floor would make it possible to reach a precise definition of the limits of the continental shelf.

In contrast to the fundamental differences that had emerged in the Committee the previous year, the increasingly general acceptance of the concept of the common heritage of mankind was evidence of developing agreement, and he hoped that the Committee would soon be in a position to make specific recommendations to the General Assembly.

Mr. EL HUSSEIN (Sudan) said that the main provisions of the proposals on international machinery put forward by a group of African and Asian countries (A/AC.138/29, annex III), including his own, were, first, that it should be universal in constitution and jurisdiction, possessing full international legal personality within the United Nations system. Secondly, it should be responsible for ensuring the rational exploration, conservation, exploitation and development of the resources of the sea-bed and the ocean floor. Thirdly, all States should be entitled to equal participation in the management of the organization, which should have regulatory and operational functions, including the granting of licences and the prevention of pollution in the marine environment. Fourthly, it should be empowered itself to conduct operations on the sea-bed and the sub-soil. Fifthly, it should ensure that the profits earned were distributed in the most equitable manner to the benefit of mankind as a whole, with particular regard for the special interests and needs of the developing countries, including their needs in the matter of training programmes.

The Sudanese delegation welcomed the interesting proposals submitted by the United States, the United Kingdom and France, which were being given careful consideration by its Government. It was gratifying that those countries had clearly shown their willingness to accept the principle of the common heritage of mankind, though the intentions of the United States in that respect were not quite clear. In his statement of 23 May 1970 (A/AC.138/22), President Nixon had referred to "the natural resources of the sea-bed beyond the point where the high seas reach a depth of 200 metres", as "the common heritage of mankind". Then article 1 (1) of

the United States draft convention stated that "the international sea-bed area shall be the common heritage of all mankind". But when dealing with the proposed international authority, the same document referred only to the resources. His delegation would therefore be grateful for some clarification of the views of the United States on that important concept.

His delegation did not favour the idea of an interim régime; the specific proposals already made and the data now available should be sufficient to enable permanent machinery to be established. Any provisional measure might frustrate the efforts to set up such permanent machinery.

In the view of his delegation, the question of the limits of the continental shelf was not within the Committee's terms of reference and should be dealt with by a conference on the law of the sea.

His delegation had listened with interest to the statement of the Chilean representative, and the Sudan Government would give serious consideration to the provisions of the Lima Declaration, which had clearly been prepared after careful and serious study by the developing countries of Latin America.

His delegation would comment on the proposals submitted by the United Kingdom and France at a later stage.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the Secretary-General's report on international machinery would enable the Committee to analyze the various approaches to the establishment of such machinery and to recognize the difficulties that would arise. International machinery could be set up only on the basis of a universal international agreement on an international régime; that was recognized in paragraph 3 of the Secretary-General's report, where it was stated that specific provisions for machinery should only be formulated when agreement had been reached on what kind of régime would be most appropriate. That was a realistic approach which contrasted with the unjustified optimism of some delegations which considered that sufficient data were now available for the establishment of the machinery. Many conditions had still to be met before that would be possible: more scientific data concerning the sea-bed were needed, more advanced technological means of exploration and exploitation at great depth that would not harm the marine environment had to be developed, and, above all, an assurance had to be forthcoming that exploitation of the sea-bed resources would be economically viable.

Moreover, the proposed system for granting licences was incomplete and might even be harmful to the interests of many States. Four types of licensing had been proposed: licensing on a first-come first-served basis, licensing by lottery, licensing on the basis of the applicant's qualifications and licensing on the basis of the highest bidder. In addition, some delegations had proposed that licences should be granted not only to States but also to private companies. All those forms of licensing would, in practice, give an advantage to particular groups of countries and monopolies and would serve the narrow interests of individual States and companies rather than those of mankind as a whole. Licensing was only one of many complex questions connected with the international machinery which were still a long way from being solved and required further careful and detailed study. Any attempt to establish the structure of such machinery before the conclusion of a universal international agreement on a sea-bed régime would be futile.

But the requirements which the international machinery must meet could already be stated. It must be open to participation by all States without any discrimination and in accordance with the principle of sovereign equality, regardless of whether the State was a member of the United Nations or its specialized agencies or not. It must exclude any possibility of activities being carried out in the interests of single States to the detriment of others. It must ensure that the obligations undertaken by participating States were carried out fully and must promote the rational development of sea-bed resources, in particular through the introduction and application of new technology. Finally, it must prevent the plundering and pollution of the marine environment. It was deplorable that the sea-bed was still being used for dumping noxious wastes which were harmful both to mankind and to the marine environment; that situation was creating justifiable alarm, to which expression had already been given in the Committee.

The Soviet delegation was firmly of the opinion that the international machinery should not itself carry out exploration and exploitation of sea-bed resources, since it might, in the final analysis, become a capitalist undertaking and a tool of monopolies. Rather, it should assist countries to carry out such activities in the interests of all mankind.

The comments made by some delegations at the present session concerning the nature of the future régime must be regarded as preliminary outlines; the Soviet

delegation would make its own views known at the appropriate time. The Soviet delegation hoped that a comprehensive, consistent and gradual approach to the solution of those problems would enable the Committee to fulfil the complex and responsible tasks entrusted to it by the General Assembly.

Mr. CHOONHAVAN (Thailand) said that, in his delegation's view, the type of machinery which would be suitable for the international régime could not yet be foreseen. The institutional arrangements under which the machinery would be established must, however, provide a clear and unambiguous definition of the words "exploration", "exploitation" and "sea-bed resources". The machinery should be closely linked to the United Nations, and its activities should be constantly reviewed by the General Assembly. If the sea-bed beyond the limits of national jurisdiction was to be the common heritage of mankind, all nations, particularly the developing countries, should benefit from the activities carried out in that area and the distribution of revenues from the area should not be considered as foreign aid. Knowledge of the latest scientific and technical methods of exploration and exploitation should be transferred to the developing countries. For that purpose, the machinery should provide training programmes for those countries' nationals.

His delegation agreed with those of certain other developing countries that the machinery should provide for effective remedial action to ensure that the impact on world market of sea-bed raw materials, such as minerals, did not impoverish the developing countries which relied on raw material exports for their foreign exchange earnings.

Since only the technologically advanced States were able to carry out deep sea exploitation, his delegation felt that exploitable sea-bed resources close to the continental shelf of a coastal State or group of States must be protected and reserved mainly for those States.

His delegation expressed its appreciation to those of France, the United Kingdom and the United States for the working papers they had submitted to the Committee. However, it opposed the proposal contained in the United States working paper that the international machinery's governing body should have a designated membership with special voting rights.

Mr. BEESLEY (Canada) said that it was hard for his delegation to express definite views on international machinery because of the close connexion between the issues raised by the principles under discussion in the Legal Sub-Committee and intended, as his delegation saw it, to lay the groundwork for the proposed international régime, and the kinds of international institutions required to ensure that régime's effective implementation. The work of the Economic and Technical Sub-Committee on the proposed régime's technical, economic and scientific requirements also overlapped with the work of the Legal Sub-Committee and the main Committee. His delegation agreed with the majority view that the Committee's deliberations had reached the stage where some attempt to determine the broader elements of the proposed international machinery was necessary. The difficulty in discussing the subject at the present stage stemmed not from the complexity and inter-relationship of the problems but from the fear that unduly rigid positions might be adopted regarding the many points of principle involved.

By way of tentative comment, however, he noted that the first major question was whether or not international machinery could be dispensed with for the time being. The Committee's purpose was to devise a system which would reserve the sea-bed area beyond national jurisdiction for purely peaceful purposes and for exploration and exploitation of its resources for the benefit of mankind as a whole, irrespective of the geographical location of States and taking into account the special interests and needs of the developing countries. The question whether or not there was an area of the sea-bed and ocean floor beyond national jurisdiction was no longer disputed, and most States now seemed to accept the need for some form of international machinery. The Committee was now considering what would be an appropriate form of machinery and its task had been facilitated by the Secretary-General's study. In his delegation's view, the inclusion in that study of machinery for the exchange of information and preparation of studies had performed the useful function of illustrating the inadequacy of such a form of machinery.

There appeared to be a majority view that the proposed machinery must have juridical personality; some form of international institution, with the capacity to hold title to the sea-bed, might even be necessary. His delegation reserved its position on that point, although the question of the need for operators to be assured of security of title might presuppose the existence of an entity with capacity to confer such title.

In his delegation's view, the Committee's main purpose was to promote the exploration and exploitation of sea-bed resources in the interest of mankind as a whole, particularly the developing countries. That could not be achieved, however, unless the proposed machinery had certain connected regulatory powers - for example, those necessary to prevent pollution as a result of sea-bed activities. His delegation would prefer the scope of the machinery to be confined to what was essential for the purpose of ensuring efficient and equitable exploration and exploitation of the area's resources; the question of broader powers should be approached more circumspectly, not only because of the complex questions involved but for fear the proposed machinery became too cumbersome and expensive. A more practical approach might be to devise a structure providing for all the essential elements at the outset, beginning with a skeleton framework, to be expanded as progress was made. A two-phase development of machinery, providing initially for immediate control of registration and exploration and gradually developing into a second exploration and development phase, might be considered; that would not be an interim régime but a comprehensive régime with interim machinery.

Although his delegation was in principle opposed to the proliferation of agencies in cases where existing institutions could be adapted to new purposes, it realized that the nature of the tasks required of the proposed machinery was so radically different from that of any at present undertaken in the United Nations family that a new institution, free from traditions and established practices, might be desirable.

His delegation had no fixed view as to whether the proposed machinery should have legal capacity and administrative power to exploit sea-bed resources, but it felt that the Committee should be very cautious in its approach to that question. States or their nominees would be more likely to possess the necessary expertise, while again, it was important to avoid cumbersome machinery and high overheads.

It seemed to be the general opinion that the proposed machinery should comprise a governing body, a plenary body, a secretariat and a tribunal for the settlement of disputes, although delegations were not agreed as to whether the "one-State, one-vote" principle should be applied, or some other decision-making system. On that point, his delegation reserved its position. It had no objection to regional institutions, provided their constitution and working rules were

compatible with the proposed régime; they might enable the developing countries to collaborate and so offset the disadvantages of the technology gap. In any case, some form of inspection authority, or "seaguard", might have to be considered in due course, although little had been said on that subject so far.

There seemed to be general agreement that the proposed machinery, even if not empowered to carry out exploration and exploitation, must have the power to register and license such activities by others, and that a licensing system, not merely registration, must be established. In his delegation's view, the success or failure of the Committee's efforts would depend on the type of licensing system it devised. It was noteworthy that considerable attention was given to that matter in the Secretary-General's report as well as in the French, United Kingdom and United States working papers. The types of licensing systems proposed differed not only in the nature and extent of the licensing authority's discretionary powers but in the basic premises on which the system might be founded - for example, for the purpose of conservation, or for the encouragement of resource development or for both purposes, together with safeguards against pollution. His delegation thought that the international régime and its machinery should be oriented, at least in its early years, primarily to encouraging the exploration and exploitation of resources in a difficult environment. The single most important factor would be the need to establish a resource management system designed to encourage and maintain investment on a continuing and orderly basis. An impartial and enlightened regulatory administration would be essential in order to attract investment capital.

The régime for the exploration and exploitation of sea-bed resources must be not only balanced and equitable but also efficient and practical. He was thinking not of profits and royalties but rather of ensuring that the greatest encouragement was given to exploration and exploitation, without which mankind would receive no benefits. Tremendous investment resources were required even for work at shallow depths. A balance must therefore be struck between the need to attract investment capital and the need to ensure that mankind as a whole, particularly the developing countries, benefited from the results of exploitation of the area. Some restraints would clearly have to be devised - for example, to guard against market dislocation; the régime to be established must not, however, have the effect of setting aside a vast area for mankind's benefit without ensuring the necessary follow-up activity to bring about such benefits.

The fact that considerations of conservation might ultimately outweigh those of development should present no undue difficulty; the international community's concern, for many years to come, should be to ensure that actual sea-bed exploration and exploitation was a practical possibility.

His delegation thought that the proposed machinery should be empowered to administer a single over-all régime capable of dealing with the whole range of problems likely to be encountered. The machinery must administer the arrangements by which operators obtained rights to resources, and ensure that operators complied with the terms and conditions; it must therefore have the capacity to ensure that exploration and exploitation operations would be supervised and controlled. That would involve a number of practical issues on which the success or failure of the régime would depend, including the regulation and issue of grants of tenure, fees, rentals and royalties. The system must work effectively vis-à-vis individual operators and must be designed so as not to favour any particular national interest.

The Canadian management system was specifically designed to encourage exploration and exploitation, and had already been referred to favourably by a number of representatives in the Economic and Technical Sub-Committee. Under that system, a party wishing to undertake exploratory work must first acquire an exploratory licence, or "hunting licence", which was a simple authorization to explore any region of the Canadian offshore area, short of engaging in evaluation work. The basic concept was to encourage work through the granting of exploration rights on a non-exclusive basis for a nominal fee.

Exploratory permits, on the other hand, related to a specific area, defined by longitude and latitude; in fact the system was similar to the grid system suggested in the French, United Kingdom and United States working papers. The holder of an oil and gas exploratory permit had two advantages over his competitors: the option of acquiring exploitation rights within the permit area and the privilege of drilling wells beyond a specified depth within the permit area. All parties must submit detailed descriptions of all proposed offshore programmes, including oil wells, and all programmes must be approved before being carried out. Applicants, in addition to paying a fee for each permit at the time of issue, must also deposit funds to the full amount of the work requirement for the first period of the permit, as a guarantee that the work would be carried out. All such guarantee

deposits were returned upon receipt of satisfactory evidence that appropriate work had been carried out. Permits were valid for a specific period of years with one-year renewals. They carried work requirements which progressively increased so as to reflect the progressive increase in expenditure necessary to evaluate an area.

Exploitation leases were another element of the Canadian system. Commercial production could not be begun until acreage permits had been converted to leases, whereupon the Government received a royalty based on production. A permit holder might acquire leases covering up to half the area of a permit, at normal royalty rates; the portion of the permit not converted to lease reverted to Canada and might be issued to the permit holder - if the latter undertook to pay an additional royalty at a rate regulated according to the volume of production - or issued for public tender.

The Canadian system was based not upon discretionary authority but on selection of the most attractive nominations or applications. In view of the pressures to which administrations which had discretionary powers could be subjected, the international régime should be given no more power than it could exercise effectively, so as to operate objectively without the added complication of political pressures.

With regard to the proposed machinery's supervision and control of exploration and exploitation, it was important to ensure that adequate safety, conservation, pollution and other technical requirements were met in regard to activities beyond the limits of national jurisdiction. Although it was clearly in the world's interest to facilitate the orderly development of possible vast new areas of mineral resources, it was important at the same time to ensure effective supervision and control in order to avoid pollution. The ocean environment must be preserved in the interests of all those who used it and depended on it.

Offshore technology had advanced tremendously in recent years, chiefly as a result of the impetus of offshore petroleum exploration. It was essential, in order to prevent pollution and ensure personnel safety, to consider the supervision of drilling procedures and equipment as well as of the seaworthiness of the installations and vessels involved. There were other important considerations with regard to wells, each of which was a complicated subject but which must be taken into account in elaborating the licence system as part of the proposed régime and

in considering the necessary international machinery for the régime's administration. He therefore hoped that due consideration would be given to those matters and that no proposals based on relevant usage would be rejected prematurely.

The French, United Kingdom and United States proposals, which had been of great assistance to the Committee, would be carefully studied by his delegation and his Government. The United States working paper in particular was a tour de force, and the draft convention was a far-reaching proposal on which the United States Government was to be congratulated for the vision and imagination it displayed as well as for its precise drafting. His delegation would comment on all three working papers in due course.

Mr. GALLAGHER (United Kingdom) said that many of the ideas advanced in the French working paper were close to those put forward in the paper submitted by his own delegation. The United States proposals had been rightly praised as a tour de force, and his delegation would study them carefully with a view to discussing them with the Committee at the appropriate time.

His Government was not formally committed to the ideas contained in his delegation's working paper, which were intended to be purely exploratory. The Chilean representative had said that the United Kingdom working paper was not consistent with his own concept of the common heritage of mankind. In the United Kingdom delegation's view, the heart of the matter was to ensure equitable distribution of the benefits of sea-bed exploitation among all States parties to the international régime. The attempt to meet the interests of mankind as a whole merely by providing for the distribution of a portion of the profits arising from exploitation of the sea-bed's natural resources was too restricted an approach which might well lead to a situation against which the Kuwaiti representative had warned them (32nd meeting), where the development and exploitation of natural resources was left entirely in the hands of the more developed States and the developing countries were relegated to the role of recipients of financial assistance. On that issue, his delegation shared the concern expressed by the Soviet representative.

In the distant future, as a result of the development of national capabilities and of offshore exploitation techniques, many countries, both developing and developed, would be able to undertake exploration and exploitation themselves;

care must be taken, however, to ensure that all States had ample opportunity to engage in such activities as soon as the international régime came into force.

The licensing system proposed by his delegation would not permit some licensees to accumulate limitless holdings. The working paper envisaged the reservation for each State of a certain proportion of the blocks into which the sea-bed beyond the limits of national jurisdiction would be divided, according to criteria which would have to be determined. His delegation realized the magnitude of that task but regarded it as one of the régime's essential elements. Furthermore, the proposal that only a proportion of the total number of blocks should be available for licensing in a given period would ensure that, as under-sea exploitation techniques became more widely available, no State would be placed at a permanent disadvantage.

It was suggested in the United Kingdom proposal that licences should be issued only to States, which in turn would be responsible for sub-licensing to operators. The reasons for that suggestion had been clearly stated by the Cameroon representative (33rd meeting), and the delegation of the United Arab Republic also felt that the international authority should, at least in its initial years, issue licences only to States (34th meeting). His delegation thought that, unless licences were issued to States, it would be difficult to achieve equitable distribution of the benefits to be derived from exploitation of the sea-bed. To issue licences directly to operators would risk putting at a permanent disadvantage those States which at present lacked substantial technological capacity. Under the United Kingdom proposals, no restrictions, other than the requirement of a technical competence on the part of the operator, would limit the means by which the State might secure the exploitation of its licensed areas; a State might issue sub-licences to foreign operators to exploit, on its behalf, the blocks for which it had obtained licences, provided that its domestic rules and regulations enabled it to ensure adequate supervision and control.

He hoped that his remarks would help to allay fears, such as those the Kenyan representative had expressed (35th meeting), that only developed countries would, under the United Kingdom proposals, be able to take up licences.

Many Member States of the United Nations, developing as well as developed, had begun offshore exploration or exploitation, and had established administrative structures and procedures for that purpose. His Government felt that it would be wasteful if, in establishing an international régime, those administrative systems were duplicated; the greatest possible use should be made of them, subject to the adoption and maintenance of satisfactory international standards.

His delegation wished to reiterate its warning, which the Canadian delegation had also expressed, against the creation of an international bureaucracy which, by absorbing too great a proportion of available funds, would reduce the amount available for distribution for the benefit of all mankind.

His delegation was grateful for the many ideas put forward by the members of the Committee, and looked forward to more detailed consideration of the working papers when Governments had had an opportunity to examine them.

Mr. PHILLIPS (United States of America) said that his delegation would like an opportunity to speak, within the next few days, on the various proposals concerning the international machinery and on the comments made in connexion with his delegation's working paper.

The meeting rose at 1.15 p.m.

SUMMARY RECORD OF THE THIRTY-SEVENTH MEETING

Held on Tuesday, 18 August 1970, at 11.10 a.m.

Chairman: Mr. AMERASINGHE Ceylon

POLLUTION

Proposed statement on the dumping of toxic materials on the sea-bed and ocean floor

The CHAIRMAN said that, at informal consultations the previous day, a number of delegations had proposed that the Committee should record its concern at the United States Government's stated intention to dump a quantity of nerve gas in the deep ocean, and should address an appeal to Governments to refrain from such action. A draft statement had accordingly been prepared which read:

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

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

"The Committee was conscious of its special responsibility under the mandate entrusted to it by the General Assembly of the United Nations in resolution 2467 (XXIII) to make recommendations for the promotion of international co-operation in the prevention of pollution in the marine environment.

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

"The Committee has noted the assurances given by the delegation of the United States that effective precautions have been taken by the Government of the United States to mitigate any harmful consequences arising from this particular action."

If the Committee wished to take such action, it must do so quickly. A number of delegations however wished their Governments to study the proposed text, which, furthermore, still had to be translated from English into the other working languages. He would therefore suggest that, if the Committee was unable to reach immediate agreement on the proposed text, it should discuss it at the thirty-eighth plenary meeting, the agenda for which would include the question of marine pollution.

Mr. GALLAGHER (United Kingdom) said that his delegation would like to have time to study the text of the statement; it expected to be in a position to comment on it by the next day.

Mr. ARIAS SCHREIBER (Peru) said that marine pollution was now one of the greatest threats to mankind as a whole as well as to the rights of States in areas beyond the limits of their national jurisdiction. The question of avoiding further threats was of such importance and relevance to the work of the Committee that the latter would be fully justified in issuing the proposed statement, which he hoped all delegations would support as a matter of principle. The Committee should act quickly; to delay a decision on the proposed statement until after the intended dumping had become an accomplished fact would be to admit defeat.

Sir Lawrence McINTYRE (Australia) said that his delegation, although not opposed to any attempt to reach general agreement, felt that time was needed for its Government to study the proposed text of such an important statement.

Mr. KJARTANSSON (Iceland) said that his Government had already the previous week expressed to the State Department at Washington its concern at the United States Government's proposal to dump a quantity of nerve gas in the deep ocean.

Mr. KHANACHET (Kuwait) said that a number of delegations had already expressed the view that the Committee, in keeping with its mandate under General Assembly resolution 2467 (XXIII) and on behalf of mankind as a whole, should convey to the Secretary-General its concern over the proposal to dump nerve gas in the deep ocean. Those delegations had not raised the matter earlier because they had been led to hope that the United States Government might be dissuaded by the United States' own legal authorities from taking the action it proposed. Since, however, the United States apparently intended to proceed with the dumping operation, the Committee must act immediately, and he accordingly hoped that those delegations which wished to seek instructions from their Governments would stress the need for

haste. He would appeal to the United States delegation to inform its Government of the Committee's concern and request it to reconsider the decision to dump the nerve gas in the ocean.

Mr. VINCI (Italy) said that his delegation had already expressed the importance it attached to a statement of principle on the threat to mankind as a whole posed by marine pollution. Public opinion in Italy had been sharply affected by the United States Government's decision to dump nerve gas in the ocean. His delegation was, however, somewhat reassured by the United States representative's statements, at previous meetings, which would doubtless be followed shortly by more detailed information.

The need for time in which to translate the proposed statement and obtain instructions from Governments did not, in his opinion, conflict with the need for urgency. He was sure that the Committee could arrive at an agreed text without undue delay.

Mr. PHILLIPS (United States of America) said that, in view of the proposed statement which the Chairman had read out at the beginning of the meeting, he wished to state briefly his Government's reasons for choosing ocean disposal of the nerve agents instead of an alternative method. When the Committee came to discuss the item on marine pollution, his delegation would deal in detail with the question of how ocean disposal of nerve agents would have been dealt with under internationally accepted standards had the draft treaty been in force.

In 1969, in response to questions raised by conservationists and oceanographers, the United States National Academy of Sciences had, after reviewing the proposed ocean disposal of some 27,000 tons of munitions and 7,000 tons of chemical warfare agents, concluded that, although virtually all the materials could be safely detoxified on land, a small quantity, consisting of nerve agent rockets embedded in concrete vaults, could be safely disposed of only in the deep ocean. Since the conventional explosives in the rockets were becoming increasingly unstable, experts had recommended that final disposal of the vaults should be completed not later than 1 August, 1970.

Some press reports, including that referred to by the Malaysian representative (33rd meeting), had expressed concern lest the vaults should eventually leak under the sea. Underwater leakage of the containers was, however, desirable since contact with sea water would neutralize the nerve agents.

No more than roughly 1 cubic mile of sea, 5,000 metres beneath the surface, could conceivably be affected. Within ten days following contact with sea water all the nerve agents would be either destroyed or so diluted as no longer to have any toxic effect. At the site chosen, the mixing of deep bottom waters with surface waters was extremely slow. Following disposal, there was no possibility of the toxic material becoming hazardous to human life. The rapid dilution to non-lethal concentrations, and the chemical reaction of the nerve agents with sea water to produce non-toxic products, would confine any damage to bottom organisms to a highly localized area, at which point and depth such organisms were known to be extremely sparse. Since the materials, unlike contaminants such as DDT, were not passed along the food chain, the few organisms which might die could not cause further harm to other organisms or to human beings.

Although his Government had had no reasonable alternative in the case in question, it foresaw no circumstances in which it would again have to dump chemical weapons into the ocean. Because of changes in the methods of disposal of obsolete weapons and of detoxification of chemical materials which became unserviceable or obsolete, the situation, as the United States Secretary of Defence had said the previous day, would not occur again.

His country was deeply committed to the control of ocean pollution, and would work towards further means of protecting the marine environment.

Mr. SEATON (United Republic of Tanzania) said that while the Committee was continuing its deliberations, acts which made the environment less fit to live in were continuing. The build-up of stocks of chemical, nuclear and other materials was bound to lead to future disposal problems. Since land disposal led to hazards for populated areas, sea disposal was an inviting alternative, and at times seemingly the only course open. The principle of the freedom of the seas could not, however, give individual nations licence to take such action regardless of world opinion.

Although the Committee should beware of accepting a text which was too hastily worded and perhaps a little unjust to the United States delegation, it should not postpone its decision too long. It should also record its appreciation of the efforts of those delegations which had requested the Committee to consider the matter before the item on marine pollution was taken up.

The CHAIRMAN said that, if there were no objections, he would take it that the Committee agreed to postpone consideration of the proposed statement until the thirty-eighth plenary meeting, in order to allow delegations time to receive instructions from their Governments.

It was so agreed.

The meeting rose at 11.55 a.m.

SUMMARY RECORD OF THE THIRTY-EIGHTH MEETING

Held on Thursday, 20 August 1970, at 10.35 a.m.

Chairman: Mr. AMERASINGHE Ceylon

POLLUTION (continued)

Proposed Statement on the Dumping of Toxic Materials on the Sea-bed and Ocean Floor (concluded)

The CHAIRMAN invited the Committee to consider the proposed statement he had read out at the 37th meeting on the dumping of toxic materials on the sea-bed and ocean floor, paragraph by paragraph.

First paragraph

Mr. VALLARTA (Mexico) suggested the insertion of the words "radioactive and other noxious" between the words "toxic" and "materials". If that were agreed, the fourth paragraph would no doubt have to be modified accordingly.

It was so agreed.

Mr. NATORF (Poland) suggested the deletion of the word "prevailing" before the word "practice".

It was so agreed.

Mr. ENGO (Cameroon) said that since the process of dumping the nerve gas in the Atlantic Ocean was already underway, or had perhaps even been completed, it was not sufficient merely to refer to the decision of the United States Government to dump nerve gas. It should be clear that that decision was in the course of execution or had already been executed, despite the deep concern expressed by the international community.

Mr. RAMANI (Malaysia) suggested that the Cameroon representative's point might be met if the phrase ", since implemented" were inserted after the word "decision".

It was so agreed.

The first paragraph, as amended, was approved.

Second paragraph

The second paragraph was approved.

Third paragraph

The CHAIRMAN said that the reference to General Assembly resolution 2467 (XXIII) was not strictly accurate, and suggested that the paragraph be amended to read:

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

It was so agreed.

The third paragraph, as amended, was approved.

Fourth paragraph

Mr. VALLARTA (Mexico) suggested that, in view of the amendment to the first paragraph, the word "toxic" should be replaced by the word "harmful".

Mr. SEATON (United Republic of Tanzania) said that if the words "toxic properties" were replaced by some such words as "deadly and dangerous character", that would better convey the concern of the world community.

Mr. JAGOTA (India) said that the paragraph should be expanded so as to cover all possible cases of dumping of materials with harmful properties.

Mr. KHANACHET (Kuwait) suggested that the phrase "materials which by reason of their toxic properties" be replaced by the phrase "toxic, radioactive and other noxious materials".

Mr. PHILLIPS (United States of America) said that the Kuwaiti representative's amendment would be acceptable to his delegation.

The Kuwaiti amendment was adopted.

The fourth paragraph, as amended, was approved.

Fifth paragraph

Mr. SEATON (United Republic of Tanzania) said that the paragraph should be expanded to include mention of the important assurance given by the United States delegation that its Government would undertake no further action of the same kind.

After a general exchange of views, the CHAIRMAN suggested that the paragraph be amended by the replacement of the word "have" by the word "had", and the addition, after the word "action" of the words "and that such action will not be taken again."

It was so agreed.

The fifth paragraph, as amended, was approved.

The proposed statement, as a whole, as amended, was adopted.

Mr. RAMANI (Malaysia) said that although the action just taken by the Committee might be regarded as shutting the stable door after the horse had bolted, discussion at the 37th and present meetings had been valuable, as it demonstrated to the world that the Committee was not unmindful of its responsibility in such matters.

His delegation was grateful to the United States representative for the statement he had made at the 37th meeting regarding the precautions that had been taken before a decision was reached to dump nerve gas containers in the Atlantic. He had been relieved to hear that statement, but he was still unable to understand why the information had not been given to the Committee earlier when the United States representative had exercised his right to reply to the Malaysian delegation's criticism of the United States Government's decision (33rd meeting). Had the statement been made earlier, it would have received adequate press publicity and the world would have known that the United States Government had, in fact, patently acted with care and circumspection.

The gravamen of his charge was something entirely different. No-one knew how many of the coastal States were, in fact, dumping various kinds of noxious materials in the ocean, although everyone knew that that was being done. The people of the United States of America were more conscious than most of environmental problems and rebelled against being silenced and dismissed as a vocal minority. The debate on the United States action would have served a very useful purpose if other States were made to feel that the United Nations, through the Committee, maintained a constant vigil against pollution on the sea-bed and ocean floor. If, as he had suggested earlier, the area were vested in the United Nations, even as an interim measure, there would be one great advantage, namely, that the United Nations Secretary-General would become the sentinel permanently on watch against misuse or abuse of the area. He commended that suggestion to the Committee once again.

Before concluding, he would like to mention one fact relating to the dumping of nerve gas in the Atlantic which had not yet been explained. It had been reported in the London newspaper, "The Times", that amongst the "coffins" containing the nerve gas were some containing VX gas, which was more lethal than the GB gas, and that the United States Army was not quite sure which of the "coffins" contained

the VX gas because the casing had been painted over. That raised a whole series of questions, such as why the casing had been painted over, and how the authorities could be sure that the gas would not harm human and marine life. What concerned him was not so much the question of avoiding danger in the immediate future, but the question of being sure that the pollution of the marine environment, intended to be temporary and minimal, would not in fact subsequently endanger human beings through contamination of the sea food they consumed.

Mr. ENGO (Cameroon) said he had been dismayed that morning to read in the editorial of a leading international newspaper the following reference to the Committee:

> "Even the United Nations Committee on the Peaceful Uses of the Sea-Bed ducked out. Now meeting in Geneva, it might have been expected to protest against this threat to the ocean on behalf of the world community. Instead, it postponed action, thereby making certain that any protest it issued would be too late to have any practical effect".

It was obvious that there was a misunderstanding in some quarters as to the Committee's status, and that misunderstanding should be corrected. The Committee was a special committee of the General Assembly, with a membership restricted to a limited number of Member States, and it was doubtful whether it had the capacity to protest "on behalf of the world community". Moreover, it had to be understood that delegations to the Committee acted on instructions from their respective Governments and that seeking and obtaining instructions took time.

In refuting the insinuation of a deliberate postponement of action so as to ensure that any protest would be too late to have any practical effect, the Committee should appeal for understanding and co-operation. The press was probably the greatest single source of pressure known to the present generation; it spoke for the public, both national and international, as no other sector could. His delegation welcomed the interest shown by the international press in matters within the Committee's competence and hoped that the press and the Committee, in fulfilling their respective roles, would succeed in rousing sufficient public interest to compel all governments to adopt a more realistic attitude towards the ideals of all mankind as expressed in the United Nations Charter.

The CHAIRMAN said he would ask the Secretariat to take the matter up with the Office of Public Information, whose duty it was to present the United Nations to the general public.

Mr. PHILLIPS (United States of America) said he wanted to make it quite clear that the amount of VX gas in the entire dump had totalled 10.5 lbs. It had been, and was being, detoxified by dilution through the chemical process of hydrolysis. Although the rate of detoxification through hydrolysis was rather slower for VX gas, dilution did take place. There would be no toxicity resulting from the 10.5 lbs. of gas.

He agreed with the Cameroon representative's comments on the importance of informing the public, specifically through the press. However, press statements were not always accurate; the Committee could not base its decisions and judgements on what appeared in the newspaper.

The CHAIRMAN said the text of the statement just adopted by the Committee would be cabled to the Secretary-General of the United Nations and a copy would be formally handed to the United States representative for transmission to his Government.

Report of the Secretary-General (A/7924)

Mr. STEVENSON (United States of America) said the Secretary-General's report (A/7924) brought out clearly the potential effects of the exploration and exploitation of the sea-bed. The danger of pollution from sea-bed exploitation had already been demonstrated as a result of several oil-spills in recent years, which had warned of the need to devise rules, standards and procedures to prevent such incidents and to remedy them if they should occur.

In preparing its draft Convention on the International Sea-bed Area (A/AC.138/25), the United States had recognized the overriding need to assure protection for the marine environment from the hazards of exploration and exploitation and, at the same time, to protect the international sea-bed area itself from the activities of users of the superjacent waters. Because the goal of preserving the marine environment underlay so much of the draft Convention, it might be helpful if he drew attention to how specific articles related to the subject.

The concept of the international sea-bed area as the common heritage of all mankind, stated in article 1, paragraph 1, gave a sense of direction to the draft convention and, in particular, to the provisions that related to pollution. If the area was to be the common heritage of mankind, it must be neither wasted nor damaged. Thus, in article 9 it was provided that all activities in the

international sea-bed area, not just exploration or exploitation, should be conducted with strict and adequate safeguards for the protection of human life and safety and of the marine environment. In the view of the United States of America, the marine environment included the sea-beds and the waters above from coast to coast. Consequently it would be proper for any nation to bring an action before the Tribunal against another nation for activities within the international sea-bed area which caused harm to its own coastline. That was only one example for the far-reaching implications of the combination of article 9 with the provision on compulsory settlement of disputes in the Tribunal.

The principal activities in the international sea-bed area would doubtless be exploration and exploitation, and article 10 required that such activities be conducted by a Contracting Party or group of Contracting Parties or natural or juridical persons under its or their authority and sponsorship. No person might undertake exploration and exploitation activities under the draft Convention without the authorization or sponsorship of a Contracting Party, which, under article 11, was obliged to ensure that such persons complied with the Convention and that they were punished if they violated the Convention, and which was itself responsible for any damage caused by activities which it had authorized or sponsored. That provision on liability applied not only to exploration and exploitation activities, but to any activities which a Contracting Party authorized in the international sea-bed area.

Article 12 required that any dispute arising out of either the interpretation or the application of the draft Convention should be settled in accordance with its provisions, and that was of the utmost importance.

Under the first twelve articles, it would be possible for one Contracting Party to bring another Contracting Party before the Tribunal, if it believed that the other had itself conducted or authorized activities in the international sea-bed area without strict and adequate safeguards for the protection of the marine environment. Consequently, if the draft Convention had been already in force, any Contracting Party would have been able to bring the United States of America before the Tribunal because it had dumped nerve gas in the ocean. The United States would have been required to abide by the decision of the Tribunal and would have done so. In saying that, he did not intend to imply that the

dumping in question would have been found to violate the Convention; indeed, an assurance had been given that the United States Government had taken strict and adequate safeguards, as required by article 9, for the protection of the marine environment in the area. He mentioned that simply to indicate that the draft Convention would provide an effective rule of law and remedy.

Under article 19, paragraph 2, the International Sea-bed Resource Authority would have complete inspection authority over all licensed activities beyond the 200 metre depth boundary. The major burden of inspection would undoubtedly fall on Trustee Parties and Sponsoring Parties, particularly in the early years of the Authority. But there might be difficulties for coastal States or States sponsoring activities beyond the Trusteeship Zone and so enforcement of the provisions of the Convention should not be left exclusively to States. That was why the International Sea-bed Resource Authority was given plenary powers to conduct inspection activities throughout the international sea-bed area, including the Trusteeship Zone, and if it found violations of the Conventions had occurred and had not been corrected, it might itself bring the matter before the Tribunal.

Should the Tribunal find that a violation of the Convention had been committed through pollution, it would pass judgement and could then require any Contracting Party or licensee to take any necessary measures to implement its judgement. Provision was made for fines and for the payment of damages, and in the case of a gross or persistent violation by the licensee, his licence could be revoked. Finally, and that was of fundamental importance, if a Contracting Party failed to fulfil the obligations laid upon it by a judgement of the Tribunal, the Council had the power to suspend temporarily the rights of the Contracting Party under the Convention.

Article 23 was also directly related to pollution. Under its provisions, the International Sea-bed Resource Authority was authorized to prescribe rules and recommend practices to ensure the protection of the marine environment against pollution arising from exploration and exploitation activities.

In addition, article 27 authorized coastal States to apply still higher standards to their licensees than those imposed by the International Sea-bed Resource Authority. In addition, no deep drilling was permitted by any entity

except in accordance with a permit issued by the Authority or pursuant to exploitation licence. The United States delegation recognized that deep drilling presented the same pollution hazards whether it was undertaken for exploration and exploitation or for other purposes; it had therefore assured its comprehensive regulation in the draft Convention.

The powers of the International Authority were not limited to pollution after it had occurred. Under article 40, sub-paragraph (j), the Council had the power to issue emergency orders, at the request of any Contracting Party, to prevent serious harm to the marine environment arising out of any exploration or exploitation activity. Because the Council was given such sweeping powers, provision had also been made in article 59 for an immediate procedure which would enable any affected Contracting Party to have the Council's order reviewed promptly. The tribunal was empowered either to confirm or to suspend the application of the emergency order pending its decision on the merits of the case.

Further, article 40, sub-paragraph (k), required the Council to establish a fund to provide emergency relief and assistance in the event of a disaster to the marine environment resulting from exploration or exploitation activities, and as he had already pointed out; the marine environment would include the coastline of a Contracting Party. The International Sea-bed Resource Authority would thus be in a position to send personnel and equipment to the scene of a disaster to repair damage and help to prevent further damage to the marine environment.

His Government would welcome suggestions from members of the Committee on methods for enhancing the protection of the marine environment, and would be pleased to co-operate with any interested delegations in an attempt to improve the draft Convention.

Mr. KJARTANSSON (Iceland) said that when it was realised that the people of Iceland not only lived by the sea, but from the sea, deriving 90 per cent of their foreign exchange earnings from fishing, no one could be surprised to hear that the Icelandic Government was opposed to using the oceans as a gigantic dustbin where nations could dispose of their toxic waste materials and other pollutants at will. Pollution could be carried hundreds of miles in a

comparatively short time by swift ocean currents, and nations such as his own must therefore be concerned about cases of pollution even in distant waters. Marine pollution was a reality and a threat to the environment; it was high time that action was taken to combat it.

It was for those reasons that the Icelandic Ambassador in Washington had been instructed the preceding week to deliver a protest against the projected disposal by the United States of obsolete gas-filled rockets in the Atlantic. As the Secretary-General of the United Nations had already pointed out, that plan, which had been carried out, clearly contravened General Assembly resolution 2340 (XXII), which stressed the need to preserve the sea-bed and ocean floor from actions and uses which might be detrimental to the common interests of mankind. His delegation had been gratified to hear the statement made by the United States representative at the thirty-seventh meeting and did not doubt that, in spite of that unfortunate incident, the United States of America was generally committed to the control of ocean pollution.

There were other aspects of marine pollution which called for early action. Scientists at Woods Hole had recently demonstrated conclusively that oil-spills had harmful effects on fish and other marine life; the effects of disasters involving the new super-tankers were well known; and the graphic descriptions of Thor Heyerdahl of the state of the South Atlantic were fresh in everyone's mind. Moreover, reports were constantly being published about the effects of radiation on marine organisms, and thermal pollution from atomic power plants was creating another problem.

Despite all those hazards, there were no international rules or treaties restricting the amount of nuclear waste that countries could pour into the sea. Similarly, apart from oil-spills, no effective international safeguards existed to prevent the pollution of the oceans in other ways. Early and effective action by the international community was called for if the world's oceans were not to become cesspools like the Great Lakes or the Black Sea, where all marine life was rapidly becoming extinct.

He realised that the Committee was only competent to discuss pollution emanating from sea-bed exploitation, but the matter was so grave and recent developments had proved so ominous that he felt justified in speaking of pollution

in a wider context. Fortunately, there was now general agreement on the need for action, brought about, in part, through the efforts and discussions of the Committee.

It should be made clear that the problem of pollution demanded an international approach, although regional solutions might be applied within a larger context. International measures must rest within the framework of agreed scientific programmes of inquiry; an integrated global ocean station system must be established to monitor the level of pollution in particular ocean areas. Principles of liability and reparation must be agreed upon. Those elements must be regulated within an international treaty network and promulgated both nationally and through the concerted efforts of the United Nations agencies involved.

His delegation had on earlier occasions suggested the establishment of a marine pollution centre within the United Nations framework to undertake action in that field, and similar suggestions had been made by others. Valuable work was being done within the United Nations system, and a comprehensive report was to be issued on that work in 1971. The question would then arise as to what should be done next.

In his view, it would be desirable to convene an international conference of plenipotentiaries to study all aspects of pollution of the marine environment as soon as feasible after the matter had been examined by the United Nations agencies. The objective of such a conference would be to conclude an international treaty or treaties for pollution prevention. Such a conference would, of course, have to be co-ordinated with the 1972 Conference on the Human Environment and the projected IMCO Conference on Pollution from Ships which was to be held in 1973. The IMCO Conference could perhaps be expanded to cover the conclusion of comprehensive treaties on the subject, thus fulfilling the objectives of the conference he had suggested, and might also take any other preventive action that might be recommended in the Secretary-General's future report.

Only by such comprehensive action at the highest level of the United Nations system could the problem of contamination of the oceans be successfully resolved. The manifold aspects of the issue demanded a separate and independent approach, and could not be dealt with in a conference on the law of the sea, which would be

preoccupied with other topics. The need for early action was clear, and if it were considered advisable to convene a conference of plenipotentiaries of the type he had suggested, such a conference should be held not later than 1973.

He understood that those were matters which fell within the jurisdiction of the General Assembly, but he hoped that the debate in the Committee would serve to focus the attention of the international community on those aspects of the ocean, whose importance as a source of food and raw materials would greatly increase in the coming years.

Mr. PROHASKA (Austria) said that in considering the Secretary-General's report the Committee was not dealing with the question of pollution problems for the first time, since they had been considered in the Ad Hoc Committee's fact-finding report[5/] some two years ago, as well as in the Committee and its Economic and Technical Sub-Committee at previous sessions. The Secretary-General's report, however, went beyond those statements and was a valuable aid to the better understanding of what the Committee's future tasks must be.

The report dealt with two aspects, the concept of pollution and the scope of the problem. The concept of pollution must be defined. Mankind had been polluting his environment and impairing the ecological balance ever since he first began to harness natural resources. If pollution were prohibited absolutely, exploration and exploitation of mineral resources would be impossible. What had to be decided was whether or not the expected benefits from a particular activity would be outweighed by its undesirable indirect effects. An attempt must therefore be made to establish the maximum permissible amounts of pollution.

With regard to the scope of the problem, pollution from sea-bed exploration and exploitation was much less than from other sources of marine pollution, such as oil dumping by tankers or polluted rivers flowing into the sea.

In resolution 2566 (XXIV), the General Assembly had requested the Secretary-General, in co-operation with the specialized agencies and inter-governmental organizations concerned, to complement reports and studies under

5/ Report of the Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, Official Records of the General Assembly, Twenty-third Session, document A/7230.

preparation, with special reference to the forthcoming United Nations Conference on the Human Environment, by a review of dangerous pollutants and of national and international activities dealing with prevention and control of marine pollution, and by seeking the views of Member States on the desirability and feasibility of an international treaty or treaties on the subject. In his delegation's opinion, the Committee could best contribute to the efforts of the United Nations Conference on the Human Environment by continuing its examination of the specific problems arising from sea-bed resource development. It should also try to make faster progress in the elaboration of a sea-bed régime, the adoption of which would be the most effective means of combating the marine pollution arising from the exploration and exploitation of sea-bed resources.

His country, although having no access to the seas, was interested in pollution problems, and more generally in the sea-bed and ocean floor, because of the principle that those areas were the common heritage of all mankind, for whose benefit they should be developed irrespective of the geographical location of States. Countries such as his own would benefit only if those areas were developed in an orderly manner, under an international régime, which must extend to areas of the sea-bed which offered a reasonable prospect of direct revenues for the international machinery to be set up.

The United States delegation had performed a valuable service in submitting, in the form of a working paper, a draft convention on the international sea-bed area. The authors of the draft convention had been aware of the land-locked and shelf-locked countries' legitimate interests, and had made provision, although perhaps not in the correct proportion, for those countries together with the developing countries to be represented on the executive organ of the machinery to be set up. Developing countries, even when coastal States, were generally in the same position as land-locked countries in that they could not, for different reasons, expect to participate immediately and directly in ocean floor development. They too, therefore, stood to gain from the adoption of the principle of the common heritage of mankind. Because of that situation, traditional alignments - for example, the division between developed and developing countries - did not apply to the development of sea-bed resources. The Committee's work might well, therefore, be helping to break down such divisions.

Sir Laurence McINTYRE (Australia) said that concern over pollution problems was world-wide and was shared in full by his Government. Since the preservation of the human environment in such a way as to maintain and improve the quality of human existence was a highly complicated matter, the Committee should be realistic from the outset with regard to what it could accomplish at the present time.

The Committee, although it needed more accurate information than was at present available, might usefully begin an attempt to deal with a number of aspects of marine pollution, including the desirability and feasibility, mentioned in General Assembly resolution 2566 (XXIV), of an international treaty or treaties on the promotion of effective measures for the prevention and control of marine pollution. The proposed United Nations Conference on the Human Environment, to be held in 1972, would have an important role in that respect. In passing, he must state that it seemed unfortunate that the entire Pacific region south of the Equator was totally unrepresented on the Preparatory Committee for that conference. The work of other international agencies, particularly IMCO, on pollution control should also be taken into account.

The Committee should presumably concentrate, in such an exchange of ideas, on pollution which could result from exploration and exploitation of the sea-bed and ocean floor. The Secretary-General's report was helpful although his delegation wished that some of the scientific terms used in it had been explained or defined.

An example of his Government's concern over marine pollution was the fact that commercial oil drilling operations in the area of the Great Barrier Reef, on the continental shelf of Australia's eastern seaboard, had been suspended until it could be decided, on the findings of an expert body, whether such operations constituted an unacceptable risk to that unique natural phenomenon.

Members of the Committee seemed to be generally agreed that the international régime to be established should make proper provision against the danger of pollution arising from exploration and exploitation of sea-bed resources. Such provision could be effectively attained only if the régime and the associated machinery were consciously designed to maintain the necessary standard of competence and expertise in all such activities. His delegation's views on that

point had been made clear in statements in the Economic and Technical Sub-Committee and in the outline of economic and technical rules and conditions circulated in that Sub-Committee as a working paper[6/].

The aim should be to eliminate all serious pollution risks. As was stated in the Secretary-General's report, the only certain way of eliminating all possible risks would be to prohibit absolutely the exploration and exploitation of sea-bed mineral resources. Since that was out of the question, a means of defining the concept of pollution, in other words, what degree of adverse environmental change resulting from sea-bed activities would be unacceptable, must be sought. There was also the question, being considered by the Legal Sub-Committee, of developing the concept of responsibility for activities giving rise to damage to the marine environment, including appropriate reparation.

A suitable reference to safeguards against pollution would doubtless be included in the draft declaration of principles which, it was hoped, would be ready in time for submission to the General Assembly. His delegation suggested that, in its reports to that body, the Committee should refer briefly to the exchange of ideas on that subject, and reflect adequately, in terms on which all members could agree, the Committee's concern over the question of pollution. Emphasis might be placed on the need for greater scientific knowledge of the area's ecology and its vulnerability to pullutants, the need for international co-operation in research and technology so as to minimize the risk of pollution, the need for prompt and effective international co-operation in the event of a mishap, and the paramount importance, in an international régime for resource development, of agreed standards and procedures to be followed in the exploration and exploitation of sea-bed resources beyond the limits of national jurisdiction.

Mr. ZEGERS (Chile) said that the Secretary-General's report gave a useful general picyure of the dangers of pollution. Since no exploitation was possible without some pollution, the problem was to decide how much pollution the international community would tolerate. The report stressed the importance of establishing an international régime with an appropriate implementing agency, as

6/ See Report of the Economic and Technical Sub-Committee (A/AC.138/29), Annex VI.

the Austrian representative had urged. In the case of gas or oil exploitation, even slight escapes of oil into the sea were dangerous and should be prevented, while dredging for minerals might lead to the pollution of sea-bed organisms and cause permanent damage.

With regard to multilateral legal measures, the report mentioned article 1 of the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, signed at Brussels on 29 November 1969. However, he agreed with the Icelandic representative that what was needed was a general treaty, for which a special international conference should be summoned, which would embody, among other provisions, those of article 1 of that Convention.

He welcomed the United States delegation's proposal that the future international régime should be empowered to deal with all activities on the sea-bed which might endanger the marine environment and not just exploration and exploitation. It was essential to recognize that coastal States had a special interest in marine activities in areas beyond their jurisdiction which affected the marine resources of areas within their jurisdiction. Article 6 of the Convention on Fishing and Conservation of the Living Resources of the High Seas explicitly recognized that special interest of the coastal State and its right to take unilateral measures for the conservation of its resources. It was essential to include, both in the declaration of principles and in the report of the Economic and Technical Committee, a statement that the international régime should have a clear mandate to take measures, through its machinery, for the avoidance of pollution, and that coastal States had the right to adopt whatever measures were necessary to protect their coastal and related interests from the adverse effects of activities in sea areas beyond the limits of their national jurisdiction.

The Secretary-General's report would be a great help to the Committee, though he was surprised it should express the view that article 24 of the Convention on the High Seas legalized the exploitation of areas beyond the jurisdiction of the coastal State. Article 24, which was clear enough, dealt only with exploitation of the continental shelf, the only exploitation dealt with in the Convention, and one which many States regarded as not permissible. In fact, General Assembly resolution 2574 D (XXIV), which had been passed by a two-thirds majority, declared that, pending the establishment of the international régime, all

States and persons, whether physical or juridical, were bound to refrain from all activities of exploitation of sea-bed resources beyond the limits of national jurisdiction. He regretted that such a view should have been expressed in a Secretariat report, which was not the place for opinions which conflicted with resolutions of the General Assembly.

The text of the statement which had been agreed upon earlier, prompted by the United States Government's decision to dump nerve gas in the ocean, was a warning against any such action in the future. His delegation noted the United States Government's efforts to mitigate the effects of the dumping, and their assurances that such action would not be taken again. The proposal that such matters should be governed by the régime to be set up was a positive step forward.

In view of the report's conclusions concerning the damage to the sea-bed which could result from marine pollution, there was an urgent need to establish an international régime to protect the resources of the area beyond the national jurisdiction, and to assure its use for the benefits of all mankind, in accordance with the relevant General Assembly resolutions.

Mr. VINCI (Italy) said that the question of marine pollution was of the utmost importance. Like others, his delegation was aware of the Committee's restricted terms of reference but the Committee's concern over the United States Government's decision to dump a quantity of nerve gas in the ocean indicated the degree of concern felt generally over all questions of marine pollution. His delegation had been gratified to hear the assurances given by the United States delegation, which he hoped would allay some of the fears that had been expressed.

It was reported that there were still some 27,000 tons of dangerous war materials in the United States due to be destroyed in the near future; from other sources it was known that the sea was at present the only place where the growing quantities of nuclear waste were dumped. There was therefore an urgent need to find some safer method of disposal than dumping in the sea.

The Economic Commission for Europe was organizing a conference on the human environment, to be held at Prague in 1971; that conference would in some ways be a preparation for the United Nations conference on the same subject, to be held at Stockholm in 1972. Italy was among the countries which had agreed to prepare working papers for the Prague conference, and its paper would deal with the

protection of historical sites; he understood that the United States would contribute a paper on the disposal of waste. He was gratified to see that article 9 of the draft convention submitted by the United States delegation provided that all activities, not just those of exploration and exploitation, should be conducted with strict and adequate safeguards for the protection of human life and safety and of the marine environment. His delegation was confident that the United States Government would include in the paper a detailed study on the disposal of war materials and radioactive wastes since such disposal, unless properly controlled, could gravely endanger human and marine life.

His delegation had always supported the adoption of precise principles for the prevention of marine pollution and supported the suggestion that such principles should be included in the draft declaration which the Committee was endeavouring to prepare.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE THIRTY-NINTH MEETING

Held on Monday, 24 August 1970, at 10.35 a.m.

Chairman: Mr. AMERASINGHE Ceylon

STATEMENT BY THE UNDER SECRETARY-GENERAL FOR POLITICAL AND SECURITY COUNCIL AFFAIRS

Mr. KUTAKOV (Under-Secretary-General for Political and Security Council Affairs) said that the rapid pace of technological development made it obvious that the tasks of the Committee would become more and more complex. No-one doubted that the world of today was a political world, and the implications of that fact extended from the depth of the sea to the far reaches of outer space. Clearly it would not be possible to attain a satisfactory international agreement on the problems of the sea-bed until all the intricate issues involved had been thoroughly elucidated and scrutinized. Those issues ranged from the reservation of the sea-bed and ocean floor beyond national jurisdiction exclusively for peaceful purposes to the ways in which the wealth which all hoped could be secured from that area should be distributed for the benefit of mankind.

There could be no doubt that the amount of work that would have to be done by the Committee was very great. The Secretariat had been, and would remain, at the disposal of the Committee to help it in accomplishing its task. He had been gratified at the many expressions of appreciation of the Secretary-General's report on machinery (A/AC.138/23), which was the result of close co-operation among various branches of the Secretariat. The Secretariat in turn was appreciative of the co-operation of the specialized agencies and the International Atomic Energy Agency in matters of concern to the Committee, particularly in the preparation of the report on pollution which the Committee was now considering.

The Committee had already made significant contributions to the clarification of the many difficult problems involved in establishing an international régime for the sea-bed area, and he wished it continued success.

POLLUTION (concluded)

Report of the Secretary-General (A/7924) (concluded)

Mr. GALLAGHER(United Kingdom) said his delegation warmly supported the work done by the Group of Experts on the Scientific Aspects of Marine Pollution (GESAMP) which, as the Secretary-General had acknowledged, formed the basis of his report. The sensible and effective way to make progress on the complex subject of marine pollution was through that Group.

With regard to the reference by the Secretary-General to the possibility of pollution resulting from research activities, the risk of pollution being caused by drilling was not to be underestimated. It was most desirable that ships engaged in drilling for research purposes should not enter areas where there was a danger of leakages and blow-outs.

His delegation endorsed the view that gas and oil exploitation was the most likely cause of serious pollution arising from the development of the resources of the sea-bed. United Kingdom legislation governing oil and gas exploration and exploitation activities contained provisions, with penalties, against activities causing pollution. Moreover, the actual licences, without which neither exploration nor exploitation could be commenced, were issued subject to conditions which, besides providing for good standards of working and for control and supervision, also required the licensees to take all steps to prevent escapes of oil or gas. Discharges of oil from pipelines or as a result of exploration had also been brought under statutory control. His delegation looked forward to international agreement on equally strict standards to be applied to exploration and exploitation of the resources of the sea-bed beyond the limits of national jurisdiction.

His delegation also welcomed the sections of the report which dealt with the pollution which might arise from solid mineral dredging and with the requirements for further research in relation to marine pollution.

The section on the legal aspects of those problems usefully summarized the current position, and was very valuable. He particularly commended the suggestion that ways of arriving at a definition of pollution should be established as a prerequisite for further legal regulation. The Secretary-General had done well to point out that the superficially attractive solution of prohibiting pollution in

absolute terms would prohibit all exploration and exploitation of the mineral resources of the sea-bed, with the obvious result that no benefit of any kind would accrue to the international community. The real problem was to strike a proper balance between inhibiting pollution and inhibiting exploitation.

Apart from the priority which it had been instructed by the General Assembly to give to the declaration of principles and to the matter of international machinery, the Committee had also been instructed, in General Assembly resolution 2467 A.(d) (XXIII), to examine proposed measures of co-operation to be adopted by the international community to prevent the marine pollution which might result from the exploration and exploitation of the resources of the sea-bed. At the same time the United Nations was actively engaged in the study of other aspects of marine pollution not directly related to the exploration and exploitation of the sea-bed. Consequently, if the international community was to make speedy and effective progress, it was essential to avoid duplication of effort by the various agencies legitimately interested in particular aspects of the problem. That was particularly necessary because the world's stock of expertise in those matters was not unlimited.

The United Kingdom Government hoped shortly to be in a position to present its views to the Secretary-General for inclusion in the report he was to submit to the Economic and Social Council under the provisions of General Assembly resolution 2566 (XXIV). It would take the position that pollution from atomic waste which, like some other wastes, could only be disposed of, with all necessary precautions, in the sea, should continue to be dealt with by the various national and international atomic energy authorities, while pollution from oil should continue to be regarded as the province of IMCO, whose record so far in the promotion of international regulations and agreements was extremely impressive. On other aspects of pollution, his Government supported the work of GESAMP whose priority task should, in its view, be the identification of substances most urgently in need of regulation.

He shared the view of the representative of Iceland (38th meeting) that it should in due course be possible to bring much of that work together in the 1972 United Nations Conference on the Human Environment.

Mr. PINTO (Ceylon) said that he fully endorsed the statement adopted by the Committee at its thirty-eighth meeting regarding the threat to the marine environment caused by the practice of certain countries of disposing toxic and other hazardous materials by dumping in the sea. Acts of that nature, committed even while all countries were attempting to collaborate to halt the growing menace of marine pollution, could not but evoke world-wide concern.

The sea-bed and the ocean floor beyond the limits of national jurisdiction formed only one part of the marine environment that demanded protection. That area was, in fact, the one furthest removed from the usual sphere of man's activity, and pollutants might have to traverse at least a substantial water column before they finally affected the bed of the sea. On the other hand, with ever-increasing offshore exploitation, the danger that pollutants would be released from the sea-bed to contaminate the rest of the marine environment had mounted considerably. It was primarily in that aspect of the matter that the responsibilities of the Committee with regard to the promotion of international co-operation in the prevention of pollution in the marine environment appeared most relevant.

It was clearly not worthwhile to approach each problem of marine pollution separately. The marine environment must be treated as an integral whole; from the biological standpoint, as the Secretary-General had said in his report, the seas constituted an "indivisible totality". The problems in each of its areas were intimately related, and they were urgent. In its recently completed expanded programme of oceanographic research, IOC had noted that the levels achieved by some pollutants in certain parts of the ocean were already a matter of deep public and scientific concern, and dangerously high levels might be imminent in the case of others; it had also emphasized that loss of use of the marine environment through contamination might only be prevented by rational policies based on research and monitoring.

It had always been the view of his delegation that the new international institution which it would like to see endowed with jurisdiction over the international area of the sea-bed should have wide responsibilities in the field of the prevention and control of marine pollution. It should have the means of inducing the formulation of correct exploitation and disposal policies and techniques at the national level based on research and monitoring, while at the

same time maintaining or participating in a world-wide monitoring or surveillance system. Even then, the task would be so great and the expertise required so varied that the new institution would have to act in close collaboration with national and international institutions with responsibilities in related fields. Amongst such international institutions were IOC, the Food and Agriculture Organization of the United Nations (FAO), IAEA, IMCO and the World Meteorological Organization (WMO). All those institutions had current programmes relating to pollution control, and the new international institution would supplement their activity with its own programmes for surveillance and dissemination of pollution data relevant to matters within its own sphere of competence.

The problems involved in the prevention and control of pollution were so complex that they raised doubts as to whether the pace of the Committee's activity was adequate to arrest the menace of marine pollution. To take one example, there was the question of defining pollution. GESAMP had defined marine pollution as the "introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) resulting in such deleterious effects as harm to living resources, hazard to human health, hundrance to marine activities including fishing, impairing of quality for use of sea water and reduction of amenities". While that definition might have served the purpose for which it was originally intended, it was of hardly any assistance in providing an answer to the question of what the threshold level of pollution was.

Among the principal sources of pollution by man were the disposal of domestic sewage and industrial waste, mainly from coastal outlets within national jurisdiction; the escape or dumping of harmful materials, such as toxic or radio-active substances, that had served their purpose or were no longer useable; the discharge of waste material from ships, or the accidental escape of harmful cargoes, such as oil; and the escape of harmful substances in the course of exploitation of the sea-bed. It might well be that there would have to be not one but several threshold levels of pollution to cover all those sources, levels which would vary with the form and quality of the material introduced, its rate of introduction, the nature of the protective packaging used, if any, and the characteristics of the area of the marine environment into which it was introduced.

Another matter on which much work remained to be done was that of liability for damage caused by pollution. Two questions that must be answered in the near future were: should an offender's State be responsible directly for pollution damage, and should such responsibility be "absolute", or "strict"? Up to the present, State practice appeared to point in the direction of absolute or strict liability.

The whole question of pollution of the marine environment was so vast that the variety and complexity of the problems involved could only be guessed at. It was, however, clear that the existing legal framework for the prevention and control of pollution and responsibility for damage was inadequate. Certain international instruments had been concluded, but they represented only a beginning in the struggle to combat pollution.

Two final points he would like to make were, first, that the right of the coastal State situated in the region of an activity causing or likely to cause damage through pollution of the marine environment, to be consulted, and in certain circumstances to take preventive measures, must be recognized. Secondly, any marine pollution surveillance system must be centralized and controlled at the international level. That responsibility could well be borne by the new institution to be established for the sea-bed. In his delegation's view, it would not suffice to leave surveillance of offshore areas within the international sea-bed area to coastal States which, even with the best will in the world, might be less than objective in their scientific assessment.

Mr. IORDANESCU (Romania) said he did not propose to discuss in detail all the aspects of pollution and their negative effects, but besides the harmful effects of pollutants on flora and fauna, there were many other factors in the industrial exploitation of marine areas that could lead to a biological disequilibrium, and those factors must also be taken into account. For instance, intensive and sustained industrial activities over wide seaboard areas could lead to a change in the environmental conditions of areas which were particularly favourable to the reproduction and migration of fish, and the change would, without doubt, have adverse effects on such marine life.

The Secretary-General was to be congratulated on his efforts to bring out the technical and legal aspects of pollution in his report but, as was admitted in the report, because of the lack of practical experience, the report could only be regarded as provisional.

His delegation had welcomed General Assembly resolution 2566 (XXIV), under the terms of which the Secretary-General had been requested, in co-operation with the specialized agencies, to complete reports and studies under preparation by listing dangerous pollutants and all aspects of their action.

When talking of marine pollution it was difficult, and perhaps without foundation, to differentiate between coastal waters and the deep ocean waters beyond national jurisdiction. The constant, varied and irregular movement of the seas could lead to pollution in territorial waters being transmitted to deep waters and vice versa, while the negative effects of pollution in one area could have repercussions on production elsewhere. The sea was indivisible. It was precisely for that reason that a complete study of pollution of the marine environment should include a study of pollution caused by industrial activities on land as well as of pollution resulting from the exploration and exploitation of the sea-bed and ocean floor.

If an answer was to be found to all the different problems raised by pollution, studies and research would have to be undertaken, and that would take some time. To ensure that exploitation did not outstrip research, an effort should be made to intensify co-operation between the specialized agencies and other competent bodies.

Bibliographies of scientific and technical publications and pertinent national legislation were now being brought up to date, but what was needed was to see that all States disseminated their statistics and new data, if possible through a central agency. States could then improve their present legislation while, at the same time, closer and fruitful co-operation would be established between the international bodies and national research institutions.

The Committee's report should emphasize the importance of pollution in every aspect of its work. It should also request that the various studies be completed and that co-operation between international bodies and national institutions be intensified by the timely dissemination to all States of data relating to pollution.

Mr. DENORME (Belgium) said that in his report the Secretary-General had pointed out that if pollution were to be prohibited in absolute terms, the exploration and exploitation of mineral resources could not be conducted. It was true that if the prohibition of pollution were defined as a prohibition on changing the marine environment in any way at all, the exploration for and exploitation of mineral resources would be impossible.

A start should be made immediately on determining the level at which change was tolerable but beyond which pollution should be prohibited because of the harmful consequences it would have. Such prohibition would involve the adoption of appropriate rules, reflecting the best principles applied by the petroleum industry and laying down the exploitation procedures to be followed to avoid pollution. The relevant provisions in the draft Convention submitted by the United States of America deserved careful study in that respect.

Pollution resulting from the development of sea-bed resources beyond national jurisdiction was, however, but one example of a problem of which very little practical experience had so far been gained. Up to the present, pollution was a phenomenon resulting generally from the deliberate or inadvertent spilling of chemical or radio-active waste into the sea rather than from any exploration or exploitation of mineral resources in areas beyond the limits of national jurisdiction. The main danger was to the living resources of the superjacent waters, and the phenomenon was, therefore, strictly speaking, outside the competence of the Committee. But it was questionable whether the Committee should ignore the problem. It had, in fact, refused to do so a few days previously when it had addressed an appeal to all Governments to abstain from using the sea-bed and ocean floor for the purposes of dumping toxic, radio-active and other noxious materials which might seriously damage the marine environment. His delegation had subscribed to that appeal. It had also taken careful note of the explanations given by the United States representative on the subject of the recent dumping of a quantity of nerve gas in the Atlantic and of his assurances that such measures would not be taken in future.

His delegation regretted the current practice of discharging toxic materials into the sea. It recognized that that was only one way of polluting the seas and that it should be considered in a general context. There were many forms of marine pollution which were not all the result of deliberate action, but all of which would seriously damage the marine environment. Only one example was the action of the wind and river currents which carried down earth and deposited industrial waste on the sea coast, from where it spread into the sea itself.

The general problem of pollution, whether resulting from the spilling of oil or toxic substances on the high seas, from accidents during the exploitation of oil resources on the continental shelf, from the discharge of industrial waste or from any other source was a cause of concern to all, as the international community was daily coming to realise.

In 1969, two Conventions on the subject of marine pollution had been adopted in Brussels, but, generally speaking, there was not as yet any international legislation capable of effectively protecting the seas, the sea-bed and the resources of the sea-bed. The problem was to be dealt with as a whole in a report to be prepared by the Secretary-General under the provisions of General Assembly resolution 2566 (XXIV). His delegation, which had been a sponsor of that resolution, was looking forward to seeing the conclusion of that report which would show what practical possibility there was of drawing up new international legal instruments to deal with the problem.

An extremely dangerous situation would arise if the ocean depths were to become more and more of a dumping ground instead of being treated as the common heritage of mankind. His delegation would give favourable consideration to any measure which might effectively prevent the progressive deterioration of the marine world.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that in resolution 2467B (XXIII) the General Assembly had drawn attention to the dangers of pollution of the sea-bed and ocean floor arising from the activities of States in that area, whose resources it was in mankind's interests to protect. It had welcomed the precautions taken by States against pollution hazards, and had said, with regard to the elaboration of principles, that studies should be carried out

for the purpose of clarifying all aspects of the protection of biological and other marine resources from the effects of pollution. His delegation had been one of a large group of sponsors of a draft resolution which had stressed the importance of preventing the pollution of sea-bed resources.

Consideration of strict measures to prevent marine pollution arising from the exploration and use of the sea-bed and ocean floor or from the disposal of waste matter and materials on the sea-bed should be one of the Committee's main tasks. The matter was important for political as well as scientific and technological reasons. A number of delegations had rightly noted that the problems of marine pollution and the attendant risks of ecological imbalance had gained in significance as a result of the increasing scale of exploration and exploitation activity by various States. In particular, the dangers arising from pollution by radio-active, toxic and other harmful substances would increase unless suitable measures were taken at both the national and the international level.

His delegation had carefully studied the Secretary-General's report on marine pollution. It pointed out the seriousness of pollution problems, convincingly illustrated the type of pollution that could arise from accidents during oil and gas drilling and solid mineral dredgings, and stressed the need for urgent measures to prevent and combat pollution. His delegation emphasized that national and international measures must be adopted to govern sea-bed activity, in order to prevent the pollution of marine resources, and that States must accept international responsibility for activities carried out by their nationals in the sea-bed area beyond the limits of national jurisdiction, regardless of whether such activities were carried out by States or by natural or juridical persons. The activities of such persons in the sea-bed area must, moreover, be authorized and supervised by the State concerned.

His country was carrying out extensive work for the prevention of marine pollution, and was prepared to collaborate fully with other countries for the purpose of avoiding the harmful consequences which might ensue from the activities of States on the sea-bed and ocean floor.

Mr. THACHER (United States of America) said that there were many sources of marine pollution. Although the Committee's scope, as far as marine pollution was concerned, was limited to that arising from exploration and exploitation activities, it was noteworthy that the Under-Secretary-General for Economic and Social Affairs, speaking at the thirty-fifth meeting of the Economic and Technical Sub-Committee, had said that the Sub-Committee should not work in isolation but should keep itself constantly imformed of related developments in other United Nations bodies. The need for such an approach to the problem was reinforced by the nature of the problem itself. That was illustrated by the definition of marine pollution given by the 1969 Group of Experts on the Scientific Aspect of Marine Pollution which the Ceylonese representative had quoted.

Although the General Assembly and the Economic and Social Council had for many years been dealing with the subject of international co-operation with respect to the oceans, the Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction had been the first body to take a major step towards increasing mankind's awareness of the need to protect his marine environment. Its 1968 report had provided the basis for General Assembly resolution 2467 D (XXIII), which had welcomed the concept of an international decade of ocean exploration to be undertaken within the framework of a long-term and expanded programme of oceanic exploration and research under United Nations auspices. The General Assembly, in resolution 2560 (XXIV), had accepted the recommended scope of the long-term programme of which the international decade was to be the initial phase. Marine pollution prevention and control would be a major feature of the decade. The General Assembly had also, in resolution 2566 (XXIV), requested the Secretary-General to prepare a comprehensive report on marine pollution, to be included as appropriate in the framework of the preparations for the United Nations Conference on the Human Environment, to be held in 1972. The General Assembly had specifically requested the Secretary-General to prepare a review of harmful chemical substances, radioactive materials and other noxious agents and waste which might dangerously affect man's health and his economic and cultural activities in the marine environment and coastal areas. The report would be submitted to the General Assembly at its twenty-sixth session and would undoubtedly contribute to the preparations for the Conference on the Human Environment.

Mankind was just beginning to understand the effect on the marine environment of the disposal at sea of waste, particularly organic and toxic matter. The condition of Lake Erie and off-shore regions had now drawn public attention in the United States to pollution dangers. Every year the United States dumped about 48 million tons of sludge and other materials in its coastal waters. Because of population growth, higher per capita waste and limited disposal sites, municipal disposal problems were becoming worse. Last April, President Nixon had directed the Chairman of the Council of Environmental Quality to submit to him next September a comprehensive study of ocean dumping.

The United States contribution to the International Decade of Ocean Exploration was $15 million for the fiscal year 1971. Particular emphasis was laid on the need to preserve the ocean environment by scientific observations, which it was hoped would provide a basis for assessing and predicting man-induced and natural modifications of the character of oceans, identifying the damaging or irreversible effects of waste disposal at sea, and understanding the interaction of various levels of marine life with a view to preventing the depletion or extinction of valuable species as a result of man's activities.

The degree of his country's concern over pollution problems was shown by the "oceans policy", announced by President Nixon on 23 May (A/AC.138/22), in which he had proposed general rules, of which his delegation had informed the Committee at an earlier meeting, to protect the ocean from pollution under an international régime for the exploitation of sea-bed resources. President Nixon had also described his country's efforts to obtain a new treaty which would ensure unfettered and harmonious use of the oceans and would take account of the problems of developing and other countries regarding the conservation and use of the living resources of the high seas.

On the problem of oil spills, the work of IMCO had resulted in conventions which would allow nations to take action within the international framework to prevent damage from such spills and to provide compensation when damage occurred.

Man's activities in the marine environment were not the only source of marine pollution. The Secretary-General's report to the Economic and Social Council on international co-operation in questions relating to the oceans 7/

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brought out the fact that some of the most serious sources of marine pollution were to be found far from the marine environment. For example, pesticides which had been used on the African continent had been detected in the Bay of Bengal and the Caribbean Sea. The situation challenged man to devise means of protecting the marine environment from the seemingly inevitable consequences of his own existence.

Such being the magnitude of the problem, the 1972 United Nations Conference on the Human Environment would obviously have a major role to play, but parallel action was necessary in relation to man's activities in the ocean. Earlier steps, however, could and should be taken. The Committee, which might perhaps claim credit for having made the recommendation for the International Decade on Ocean Exploration, should strive, at its present session, to do more than merely note the Secretary-General's report. Without claiming to be the competent body to consider all sources of marine pollution, it might nevertheless record, in its report, its general awareness of the importance and scope of the problem as well as of the many steps being taken, throughout the United Nations system, to cope with it. The Committee might acknowledge its particular responsibility to contribute to such steps by resolving henceforth to concern itself with the prevention and control of marine pollution arising not only from exploration and exploitation but from all activities on the sea-bed. Since it was now agreed that the sea-bed was the common heritage of mankind, such a step could be a fitting contribution to the celebration of the twenty-fifth anniversary of the General Assembly.

Mr. SOLIMAN (Libya) said that although the Secretary-General's report was described as providing only a tentative outline of the problems of marine pollution, his delegation considered it to be a useful and objective document.

His delegation was concerned over the need to prevent pollution arising from causes such as gas and oil exploitation and solid mineral dredging, and had noted the preventive measures already taken by the international community under the various conventions and agreements mentioned in part C of the report. There were, however, other hazards, such as the effects of underwater drilling and dredging and the disposal of radio-active waste, which had not yet been adequately dealt with by the provisions of any international legislation, and the international community must now make provision for the protection of the marine environment.

In so doing, it must take account of the coastal State's right, in certain circumstances, to adopt conservation measures to maintain the productivity of the living resources in any area of the high seas adjacent to its territorial sea and to preserve the biological, chemical and physical balance of the ocean.

The existence of military bases was still another threat to the marine environment. If it was agreed that the sea-bed area was the common heritage of mankind, to be used for peaceful purposes, the area should be protected from every kind of hazard and threat of destruction.

The main impediments to progress in minimizing the harmful effects of pollution were the absence of international institutional devices, the lack of political will on the part of States, the dearth of financial resources, the deficiency of technological skill, especially in the developing countries, the slow growth of public awareness of the problems involved, and the inadequacy of research. With respect to research, his delegation hoped that the long-term and expanded programme of oceanic exploration and research, mentioned by the United States representative, would play an increasingly important role. A further impediment was the lack of international co-operation, though future international conferences such as the Conference on the Human Environment to be held at Stockholm in 1972, and the proposed IMCO conference to be held in 1973 for the purpose of reaching agreement on restraints to be placed on contamination by vessels and equipment operating in the marine environment, should help to minimize the dangers arising from pollution and lead to co-ordinated international activity for that purpose.

Time would be needed to deal with the many legal questions involved, such as States' legal powers to take measures for the protection of their coasts against activities carried out in international waters, access to territorial waters for salvage equipment, the coastal State's powers to control procedure, the nature and extent of liability and so on.

His delegation had supported the Committee's decision at its thirty-eighth meeting, to issue a statement protesting against the practice of dumping radio-active, toxic and other harmful materials on the sea-bed and ocean floor. It was the Committee's duty, under its mandate, to draw attention to such matters, and to express its concern for the common heritage of mankind.

The meeting rose at 11.40 a.m.

SUMMARY RECORD OF THE FORTIETH MEETING

Held on Wednesday, 26 August 1970, at 10.35 a.m.

Chairman: Mr. AMERASINGHE Ceylon

APPROVAL OF THE REPORT OF THE ECONOMIC AND TECHNICAL SUB-COMMITTEE (A/AC.138/29)

Mr. PROHASKA (Austria), Rapporteur of the Economic and Technical Sub-Committee, said that the Sub-Committee's report (A/AC.138/29) had been made available to all delegations in all working languages. It covered the work done by the Sub-Committee during the two sessions in 1970, and was in fact a revised, expanded and up to date version of the interim report (A/AC.138/SC.2/L.6) submitted to the Committee at the end of the March session.

The terms of reference of the Sub-Committee were to be found in the programme of work adopted by the Committee at its first session in 1969 (A/7622, annex I) and in the relevant resolutions adopted by the General Assembly at its twenty-third and twenty-fourth sessions. The Sub-Committee's specific mandate for 1970 was set out in operative paragraph 6 of General Assembly resolution 2574 B (XXIV), in which the Committee was requested to formulate recommendations regarding the economic and technical conditions and the rules for exploitation of the resources of the area in the context of the régime to be set up. In response to that request, the Sub-Committee had considered that it would be appropriate, in a first phase, to identify and examine systematically the problems and issues of an economic and technical nature regarding the exploration and exploitation of marine mineral resources beyond the limits of national jurisdiction. The Sub-Committee had had the assistance of a review prepared by the Secretariat on government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21 and Corr.1).

Although it had been recognized that none of the existing national systems for the development of marine resources was directly applicable to resource development beyond the limits of national jurisdiction, it had also been recognized that something was to be learned from national rules and practices. A list of problems and issues which might be considered in the context of any international régime to be established had been drawn up by a number of delegations and was contained in annex I to the report. Possible alternative solutions to those problems were also listed in that annex, although no attempt had been made at the present stage to indicate which of them would be most appropriate for further consideration.

In addition to that list of topics, other proposals had emerged which might also be usefully considered during future sessions of the Sub-Committee in accordance with its terms of reference. Some of them were contained in further annexes to the report. However, the Sub-Committee had considered that at the present stage it was not in a position to advance concrete proposals about the economic and technical conditions and rules regarding exploitation and exploration of the resources of the area. Many delegations had stressed the need for more time in order to allow the considerable amount of material now available to the Sub-Committee to be examined by their Governments. The Sub-Committee had also been conscious of the priority task of the Geneva session which was the preparation of an agreed declaration of principles and the carrying out of further discussions on the international machinery. It had therefore refrained from making selective recommendations on the questions assigned to it by the Committee from among those which the Committee had been invited to consider by General Assembly resolution 2574 B (XXIV), preferring to wait until, following further progress, it was in a position to formulate its recommendations as a balanced and coherent whole. The Sub-Committee felt, however, that it had made an encouraging start to its task and that progress in the exchange of views had confirmed the value and importance of its work.

A formal reply to the request for recommendations made by the General Assembly at its twenty-fourth session would be found in paragraph 15, where the Sub-Committee unanimously recommended that it be instructed at its future sessions to study further and systematically the issues raised in order to identify the most suitable solutions, in accordance with the mandate given to the Committee. It had been felt that that study should be made with a view to incorporating the most suitable alternative solutions in a draft resolution to be recommended by the Committee to the General Assembly. Such a draft resolution might, inter alia, request the Committee to pursue its consideration with a view to formulating acceptable draft provisions for the agreement establishing an international régime in the area.

The Sub-Committee had also agreed that the Committee should request the Secretary-General to undertake a more comprehensive study on possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation and resources of the area, for submission to the Committee at one of its 1971 sessions.

Mr. DENORME (Belgium), Chairman of the Economic and the Technical Sub-Committee, said that in the course of its discussions, the Sub-Committee had had a number of working papers or specific proposals put before it, some of which appeared as annexes to its report. The French, United Kingdom and United States delegations had asked that their respective working papers should be included as annexes to that report if they were not annexed to the report of the main Committee, a matter which the Committee would now have to decide.

The Sub-Committee had proposed at the present session to make a thorough and systematic study of the various possible solutions to the problem of the conditions of exploitation, but had been unable to complete its work as that had proved too ambitious a programme. It had, however, reached a measure of agreement on some points, although only a few. Without submitting formal recommendations on the subject or implying any order of priority, it had stressed the need to provide training in sea-bed operations for nationals in developing countries as well as the importance of ensuring the widespread dissemination and availability to all States of the results of scientific research and exploration of the sea-bed and ocean floor. It had also noted the need for agreed definitions of economic and technical terminology.

The Sub-Committee had unanimously recommended that it should be instructed to study further and systematically, at its future sessions, the issues raised in order to identify the most suitable solutions. It had also agreed that the Committee should request the Secretary-General to undertake a more comprehensive study on possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of sea-bed resources. That again was a matter on which the Committee would have to decide.

The Economic and Technical Sub-Committee, as noted in paragraph 14 of its report, had made an encouraging start to its task and felt that progress made in the exchange of views had confirmed the value and importance of its work. He hoped that the main Committee would share that view and adopt the Sub-Committee's report.

The CHAIRMAN said the Committee greatly appreciated the valuable work done by the Economic and Technical Sub-Committee. He suggested that the Committee might wish to endorse the Sub-Committee's unanimous recommendation in paragraph 15 after it had discussed the report as a whole.

With regard to paragraph 16, he agreed with the Chairman of the Sub-Committee that the question of requesting the Secretary-General to undertake a more comprehensive study on possible methods and criteria would require a decision by the Committee. A decision would also be needed on the annexing to the Committee's report of the working papers presented by the United States, the United Kingdom and France (A/AC.138/25, A/AC.138/26, A/AC.138/27) and of the Secretary-General's study on international machinery (A/AC.138/23).

Mr. HUDSON-PHILLIPS (Trinidad and Tobago) welcomed the stress laid in paragraph 12 on the need to provide training for nationals of developing countries and on the importance of ensuring the widespread dissemination of the results of scientific research and exploration of the sea-bed and ocean floor. In its general statement to the Committee, at its thirty-fourth meeting, his delegation had urged that the long-term objective of the international régime must be participation on an equal footing by marine scientists and engineers, physical oceanographers and sea-bed administrators from both the developing and the developed countries and that that would involve the organization of training programmes as an essential part of the machinery's functions. Before the régime was established, organizations such as UNESCO and FAO should expand their training programmes in marine technology in order to ensure that the developing countries would be able to participate in the régime as soon as it was set up.

Mr. STEVENSON (United States of America) said that, in the light of the previous speaker's remarks, he wondered whether the results of scientific research and exploration should be made available only to States. It might be better to disseminate such information also to scientific institutions, academic societies, students and so forth. He was not clear whether the previous speaker was suggesting the deletion of the word "States" in order to improve the language of the sentence in question. If so, his delegation would support such a suggestion, because it had the same reservations as those expressed by the United Kingdom delegation, during the Sub-Committee's discussion of its report (39th meeting), on the question of obliging States to circulate the results of research on a systematic or government-to-government basis. That did not mean, however, that his delegation did not fully endorse the principle that such information should be disseminated as widely as possible.

Mr. HUDSON-PHILLIPS (Trinidad and Tobago) said he had not suggested any change in the wording of the Sub-Committee's report, but his Government was strongly in favour of the widest possible dissemination of scientific information.

The CHAIRMAN said that, as the Sub-Committee had refrained from making any selective recommendations, perhaps the Committee might wish to include in its own report a recommendation on that particular point.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that his delegation had no objection to the Sub-Committee's report but considered that certain drafting improvements, which perhaps applied only to the Russian text, should be made.

To begin with, the word "usefully", in the second sentence of paragraph 10, was superfluous. In the first sentence of paragraph 12, the Russian text would be improved by the replacement of the word "nationals" by some other word such as "specialists". In paragraph 14, the Russian word used to translate "encouraging" was not entirely satisfactory. In the last sentence of paragraph 15, it should be made clearer that the draft provisions would be a component or integral part of the agreement establishing the international régime. Finally, not all the relevant documents were mentioned in paragraph 15; as a comprehensive list of the Committee's documents was given in one of the annexes to the latter's report, it might be sufficient for the purposes of the Sub-Committee's report to use some general wording such as "the report and studies of the Secretary-General relating to the sea-bed and ocean floor".

He hoped that his suggestions, which were prompted by a desire to make the report read better, would be taken into account by the Secretariat.

The CHAIRMAN said that the Committee did not have the right to amend the Sub-Committee's report. If, however, it was merely a question of bringing the various language versions into line and making improvements in the translation, the Rapporteur of the Sub-Committee would take up the matter with the Secretariat.

Mr. FERNAND-LAURENT (France) said he agreed with the United States representative about the dissemination of information. He also endorsed the stress laid by the representative of Trinidad and Tobago on the importance of providing training in sea-bed operations for nationals in developing countries; it would be interesting to hear what schemes had been prepared for that purpose by organizations such as UNESCO.

Mr. ZEGERS (Chile) said he assumed that the preliminary note by the Secretariat on Possible Methods and Criteria for the Sharing by the International Community of Proceeds and Other Benefits derived from the Exploitation of the Resources of the Area (A/AC.138/24), referred to in paragraph 15, would be annexed to the Committee's report.

Mr. HOLDER (Liberia) said that, as he understood it, the Committee could either approve the Sub-Committee's report or refer it back to the Sub-Committee; it could not introduce amendments of substance. To replace the word "nationals" in the first line of paragraph 12 by the word "specialists" and amend the last sentence of paragraph 15, as proposed by the USSR representative, would affect the substance of those two paragraphs, and the Committee must decide whether or not to refer the matter back to the Sub-Committee. So far as he was concerned, the replacement of the word "nationals" by the word "specialists" in paragraph 12 was not acceptable.

The CHAIRMAN said he agreed that the substance of paragraph 12 would be changed if the word "nationals" were replaced by the word "specialists". The Committee could not itself make such a change.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said he had been under the impression that it was specialists that were meant in paragraph 12, and his proposal had been made simply to clarify the text. If what was meant was "nationals", he had no objection to retaining that word. Similarly, with regard to the last sentence of paragraph 15, his purpose in proposing an amendment had been to clarify the text. If there was no problem with the English text, therefore, he would be satisfied if the Rapporteur would ensure that the Russian text was brought into line with it.

Mr. PROHASKA (Austria), Rapporteur of the Economic and Technical Sub-Committee, said that the language used in paragraph 15 was the same as that used in the interim report which had been adopted at the March session. No difficulties of a semantic nature had been raised in March, and he had consequently assumed that the wording was acceptable.

The CHAIRMAN suggested that it be left to the Rapporteur to ensure that the wording of paragraph 15 in all the working languages followed that used in the interim report.

It was so agreed.

Mr. PARDO (Malta), referring to paragraph 15, said he was disappointed that the Sub-Committee had been unable to do more than merely make a recommendation for

further study of the issues raised and had not even included in its report a suggestion that it would be willing to make recommendations on the issues after it had studied them. He thought that recommendations of a general character made by some delegations during the discussions could have been included in the report.

With regard to paragraph 16, he did not consider that his delegation's position was adequately reflected in the last sentence. His delegation considered that the study by the international community of methods and criteria for sharing the profits and other benefits derived from the exploitation of the area's resources would indeed be useful, but only if the basic parameters relating both to the area and its resources and to the nature of the régime to be established were better known.

The CHAIRMAN said that, if there were no objections, he would take it that, subject to any corrections and drafting changes that might be brought to the attention of the Rapporteur, the report of the Economic and Technical Sub-Committee was approved.

The report of the Economic and Technical Sub-Committee (A/AC.138/29) was approved without objection.

The CHAIRMAN said that having approved the Sub-Committee's report, he would assume that the Committee endorsed the recommendation contained in paragraph 15.

The recommendation in paragraph 15 was approved.

The CHAIRMAN suggested that the working papers submitted by the delegations of France, the United Kingdom, and the United States of America be included as annexes to the report of the Main Committee rather than to the report of the Economic and Technical Sub-Committee.

It was so agreed.

The CHAIRMAN, referring to the proposal made earlier by the Chilean representative, said that it was not customary to annex preliminary notes to reports. He suggested that the Committee might wait for the next report by the Secretary-General on possible methods and criteria before deciding to annex any document on the subject to its report.

Mr. ZEGERS (Chile) said that he had agreed that the preliminary note should not be annexed to the Sub-Committee's report on the understanding that it would be annexed to the main Committee's report. Since the main Committee's report was essentially a progress report, he saw no reason why the preliminary note should not be annexed to it. He must press the point.

Mr. HALL (Secretary of the Committee) said it was for the Committee to decide whether or not to annex the preliminary note to its report.

The CHAIRMAN said that if there were no objection to the Chilean representative's proposal, he would take it that the Committee agreed that the preliminary note on Possible Methods and Criteria for the Sharing by the International Community of the Proceeds and Benefits derived from the Exploitation of the Resources of the Area should be annexed to its report.

It was so agreed.

Mr. de SILVA (United Nations Educational Scientific and Cultural Organization) said he had prepared a statement, which he would like to read out, outlining the action already taken by UNESCO and the action it proposed to take in future with regard to helping countries, particularly the developing countries, to participate more fully in research, exploration and exploitation of the sea-bed and ocean floor.2/

Mr. ENGO (Cameroon) said he welcomed the interest taken by UNESCO in the work of the Committee and commended the foresight and objectivity it had shown. UNESCO's plan to intensify training programmes even before a decision was taken by the Committee on the régime to be established would be endorsed by all.

ADOPTION OF THE REPORT OF THE COMMITTEE (A/AC.138/L.3)

Mr. VELLA (Malta), Rapporteur, introducing the draft report, said that certain sections had had to be left incomplete pending consideration by the Committee of the reports of the two Sub-Committees. In view of the decisions taken that morning with regard to annexes to the report, the number of the annex referred to in paragraph 8 might have to be changed.

The CHAIRMAN invited the Committee to adopt the part of the draft report already before it (A/AC.138/L.3).

Mr. STEVENSON (United States of America) said he thought it would be useful if an indication were given at the end of paragraph 16 of the fact that the General Assembly had taken some positive action as a result of the report of the Inter-governmental Oceanographic Commission (IOC), in that it had adopted resolution 2566 (XXIV). He would also suggest that the second sentence of the same paragraph be expanded to reflect resolution 2560 (XXIV). Several specialized agencies had

2/ Mr. de Silva's statement was subsequently issued as document A/AC.138/30.

been specifically requested by the General Assembly to contribute to the programme, and they, as well as UNESCO and IOC, should be mentioned by name.

Miss MARTIN-SANE (France) said that the fact that the Committee had endorsed the recommendation of the Economic and Technical Sub-Committee should be mentioned and a reference made to the remarks of the representative of Malta in section B.

The CHAIRMAN said he would suggest that it be left to the Rapporteur to amend the report as suggested by the United States and French representatives.

It was so agreed.

Mr. PARDO (Malta) suggested that the word "close" in the last sentence of paragraph 17 be replaced by the word "closer".

It was so agreed.

The part of the draft report, contained in document A/AC.138/L.3, as amended, was adopted.

The meeting rose at 11.55 a.m.

SUMMARY RECORD OF THE FORTY-FIRST MEETING

Held on Thursday, 27 August 1970, at 10.45 a.m.

Chairman: Mr. AMERASINGHE Ceylon

POSSIBLE METHODS AND CRITERIA FOR THE SHARING BY THE INTERNATIONAL COMMUNITY OF PROCEEDS AND OTHER BENEFITS DERIVED FROM THE EXPLOITATION OF THE RESOURCES OF THE AREA BEYOND NATIONAL JURISDICTION (A/AC.138/24)

The CHAIRMAN said that the Committee had now approved the report of its Economic and Technical Sub-Committee (A/AC.138/29) and was awaiting the report of its Legal Sub-Committee. Meanwhile he would invite members to discuss a subject in which many of them had expressed a keen interest, the possible methods and criteria for the sharing by the international community of proceeds and other benefits derived from the exploitation of the resources of the area beyond national jurisdiction, on which the Secretariat had prepared a preliminary note (A/AC.138/24).

Mr. STEVENSON (United States of America) said that the Secretariat's preliminary note described the kind of benefits which might be derived from exploitation of the sea-bed and alternative methods of their disposal. Benefits were contingent on progress in mineral exploration, and that was difficult to predict. Only an international régime which established clear legal rights could ensure that benefits accrued to the international community.

The draft convention submitted as a working paper by his delegation (A/AC.138/25) not only proposed a comprehensive régime and machinery but offered a solution to the problem of determining the boundaries of national jurisdiction. It proposed the establishment of an international trusteeship area, at least one half to two-thirds of the revenues from which would be received by the international community, particularly the developing countries. The trusteeship proposal was a compromise which would mean sharing the benefits to be derived from the area of the continental margin beyond the 200 mile isobath between the coastal States and the international community. For the coastal States, on the one hand, it was important that they should have some control over exploration and exploitation activities off their coasts and have access to the resources in adjacent areas. It was hoped that in exchange for an assurance of such control and access, they would be willing to forego a substantial part of the financial proceeds of the production of those resources. On the other hand, the international community was interested in

generating revenue for international purposes, with special consideration for the needs of the developing countries, and in ensuring that the marine environment was not harmed by pollution or other hazards of unregulated development.

The system of rules to govern sea-bed exploration and exploitation, including those relating to payments, was based partly on certain national offshore mining codes. The system, which had been explained in the Economic and Technical Sub-Committee at its thirty-sixth meeting, was designed to encourage exploration and investment and ensure that the international community's revenues rose as the sea-bed area increased in value.

Few countries at present possessed the capability to conduct offshore work. Under the proposed convention's provisions, however, the International Seabed Resource Authority could help Contracting Parties to acquire and increase their capability and might undertake management tasks on behalf of any country which authorized it to do so.

The system of competitive bidding for licences in certain limited situations seemed the most likely to bring the greatest return to the international community. His delegation did not share the view that such a system would favour the more wealthy operators but it would support any satisfactory alternative.

The proposal to use net income primarily to promote the economic advancement of developing States through international and regional development organizations, and the provision for the Authority itself to render certain direct assistance to developing countries, would not be just another form of foreign aid, since the developing countries would have a right to such assistance. Further benefits to the international community as a whole would include the establishment of a fund to provide emergency relief and assistance in the event of marine disasters resulting from exploration or exploitation, and the establishment of international and regional sea-bed resource study and research centres, which could also be used for training.

The general division of net income between economic development and wider community purposes was in keeping with the United Nations emphasis on international co-operation in world-wide or regional problems and on development assistance rather than direct allocation as an effective aid to economic development. In

particular, the three regional development banks could play an important role in deciding on the distribution of the funds. His delegation had listened with interest to the many suggestions concerning direct distribution to the people of the world of the benefits derived from their common heritage.

However, as was observed in the Secretariat note, direct financial return was not the only benefit to be expected from sea-bed resource exploitation. It was extremely important to increase world reserves of several minerals which might become scarce in the near future. Consumption of minerals and fuels in the developing countries was already increasing, and all mankind should be able to share significantly in the benefits accruing from the use of sea-bed minerals by the time their large-scale production was technically and economically feasible. The Secretariat's remarks concerning the stability of raw material markets, the economic stimulus to land-based supply and processing industries, and the spread of new skills were valid and significant.

Further benefits would be derived from the proposed international régime and machinery. First, world knowledge would be increased by the freedom of scientific research, the maintenance of research centres and the collection and dissemination of data. Secondly, established rules and standards would protect the marine environment. Thirdly, a system of preventing conflicts and settling disputes would ensure the orderly development of sea-bed resources.

At the thirty-third meeting, the Cameroon representative had said that the United States proposals concentrated too much on materialistic aspects and too little on the ocean floor's potentiality for peace. He thought that view was based on a misunderstanding. President Nixon, in proposing an international régime, had emphasized that the issue was whether the oceans were to be used rationally and equitably for mankind's benefits, or whether they were to become an arena of unbridled exploitation and conflicting claims in which everyone would lose. Although law alone could not achieve peace, the establishment and enforcement of law were an important step towards that goal.

Mr. ZEGERS (Chile) said he wished to deal particularly with the study which the Economic and Technical Sub-Committee, on the proposal of his delegation, had recommended the Committee to request from the Secretary-General. Such an additional study was clearly called for by General Assembly resolution 2574 B (XXIV)

which requested the Committee to formulate recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of the area. A fundamental element in those conditions was, of course, the distribution of the proceeds for the benefit of all States, particularly the less developed.

It was with the adoption of General Assembly resolution 2340 (XXII), recognizing the common interest of mankind in the sea-bed and the ocean floor, that the idea of the area being the common heritage of mankind, the indivisible property of all mankind, was born. If the area and its resources were the indivisible property of all States, then the fruits must be divisible. In other words, all must participate in its administration and share the benefits of its resources. That concept had been tacitly accepted in the Committee and formed the basis of its work. It was thus essential that the methods and criteria for the sharing of benefits should be studied if the régime to be established was to be defined in a convention. That was why the Committee must request the Secretary-General to provide a more comprehensive study.

The Secretariat should be requested to study alternative solutions for the sharing of benefits. The establishment of alternatives did not depend on the quantity of the resources or on the size of the area, just as the alternatives suggested by the Secretariat for an international machinery did not depend on those factors. It was virtually impossible to estimate the quantity of the resources at the present time, while as regards the exact size of the area, it must be realized that existing international régimes, such as those governing the high seas, fisheries and outer space, all applied to areas of vague magnitude. Consequently, the investigations on that subject referred to in the preliminary note were irrelevant and could be omitted in the final version.

The preliminary note offered some alternative solutions. It suggested in the first place direct distribution of the benefits derived from authorized exploration, licenses, taxes and so on, amongst all States, particularly the developing States. It then went on to make other suggestions for the division of the proceeds. Such division should of course be made by the beneficiary States themselves, and that would obviously exclude any idea of "international aid" or "purposes of the international community", such as the provision of funds for existing international co-operation agencies or institutions.

Among secondary solutions, the note mentioned a contribution to UNDP for the specific purpose of establishing a special fund for the prevention of fluctuations in commodity prices. Those secondary alternatives could be studied much more thoroughly. Naturally, each alternative formula for methods of distribution should be defined as precisely as possible and accompanied by a statement of the criteria on which it was based.

The further report requested by the Committee should be submitted to the Committee at one of its sessions in 1971, preferably in time for consideration in March.

Sir LAURENCE McINTYRE (Australia) said that his delegation attached great importance to the concept, inherent in the relevant General Assembly resolutions, of the equitable sharing of benefits from the exploitation of resources of the sea-bed beyond the limits of national jurisdiction.

The subject, as the Secretary-General's preliminary note made clear, was highly complex. His delegation therefore supported the proposal, in paragraph 16 of the Economic and Technical Sub-Committee's report, that the Secretary-General should be asked for a more comprehensive study on possible methods and on the criteria for the sharing by the international community of the proceeds and other benefits derived from the exploitation of the area's resources.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the Secretariat, in its preliminary note, had referred to the difficulty of preparing the note, particularly when most of the relevant assumptions on which such a paper should be based had not yet been agreed upon and when the extent of possible exploitation activities in the areas concerned, and the size of the proceeds, would be difficult to predict. It had also said that definite arrangements for the sharing of proceeds might have to wait until the very various factors determining the extent of economic development of sea-bed mineral resources could be more precisely appraised.

Those observations fairly reflected the present situation regarding possible benefits, which, as his delegation had already noted, was only at a preliminary stage. Before benefits could be discussed, more knowledge of the sea-bed and of the possibilities of exploiting its resources was required. Much time and effort

would be needed to develop and make available the new resources, while special materials and techniques would be essential for operations in that environment. Much wider knowledge would have to be gained before an appraisal could be made of the economic potential of sea-bed resources at great depths.

In his delegation's view, the time to consider possible methods and criteria for the sharing of proceeds and other benefits, as well as a number of other proposals made, would be during the preparation of an agreement on the régime for exploiting the resources of the sea-bed and ocean floor beyond the limits of national jurisdiction.

Mr. LAPOINTE (Canada) said that his delegation supported the principle of equitable sharing of the proceeds and other benefits derived from the area, but considered that the Committee was not yet in a position to define the most suitable method of achieving that aim.

Mr. HUDSON-PHILLIPS (Trinidad and Tobago) said that his delegation fully endorsed the proposal by the Chilean representative, reflected in paragraph 16 of the Economic and Technical Sub-Committee's report, that the Secretary-General should be requested to draw up a more comprehensive study on possible methods and criteria. With regard to the remarks of the USSR representative, what the Committee needed was not so much a new set of facts as a new approach to the question by the Secretariat. A more detailed and comprehensive study would facilitate agreement on the régime itself and should, if possible, be prepared in time for the Committee's session in March 1971.

Mr. DENORME (Belgium) said that all the questions being dealt with by the Committee were closely interrelated. There was, for instance, a clear connexion between the volume of proceeds and the way in which the régime would operate. But the fact that the sharing of proceeds would depend, at least in part, on the expected volume of income and on the limits set for the area, did not mean that the Committee should refrain from discussing possible methods and criteria until the other two questions had been resolved.

Although certain doubts had been expressed about the timeliness and appropriateness of a new study on the subject, no delegation had opposed the basic principle involved. He therefore suggested that the Committee record in its

report that there was agreement in principle on the need for the equitable sharing of the proceeds and other benefits derived from exploitation of the area beyond national jurisdiction.

Mr. SOHN (United States of America) said that his delegation fully supported the proposal by the Chilean representative. It had refrained from making concrete suggestions as to the specific methods to be devised for the distribution of benefits precisely because it felt the need for a new study on this subject.

Mr. PROHASKA (Austria) said that Austria, although a landlocked country, subscribed to the concept of the common heritage of mankind and therefore supported the proposal that the Committee should request the Secretary-General to draw up a complementary study on the important subject of methods and criteria for sharing the proceeds and other benefits derived from the area.

The CHAIRMAN said that paragraph 16 of the Economic and Technical Sub-Committee's report recorded the Sub-Committee's agreement that the Committee should request the Secretary-General to undertake a more comprehensive study on possible methods and criteria for the sharing by the international community of the proceeds and other benefits derived from the exploitation and resources of the area. It appeared that only one delegation, that of the USSR, did not agree that such a request should be made by the Committee.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that his delegation would not object to the Committee's requesting the Secretary-General to undertake a more comprehensive study, on the understanding that the position of his delegation would be reflected in the summary records.

The CHAIRMAN said that, if there were no objection, he would consider that the Committee agreed to request the Secretary-General to undertake a more comprehensive study on possible methods and criteria for the sharing of proceeds and other benefits derived from the area.

It was so agreed.

The CHAIRMAN said the Belgian representative had suggested that the Committee record in its report that there was agreement in principle on the need for

the equitable sharing of the proceeds and other benefits derived from exploitation of the area beyond national jurisdiction. The Committee might take up that question during its consideration of the report of the Legal Sub-Committee.

It was so agreed.

STATEMENT BY THE REPRESENTATIVE OF PERU ON THE POSITION OF THE LATIN-AMERICAN STATES ON THE LAW OF THE SEA

Mr. ARIAS SCHREIBER (Peru) said that, after it had been alleged during the Committee's discussions (35th meeting) that the position of the Latin American States on the law of the sea was incompatible with the concept of an international sea-bed area beyond national jurisdiction, he had prepared a statement (A/AC.138/28) designed both to clarify certain basic ideas and to bring to the Committee's notice the results of the Lima meeting.

His delegation regretted that the Committee, despite all its efforts, had not succeeded in drawing up a declaration of principles. Perhaps it was still not too late and any initiative in that direction would receive the full support of his Government.

At the present session, the Latin American States had once again made it quite clear that they strongly favoured the establishment of an international régime based on the concept of the common heritage of mankind and designed to ensure the rational utilization and just administration of the sea-bed area beyond national jurisdiction. In order to achieve that aim, it was essential to respect the rights of the States off whose coasts resources were exploited, and to safeguard the régime of the superjacent waters. Due consideration must also be given to the special needs of the developing countries, and the necessary steps must be taken to ensure not only the equitable sharing of benefits but also the protection of the marine environment and the healthy development of world economy and trade. Without such an assurance, the Latin American States would feel very doubtful as to whether the proposed régime was in the general interest. The Latin American States were no longer at a stage where they could be lured into accepting infringement of their rights in exchange for meagre compensation or dubious advantages.

Although the criterion of exploitability established for the purposes of the definition of the continental shelf in the 1958 Geneva Convention had been retained

in the Montevideo declaration, it was not impossible that at some future date, once all the questions regarding the scope of the international régime had been settled, the desirability might be considered of adopting an alternative formula based on considerations of both depth and area, taking into account the geographic situation of the States concerned and of the limits within which they exercised sovereignty or jurisdiction over the seas adjacent to their coasts.

The only incompatibility in the peaceful relations governed by the law of the sea was that between the financial interests of certain companies in highly industrialized countries and the pressing needs of the peoples of the developing countries. That was why the Lima declaration, after reaffirming as a basic principle the right of the coastal State to dispose of the natural resources of the sea, the sea-bed and its subsoil to promote the development of its economy and raise the standard of living of its people, also proclaimed the right of the coastal State to establish the limits of its maritime sovereignty or jurisdiction.

That right was, of course, not unlimited, but must be exercised on the basis of reasonable criteria which ensured respect for the corresponding rights of other States. The objection raised against States that had extended their limits beyond the traditional limits was based on the arbitrary assumption that the only reasonable limit was the limit applicable in regions where the sea was too narrow to permit an extension beyond twelve miles, or that the twelve-mile limit must be maintained for the convenience of certain commercial companies desirous of exploiting at their ease the riches located off foreign coasts.

No State or States could lay down the law for others. The dictates of nature must be followed, and they were so clear that the refusal of certain countries to accept the inevitable was somewhat surprising. As the Brazilian representative had said (34th meeting) when speaking of regional agreements, it would be bothunwise and unrealistic to disregard that trend in any future revision of the law of the sea, particularly when defining limits of areas of the sea. Recognition of that irreversible process was the only satisfactory solution to the problem of ensuring the protection of the basic rights of coastal States.

He hoped that agreement would soon be reached on that issue, which was so important for mankind as a whole. His delegation would be happy to clarify further the basic principles and scope of the Latin American position, pending its more detailed consideration during the twenty-fifth session of the General Assembly.

The meeting rose at 12 noon.

SUMMARY RECORD OF THE FORTY-SECOND MEETING

Held on Friday, 28 August 1970, at 10.45 a.m.

Chairman: Mr. AMERASINGHE Ceylon

ADOPTION OF THE REPORT OF THE COMMITTEE (A/AC.138/L.3 and Add.1 and 2) (resumed from the 40th meeting)

The CHAIRMAN said the Committee would remember that certain sections of the part of the draft report that it had adopted at the fortieth meeting (A/AC.138/L.3) had been incomplete. Drafts of texts to complete some of those sections were now available, and he invited the Committee to consider first the draft of the new paragraphs 18-23 (A/AC.138/L.3/Add.2) which would complete the section on pollution which began at paragraph 17.

Mr. VELLA (Malta), Rapporteur, said it would be noted that it was suggested at the beginning of the document that the last two sentences of paragraph 17, which had been adopted at the fortieth meeting, should now be deleted, since their substance was to be incorporated in later paragraphs.

It was so agreed.

The CHAIRMAN invited the Committee to consider document A/AC.138/L.3/Add.2 paragraph by paragraph.

Paragraph 18

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the Russian translation of the statement on pollution adopted by the Committee at its 38th meeting differed in some respects from the original English text; it should be brought into line with the original.

The CHAIRMAN said that the necessary corrections would be made.

Paragraph 18 was adopted.

Paragraph 19

Mr. VELLA (Malta), Rapporteur, said that the words "in this connexion" should be deleted from the last sentence and a new sentence added at the end of the paragraph, to read: "It has also been recognized that a number of specialized agencies are working in this field and that closer co-ordination is called for."

It was so agreed.

Mr. GALLAGHER (United Kingdom) said that the wording of the third sentence, relating to the interpretation of article 24 of the Convention on the High Seas, gave the impression that the view expressed in it was the view of all the members of the Committee, which was not the case. He proposed therefore that the word "However", at the beginning of the sentence, be deleted and that the words "by some delegations" be inserted after the word "expressed".

It was so agreed.

Paragraph 19, as amended, was adopted.

Paragraph 20

Mr. VELLA (Malta), Rapporteur, said that the word "recognized" in the first line should be replaced by the word "realized", that the word "read" immediately before the quotation in the second sentence should be replaced by the word "reads", and that a footnote relating to the quotation should be added at the foot of the page, to read: "Long-term and expanded programme of oceanic research: note by the Secretary-General (A/7750), p.25".

It was so agreed.

Paragraph 20, as amended, was adopted.

Paragraph 21

Mr. VELLA (Malta), Rapporteur, said that the beginning of the third sentence should be recast to read: "Action on a world-wide scale is required". In the last sentence, the word "that" should be inserted before the words "international measures".

It was so agreed.

Mr. THACHER (United States of America) proposed that a new sentence be inserted after the first sentence to read:

"It was suggested that, if the area beyond national jurisdiction was to be viewed as the common heritage of mankind, attention should be given to the prevention of pollution arising from all actions in the sea-bed area, not merely that resulting from acts of exploration and exploitation".

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that before a decision was taken on that proposal, he would like to make a suggestion which could possibly have a bearing on it. Some agreements already existed and others were in process of elaboration covering pollution resulting from the different causes listed

in the second and third sentences of the paragraph. The second sentence could therefore end with the words "deep-sea mining" and the remainder of the sentence and the whole of the third sentence could be deleted, without detracting from the value of the report. He would not, however, press the suggestion; he put it forward merely in the interests of compactness.

Mr. THACHER (United States of America) said he hoped that the USSR representative would not, in fact, press his suggestion, as he himself had a further amendment to propose to the paragraph, namely, that the present, instead of the past, tense be used in the second and third sentences in order that the immediacy of the problem of pollution might be given greater emphasis.

The CHAIRMAN said that the paragraph reported views which had been expressed by delegations during the discussion; it would therefore be incorrect to express those views in the present tense.

Mr. THACHER (United States of America) said that what was being stated was fact, which he would challenge anyone to deny. However, he would not press that amendment.

Miss MARTIN SANE (France) said she noticed that the present tense was already used for the French version of the second and third sentences of paragraph 21.

Mr. SOTO (Peru) said that the wording of the additional sentence proposed by the United States representative gave the impression that there was some doubt about the area being the common heritage of mankind. It should be phrased in a more positive form.

Mr. SCHRAMM (Iceland) said he would appeal to the USSR representative not to insist on his amendment. Some delegations had expressed the views reflected in the second and third sentences of the paragraph, and all realized that world-wide action was required to contain the problem of pollution from the sources listed.

Mr. ZEGERS (Chile) said he fully endorsed those views, and was in favour of the inclusion of a sentence along the lines proposed by the United States representative, but, like the Peruvian representative, he hoped it would be phrased in a more positive form.

Mr. THACHER (United States of America) said he would prefer to maintain the wording of the sentence in the form he had proposed. Any more positive wording might prejudge the question of whether the area beyond national jurisdiction was the common heritage of mankind; no consensus had as yet been reached on that question.

Mr. SOLOMON (Trinidad and Tobago) said he thought the Committee should make a firm assertion that the area beyond national jurisdiction was the common heritage of mankind. That could be done if the word "if", in the sentence proposed by the United States representative, were replaced by the word "since".

Mr. THACHER (United States of America) said that the sentence he had proposed reflected a statement made by his delegation, which had wished to avoid raising the question of whether or not there was a consensus on the question of the area being the common heritage of mankind. He would prefer the wording to be left unchanged so as not to prejudge that issue.

Mr. SOTO (Peru) suggested that the difficulty might be overcome by omitting the reference to the area being the common heritage of mankind. The beginning of the proposed additional sentence would then read: "It was suggested that attention should be given to the prevention of pollution..."

Mr. THACHER (United States of America) said he could agree to that amendment.

The first United States amendment, for the insertion of a new sentence after the first sentence, as thus amended, was adopted.

Mr. KOULAZHENKOV (Union of Soviet Socialist Republics) said he would withdraw the suggestion he had made for amending the second and third sentences of the paragraph.

Mr. BRECKENRIDGE (Ceylon) proposed that the end of the penultimate sentence of paragraph 21, beginning with the words "provide that", be replaced by the words:

> "recognize the right of a coastal State in the region of an activity causing or likely to cause damage through pollution of the marine environment to be consulted and in certain circumstances to take preventive measures to protect its coastal area from pollution caused by activities in the area beyond its jurisdiction".

Mr. SOTO (Peru) proposed the omission from the Ceylonese amendment of the words "in certain circumstances", so as not to imply any limitation of the rights of the coastal State.

The amendment by Ceylon as amended by Peru, was adopted.

Mr. DENORME (Belgium) asked whether his understanding was correct that, if the second sentence were put in the present tense, the second and third sentences would form a new paragraph 22, while the fourth and fifth sentences would form a new paragraph 23. The statement made in the new paragraph 22 would then not be implicitly attributed to delegations.

The CHAIRMAN said that that understanding was correct. The first sentence of paragraph 21, together with the new sentence proposed by the United States, as amended, would now form paragraph 21. Since the draft they were discussing was the report of the Committee's discussions, responsibility for all the statements it contained should be attributable to delegations. A bald statement of fact, as such, had no place in a report of that kind.

Sir Laurence McINTYRE (Australia) said he agreed with the representative of Trinidad and Tobago. Perhaps the difficulty would be resolved if the words "The Committee recognized that" were inserted at the beginning of the first sentence of the new paragraph 22.

The CHAIRMAN asked whether the Committee now agreed that the new paragraph 22 should read:

> "22. The Committee recognizes that at present little is known of the possible effects of pollution from deep-sea mining, but pollution from the discharge of domestic and industrial waste (mainly from coastal outlets), the escape or dumping of toxic or radioactive materials, oil spills from ships and from exploitation on the continental shelf present vast and urgent problems of international concern. Action on a world-wide scale is required, since problems of pollution in different areas are related; ocean currents, for example, can carry the effects of pollution hundreds of miles in a comparatively brief time, while winds can carry pesticides from land."

It was so agreed.

The new paragraph 22 was adopted

New Paragraph 23

Mr. SOTO (Peru) said that his delegation supported the amendment to the first sentence proposed by the Ceylonese representative, but suggested the deletion of the word "only" from the second sentence.

It was so agreed.

The new paragraph 23, as amended by Ceylon and Peru, was adopted.

New paragraph 24 (formerly paragraph 22)

Mr. VELLA (Malta), Rapporteur, said that the expression "previous conventions" in the fifth sentence should be followed by a reference to a footnote listing the relevant conventions. The comma after the word "co-ordination" in the last sentence should be deleted.

Mr. SCHRAM (Iceland) suggested that the word "should" in the second sentence be replaced by the word "might".

It was so agreed.

Sir Laurence McINTYRE (Australia) suggested that the words "from ships" be added after the words "oil spills" in the penultimate sentence, since not all oil spills were covered by effective international safeguards.

It was so agreed.

The new paragraph 24, as amended, was adopted.

New paragraph 25 (formerly paragraph 23)

Mr. VELLA (Malta), Rapporteur, said that in the first sentence, the word "legal" should be deleted and the word "provisions" altered to "provision". The words "provisions for" should be deleted from the last sentence.

Mr. ZEGERS (Chile), supported by Mr. THACHER (United States of America), suggested that the word "generally" in the first sentence be replaced by the word "widely".

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that the words "including the machinery which would form part of it" be deleted from the first sentence.

Mr. KHANACHET (Kuwait) said he could not agree to that proposal, since a number of delegations had referred to the need for machinery to form part of the international régime.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that, in his delegation's view, the question of international machinery was a separate matter from the question of pollution control, which was the subject of the paragraph.

Mr. DENORME (Belgium) suggested that the Soviet Union delegation's point would be met if the reference to machinery were deleted and a new second sentence added, reading:

"Many delegations also emphasized that the international machinery which would form an integral part of the international régime would have a function in the prevention of pollution".

Mr. KHANACHET (Kuwait) suggested that the phrase "would have a function" in the Belgian representative's amendment be replaced by the phrase "would assume the responsibilities devolving upon it".

Following a short discussion, the CHAIRMAN said that, if there were no objection, he would take it that the Committee agreed to the deletion from the first sentence of the words "including the machinery which would form a part of it" and to the addition of a new second sentence, reading:

"It was widely recognized that the international machinery would assume the responsibilities devolving upon it for the prevention of pollution".

It was so agreed.

The new paragraph 25, as amended, was adopted.

The CHAIRMAN invited the Committee to consider part III of the draft report (A/AC.138/L.3/Add.1), the paragraphs of which would have to be renumbered.

Mr. VELLA (Malta) Rapporteur, said that a number of changes should be made to the text of part III. A footnote should be added to paragraph 24 indicating that the Secretary-General's report and the three working papers mentioned in the paragraph had been annexed to the report. The phrase "In this connexion,", at the beginning of the third sentence of paragraph 32, should be deleted. The words "it was considered" should be deleted from the second line of paragraph 33. In the second sentence of paragraph 38, the words "to safeguard" should be replaced by the words "in safeguarding", and the word "ensure" by the words "in ensuring".

Paragraphs 24 and 25

Paragraphs 24 and 25 were adopted.

Paragraph 26

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) suggested that the second and third sentences be linked together by the word "and".

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that more appropriate Russian wording should be found for the phrase "for the benefit of the international community as a whole", at the end of the last sentence.

The CHAIRMAN said that the necessary modification would be made.

Mr. HOLDER (Liberia) suggested that the words "the international community" in the last sentence be replaced by the word "mankind".

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) suggested that the last sentence be prefaced by some such phrase as "It was indicated that".

Mr. VELLA (Malta) Rapporteur, said that, to meet the wish of the USSR representative, the phrase "It was stated that" might be inserted at the beginning of the last sentence.

It was so agreed.

Paragraph 26, as amended, was adopted.

Paragraph 27

Mr. EL HUSSEIN (Sudan) suggested that the phrase "with comprehensive powers" at the end of the second sentence be replaced by the phrase "having jurisdiction over the area and having comprehensive powers including the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation of its resources".

Mr. LAPOINTE (Canada) said that there was a discrepancy between the wording proposed by the Sudanese representative and that used in the title of part III of the Secretary-General's study (A/AC.138/23).

Mr. EL HUSSEIN (Sudan) said that his intention had been not merely to expand the reference to the Secretary-General's report by including a description of the machinery, but to reflect more accurately the views of a number of delegations that the machinery to be established should have jurisdiction over the area as a whole.

Mr. LAPOINTE (Canada) said he had no objection to recording that certain delegations considered that the machinery should have jurisdiction over the area. Rather than change the whole wording of the second sentence, it might be better to add a new phrase or sentence which reflected the views of those delegations.

Mr. EL HUSSEIN (Sudan) suggested that, in that case, the phrase "machinery with comprehensive powers" at the end of the second sentence might be replaced by the title of part III of the Secretary-General's study, namely, "international machinery having jurisdiction over the peaceful uses of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, including

the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation of their resources", and a further sentence added reflecting the views of those delegations that favoured a comprehensive machinery.

Mr. BRECKENRIDGE (Ceylon) said that paragraph 27 was somewhat confusing in that it linked the question of the machinery's licensing functions with that of the comprehensive machinery favoured by some delegations, which was dealt with in paragraph 31. The reference to part III of the report of the Secretary-General was out of context in the second sentence of paragraph 27, and the part of that sentence which followed the word "functions" should therefore be deleted.

Mr. ENGO (Cameroon) said he agreed with the Ceylonese representative that the second sentence was not clear. He suggested that it be replaced by two sentences reading: "Other delegations rejected this limited function of the international machinery. They preferred one with comprehensive powers in which the international machinery would have jurisdiction over the area and its resources and have the power to regulate, co-ordinate, supervise and control all activities relating to the exploration and exploitation of its resources.". The first sentence could remain unchanged.

Mr. PAVICEVIC (Yugoslavia) said that he agreed in substance with the Cameroon representative's suggestion. It would, however, be necessary to replace the word "Many" at the beginning of the first sentence by the word "Some". Furthermore, as no delegation had opposed the idea that licensing activities should be included in the machinery's functions, the first part of the wording suggested by the Cameroon representative might be replaced by a phrase along the following lines: "Other delegations considered that licensing functions might be only an element of international machinery with comprehensive powers in which ...", the rest of the sentence being left in the form suggested by the Cameroon representative.

Mr. THACHER (United States of America) said that the amendments suggested by the representatives of Cameroon and Yugoslavia might more appropriately be included in paragraph 31.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) suggested that a new sentence be added at the end of paragraph 27 reading: "Some delegations indicated that the proposed order for the issue of licences illustrated the imperfection of the system, which constituted a threat to the interests of many States.".

The CHAIRMAN suggested that consultations be held between the interested delegations and the Rapporteur with a view to agreeing on a rewording of the first two sentences, in the light of the discussion. He further suggested that the amendment proposed by the USSR representative be taken up at the 43rd meeting.

It was so agreed.

The meeting rose at 1.10 p.m.

SUMMARY RECORD OF THE FORTY-THIRD MEETING

Held on Friday, 28 August 1970, at 3.55 p.m.

Chairman: Mr. AMERASINGHE Ceylon

APPROVAL OF THE REPORT OF THE LEGAL SUB-COMMITTEE (A/AC.138/31)

Mr. BADAWI (United Arab Republic), Rapporteur of the Legal Sub-Committee, said that the Sub-Committee had unfortunately been unable to reach general agreement and had therefore not been able to accomplish the task entrusted to it by the General Assembly. That fact was apparent from the Sub-Committee's report (A/AC.138/31), to which were annexed two draft resolutions (A/AC.138/SC.1/L.2 and A/AC.138/SC.1/L.4/Rev.1). The former had been submitted to the Sub-Committe in March 1970 and the latter had been submitted by Norway at the session which had just concluded.

Mr. DENORME (Belgium) requested that the summary record of the meeting should reflect the comments which he proposed to make on the report of the Legal Sub-Committee, comments which his delegation had not been able to make in the Sub-Committee itself.

That document, the result of more than a month's work and long discussions, had been considerably condensed and did not give an accurate picture of what had happened in the Sub-Committee. It was admittedly difficult to report on informal discussions, but, during the last week, the Belgian delegation had authorized two delegations to represent it in a consultation group. Those two delegations had informed it that, as a result of those consultations, an anonymous text had been proposed for annexation to the report. That text had certain advantages and was useful for the future work of the Sub-Committee, particularly for the informal consultations which might take place in New York during the twenty-fifth session of the General Assembly.

In the absence of a consensus, the anonymous document had not been approved. Not having participated in the consultations, his delegation had requested that the document be made available to it in its working language in order that it might communicate it to the Belgian Government. Although very interesting in themselves the draft resolutions annexed to the report added nothing new. The first (A/AC.138/SC.1/L.2) had been known for some time, and the other (A/AC.138/SC.1/L.4/Rev.1) was merely a document which had already been submitted by the Norwegian delegation in March and which had been revised in the light of the discussion during the current session.

The anonymous document, on the other hand, would give some idea of the background to the informal discussions which had taken place. Its being an anonymous document should not create any difficulty; it would suffice to find an adequate title for it, such as "Text presented by several delegations".

The CHAIRMAN asked the representative of Belgium whether he was suggesting that the anonymous document to which he referred should be reproduced as an official document or in some other form.

Mr. DENORME (Belgium) said that he had made, not a suggestion, but a request on behalf of his delegation, in order that the latter might have, in its working language, a basic document which had been discussed during informal consultations at which it had been represented. He wished the anonymous document to be reproduced as an official document of the Committee in order that he might transmit it to his Government.

If his request raised difficulties, he would like to know for what reasons it would be refused. There was no precedent of refusal of a request such as that made by his delegation, even in cases where the publication of the document in question had had financial implications. He hoped that his colleagues would not deny him the possibility of obtaining the document which he wished to forward to his Government.

Mr. YANKOV (Bulgaria), speaking as Vice-Chairman of the Legal Sub-Committee, said that the matter had been discussed at length at the 38th meeting of the Legal Sub-Committee at which that Sub-Committee's report had been adopted and at which he had occupied the Chair. Although he had had to remain impartial during that meeting he could now say that, personally, he would have preferred delegations to have been able to obtain, on request, all the documents which were discussed during the informal consultations. A proposal to that effect had been included in the draft report but, unfortunately, it had been deleted following discussion.

In his view, the formal request made by the representative of Belgium should be taken into consideration as a special case.

Mr. ENGO (Cameroon) said that several documents and amendments had been circulated during the informal discussions but that at the various stages of the work it had been decided that unless agreed upon they would not be circulated. As far as he knew, there was no document which could be placed before the Committee other than those annexed to the Sub-Committee's Report.

Mr. KHANACHET (Kuwait) said that the anonymous document in question, which had been submitted in the corridors during the informal consultations, was a working document that was simply a compromise text and was not the outcome of negotiations. It had been submitted to a very limited group only. For that reason the delegation of Kuwait considered the Belgian representative's request totally unjustified, especially considering that an assurance had been given in the Sub-Committee that the document could be supplied informally to all delegations that so desired.

The CHAIRMAN said that he appreciated the Belgian representative's wish but did not see how a document for which no one assumed responsibility could be circulated officially by the Committee, especially as the decision should have been taken at the level of the Sub-Committee.

Mr. DENORME (Belgium) said that he failed to see why the procedure followed in the Economic and Technical Sub-Committee could not also be followed in the case of the Legal Sub-Committee. He, personally, would never think of objecting if some other delegation presented a similar request to his. All that was needed for the document to be published was for the Committee to take a decision to that effect and for an appropriate title to be found. That procedure had already been followed by the Legal Sub-Committee of the Committee on the Peaceful Uses of Outer Space and there was therefore nothing new nor extraordinary about it. If delegations were opposed to the Belgian delegation obtaining the document it had requested, he would like that fact to be recorded in the summary record of the meeting.

Mr. ENGO (Cameroon) said that the Committee could not decide to have circulated a document which had no official existence.

During the present session, a number of delegations had questioned the status of texts which had, in principle, been previously agreed upon. His delegation did not wish to see a similar situation occur in future. That was why it was opposed to the official circulation of a document which no one would agree to sponsor and which was not officially before the Committee.

Mr. HOLDER (Liberia) said that his delegation had participated neither in the informal consultations held in New York and then in Geneva prior to the session of the Committee, nor in those which had taken place at the beginning of the session within the Sub-Committee and between a small number of delegations. Consequently, he had no notion to which document the Belgian representative was referring.

The CHAIRMAN suggested to the representative of Belgium that he should obtain the document in question informally.

Mr. DENORME (Belgium) repeated that what he was interested in was in having, in French, a text which had been discussed and which might be useful to his delegation, even if it did not reflect the results which had been obtained. In its present form, the report of the Legal Sub-Committee did not provide any information that was not already known.

The CHAIRMAN said that the discussion which had just taken place showed the procedure followed by the Legal Sub-Committee had been far from satisfactory.

Mr. LAPOINTE (Canada) said that his delegation was prepared to approve the report of the Legal Sub-Committee, but that that document certainly did not reflect the consultations and negotiations which had taken place during the past month. The documents annexed to that report were of undeniable value but the Legal Sub-Committee had devoted only a very small part of its time to them. The Canadian delegation had based itself mainly on a document dated 19 June, a document dated 24 August and a document which it was said did not exist. That text had not been mentioned at all in the report.

The report of the Legal Sub-Committee (A/AC.138/31) was approved.

The CHAIRMAN, referring to paragraph 13 of the report of the Legal Sub-Committee which had just been approved, invited the Committee to take a decision on the informal consultations which it was proposed should be held during the twenty-fifth session of the General Assembly. He suggested to the Committee that it should declare itself in favour of those consultations provided they took place during the session of the General Assembly and that they did not involve additional expenditure. Thus, a final effort could be made to reach agreement on a declaration of principles within the time specified.

Mr. MEATON (United Republic of Tanzania) requested that the summary record of the meeting should record his delegation's opposition to the continuation of informal consultations during the twenty-fifth session of the General Assembly.

The CHAIRMAN suggested that, if there was no further objection, the Committee should decide to hold informal consultations subject to the conditions which he had just indicated.

It was so decided.

Mr. ENGO (Cameroon), speaking on behalf of the delegations of the countries members of the Group of 77 on the Committee and as Chairman of that Group, said that the delegations of the developing countries of Africa, Asia, Latin America, and Yugoslavia (commonly referred to as "the Group of 77") wished to express their profound concern at the lack of agreement in the Committee on the Peaceful Use of the Sea-Bed and the Ocean Floor on the draft declaration of principles which should consitute a basis for the international régime to be established and which should provide for appropriate international machinery in order to ensure, inter alia, the participation of all States in the equitable sharing in the benefits to be derived from the use of the resources of the sea-bed and the ocean floor and the sub-soil thereof beyond the limits of national jurisdiction.

The Group of 77 was fully aware that the submission of such a draft declaration had been the priority mandate of the Committee, pursuant to General Assembly resolution 2574 B (XXIV), and continued to feel that that was the necessary first step in the discharge of the Committee's task, in the process of establishing an international régime for the area in question and its resources, which were the common heritage of mankind.

The position and aspirations of the Group of 77 were well known and were reflected in the draft declaration contained in draft resolution A/AC.138/SC.1/L.2 of 23 March 1970.

Nevertheless, in consultations and negotiations with other delegations, the members of the Group of 77 had been guided by a genuine spirit of co-operation and a desire to reach a reasonable compromise. However, the members of the Group of 77 observed with regret that that attitude had not been adequately reciprocated.

The Group of 77 continued to believe that a balanced and comprehensive declaration of principles should be adopted as expeditiously as possible. In view of the clear mandate given to the Committee, the General Assembly had a right to expect such a draft declaration to be submitted to it at its forthcoming twenty-fifth session. To that end, the members of the Group of 77 would continue to offer their co-operation and were ready to make a positive contribution towards the attainment of that goal.

He asked that the statement which he had just made should be reproduced in extenso in the summary record of the meeting.

The CHAIRMAN said that, if there was no objection, the request of the representative of Cameroon would be complied with.

The request of the representative of Cameroon was agreed to.

ADOPTION OF THE REPORT OF THE COMMITTEE (A/AC.138/L.3/Add.1) (continued)

Paragraph 27 (continued)

Mr. VELLA (Malta), Rapporteur, said that informal consultations had resulted in an agreement to replace the beginning of paragraph 27 by the following text:

"A view was expressed in support of the establishment of international machinery competent to issue licences and to collect royalties and fees and it was urged that this was the kind of machinery on which the Commitee should concentrate. Differing views were expressed in this context. Various delegations stressed that this might be only one of the possible functions of the machinery with comprehensive powers."

He said that the amendment proposed by the representative of the Soviet Union would be added to paragraph 30.

Mr. HOLDER (Liberia) proposed that, in the first sentence of the English text, the words "it was urged" should be replaced by the word "urging".

The CHAIRMAN suggested that the first sentence of the compromise text should be replaced by the following text: "Some delegations expressed support for the establishment ... and urged ...".

It was so decided.

Mr. ENGO (Cameroon) suggested that the word "might" in the English text of the third sentence proposed by the Rapporteur should be replaced by the word "should".

It was so decided.

The proposal of the Rapporteur, as amended, was adopted.

Mr. LAPOINTE (Canada) proposed, having regard to the fact that certain scientific research activities could result in pollution of the maritime environment that the words "all exploration, except scientific research as well as exploitation..." should be replaced by "all exploration and exploitation" in the penultimate sentence of the proposed text. He also proposed that, following that sentence, a new sentence should be added stating that some delegations were of the opinion that licensing of scientific research should not be so extensive as in the case of exploration and exploitation.

Mr. BERMAN (United Kingdom) said that the new sentence proposed by the representative of Canada should be made more explicit so as to indicate that it referred only to the need for supervision of those scientific research activities which might cause pollution.

Mr. LAPOINTE (Canada) suggested that there should be consultation between the delegations concerned with a view to the preparation of a generally acceptable wording.

Mr. THACHER (United States of America) suggested, following the United Kingdom representative's statement, that a further sentence should be added to the Canadian amendment, It might read as follows:

"It was generally agreed that all deep drilling, including that carried out for research purposes, be licensed in some way, but some felt that certain kinds of scientific research should not need to be licensed".

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said his delegation had clearly stated that in its opinion no scientific research should be subject to restrictions. He therefore proposed that the United States amendment should be supplemented by a further sentence stating that certain delegations considered that there should be no licensing requirement for scientific research on the sea-bed and the ocean floor beyond the limits of national jurisdiction.

Mr. DEJAMET (France) said that the Committee was discussing a matter of substance. He supported the Canadian representative's suggestion that the delegations concerned should be asked to prepare an acceptable text.

It was so decided.

Mr. VELLA (Malta), Rapporteur, informed the Committee that, following consultations, agreement had been reached on the following text:

"Some delegations suggested that there should be no licensing of scientific research; others were of the opinion that it would be necessary to subject some types of scientific research to the same form of controls against pollution as in the case of exploration and exploitation activities".

That text was adopted.

Paragraph 27, as a whole, as amended, was adopted.

Paragraph 28

Mr. ZEGERS (Chile) said that while States had an essential role to play within the régime of exploration and exploitation of the sea-bed, if only in providing a link with public or private companies undertaking the exploration and exploitation, regional organizations could nevertheless be useful in that connexion. He therefore proposed that a new sentence should be added after the first sentence of the paragraph, reading as follows: "A similar view was expressed in regard to the regional organizations".

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that two new sentences be inserted at the end of paragraph 28, reading as follows:

> "It was also pointed out that a State bears international responsibility for national activity within the limits of the area, irrespective of whether this activity is carried out by government bodies or by corporate or physical persons. Such activity would be carried out with the authorization and under the permanent surveillance or observation of the State".

Mr. DEJAMET (France) said that, if the amendment proposed by the Soviet Union was adopted, he would like the following sentence to be inserted after that amendment:

> "Referring to State responsibility, other delegations pointed out, however, that this notion did not necessarily encompass financial responsibility and that the problem of responsibility for damage should accordingly be the subject of detailed study within the framework of the régime to be established".

Mr. WILLIAMS (United Kingdom) asked the delegation of Chile whether it might not prefer to word its amendment as follows: "Various delegations stressed the important role of regional organizations in this regard".

Mr. ZEGERS (Chile) agreed to change his amendment accordingly.

The CHAIRMAN proposed that the Committee should approve paragraph 28 with the three amendments proposed by the delegations of Chile, the USSR and France.

Paragraph 28, thus amended, was adopted.

Paragraph 29

Mr. KHANACHET (Kuwait) said the view had also been expressed that the machinery should, from the outset, be endowed with operational powers which it could exercise whenever necessary and feasible. He proposed that that opinion should be mentioned in the text of paragraph 29.

The CHAIRMAN proposed that a sentence to that effect should be inserted in paragraph 29.

Paragraph 29, thus amended, was adopted.

Paragraph 30

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that, as had been suggested during the consideration of paragraph 27, the following sentence should be inserted in paragraph 30:

"Some delegations pointed out the imperfections of a licensing system and emphasized that it endangered the interests of many States".

Mr. BRECKENRIDGE (Ceylon) proposed that the following sentence should be inserted at the end of Paragraph 30:

"In this connexion it was suggested that the rules and procedures for the award of licenses should not be too rigid and should permit a certain amount of negotiation of terms in order to ensure, inter alia, that a license is granted to those who offer the organization under international machinery the most attractive financial return".

The CHAIRMAN noted that the Committee agreed to the amendments proposed by the USSR and Ceylon.

Paragraph 30, thus amended, was adopted.

Paragraph 31

The CHAIRMAN, summarizing the proposals relating to the paragraph, suggested that, as requested by the delegation of Sudan, the words "regulation, supervision" should be inserted in the second sentence after the word "co-ordination". He suggested acceding to the request of the delegation of Ceylon and adding to the second sentence the words "and that the constituent instruments establishing the international machinery should be so drafted as to enable it to undertake wide functions."

It was so decided.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that the following text should be inserted at the end of the paragraph:

"The view was also expressed that the future international machinery should not have jurisdiction over the sea-bed beyond the limits of national jurisdiction. It was therefore stressed that the international machinery could be established only on the basis of an international agreement on the régime of a universal character and that its basic function should be to ensure that States parties to this agreement carried out the commitments undertaken by them".

It was so decided.

Paragraph 31, thus amended, was adopted.

Paragraph 32

Mr. YANKOV (Bulgaria) proposed that the last sentence of the paragraph should begin with the words "Its functions, according to some views".

Mr. KULAZHENKOV (Union of Soviet Socialst Republics) proposed that the following sentence should be added at the end of the paragraph: "A view was expressed that the international machinery should not carry out direct exploration and exploitation of the resources of the sea-bed".

It was so decided.

Paragraph 32, thus amended, was adopted.

Paragraph 33

Paragraph 33 was adopted without discussion.

Paragraph 34

Mr. YANKOV (Bulgaria) proposed that the following sentence should be added at the end of the paragraph: "Some delegations were of the opinion that the international institution which might be established should have clearly defined powers and functions and should avoid a cumbersome bureaucracy with high administrative costs".

Mr. WILLIAMS (United Kingdom) suggested that the following should be added to the Bulgarian amendment: "which would consume a substantial part of the revenues from exploitation of the sea-bed that would otherwise be available for distribution for the benefit of States parties to the régime".

Mr. YANKOV (Bulgaria) accepted the suggestion of the United Kingdom representative.

Paragraph 34, thus amended, was adopted.

Paragraph 35

Paragraph 35 was adopted without discussion.

Paragraph 36

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that the following sentence should be added at the end of the paragraph:

"The view was expressed that at present appropriate conditions did not exist for the establishment of international machinery, that essential scientific data were lacking; nor was it clear how profitable the industrial development of the resources of the sea-bed would prove in the near future".

Paragraph 36, thus amended, was adopted.

Paragraph 37

Mr. WILLIAMS (United Kingdom) proposed the following amendments to paragraph 37: firstly, placing a full-stop after the word "machinery" in the third sentence; secondly, replacing the remainder of the third sentence by the following: Some delegations felt that it was not possible...wording of the declaration"; and thirdly, replacing the fourth sentence of the proposed text by the sentence: "other delegations stated that further progress on these matters depended on further progress on the nature and scope of the international régime".

Mr. YANKOV (Bulgaria) said that he could accept the amendments proposed by the United Kingdom representative, provided the fourth sentence of the original text proposed was retained and the following sentence was added to the paragraph: "It was further pointed out that the international institution which might be set up should be of an intergovernmental nature, for States should have a predominant role in the régime which would be established".

Mr. KHANACHET (Kuwait) pointed out to the representative of Bulgaria that in intergovernmental bodies States assumed full responsibility and not merely a predominant role.

Mr. YANKOV (Bulgaria) said that he was referring to the framework of the régime which would be established, and not to that of intergovernmental bodies.

Mr. KHANACHET (Kuwait) withdrew his objection.

The United Kingdom amendments were adopted.

The Bulgarian amendments were adopted.

Paragraph 37 as a whole, as amended, was adopted.

Paragraph 38

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that a new sentence reading as follows should be added at the end of the paragraph:

"It was also pointed out that the international régime and the international machinery should exclude any possibility of activities being carried out in the interests of particular States to the detriment of the interests of other States".

The Soviet amendment was adopted.

Paragraph 38, as amended, was adopted.

Paragraph 39

Paragraph 39 was adopted.

Paragraph 40

Mr. KHANACHET (Kuwait) said that the first sentence of paragraph 40 referred to "equitable distribution of the benefits of sea-bed exploitation to all States parties to the international régime". That did not appear adequate to his delegation, which had stressed the need for universal sharing of those benefits. He therefore proposed that a new sentence should be added after the first sentence, to read as follows: "The view was expressed that all States should participate in and benefit from the exploitation of sea-bed resources, in conformity with the universal character of the régime".

Mr. BERMAN (United Kingdom) pointed out that an additional sentence should not be inserted after the first sentence of paragraph 40, since the entire paragraph gave expression to his delegation's views.

Mr. KHANACHET (Kuwait) agreed that the amendment he had just proposed should be placed in paragraph 43 instead.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) proposed that the following additional sentence should be inserted after the third sentence of paragraph 40:

"Several delegations pointed out that the question of proceeds and other benefits could be studied at the time of the preparation of an agreement on the régime for the exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction".

Mr. DENORME (Belgium) proposed that the following two sentences should be added at the end of the paragraph:

"The Committee recognized the need to ensure, within the framework of the international régime to be established, an equitable sharing of the proceeds and benefits resulting from the exploitation of the resources of the area. Some delegations pointed out, however, that it was too early to consider the modalities of application of this concept, in particular possible methods and criteria for such a sharing".

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that, in his view, the amendment proposed by the representative of Belgium should begin with the words "According to one opinion, it was necessary to ensure....."

He also proposed that that amendment should be followed by an additional sentence reading as follows: "Some delegations emphasized the need to ensure a fair and equitable sharing of the benefits".

His delegation reiterated its view that the question of benefits should be studied within the framework of the preparation of an agreement on the international régime; it was necessary to have some basis for the sharing of those benefits and not to formulate hasty conclusions.

Mr. BADAWI (United Arab Republic) said that, in his view, the amendment proposed by the representative of Belgium would be better placed on page 2 of document A/AC.138/L.3/Add.4, in the section dealing with methods and criteria.

Mr. BERMAN (United Kingdom) suggested that the amendments proposed by the Soviet Union and Belgium should form a new paragraph.

Mr. ZEGERS (Chile) said that in the discussion which had taken place during the session the principle of the participation of States in the benefits had been regarded as essential. It should be embodied in the régime, in conformity with General Assembly resolution 2340 (XXII). Only the USSR appeared to be in disagreement with the rest of the Committee on that point.

Mr. HOLDER (Liberia) said that, since the whole of paragraph 40 reflected the views of the United Kingdom, the words "It was also said that" at the beginning of the fourth sentence should be replaced by the words "According to this view".

Mr. BERMAN (United Kingdom) accepted that change.

The CHAIRMAN suggested that the Committee should postpone action on paragraph 40 to allow the Rapporteur time to present in appropriate form the amendments proposed by the representatives of Belgium and the USSR.

It was so agreed

Paragraph 41

Mr. VELLA (Malta) said that, in order better to reflect the discussion which had taken place, the last sentence of the paragraph should be replaced by the following:

"The view was also expressed that manganese nodules of the sea-bed could be profitably exploited only under international control conditions of monopoly or oligopoly; it was suggested that if such conditions did not obtain, the effects on international prices of some land-based minerals could be very serious."

Mr. KHANACHET (Kuwait) proposed that the following sentence should be inserted after the third sentence:

"In this regard it was emphasized that appropriate measures should be taken to minimize the fluctuation of the prices of raw materials in the world market which might adversely affect the interests of countries whose economy depends on such raw materials".

Mr. ZEGERS (Chile) said that the representative of Kuwait had expressed a view that was shared by many delegations and had been supported by the Under-Secretary-General for Economic and Social Affairs in a statement made to the Economic and Technical Sub-Committee at its 35th meeting (A/AC.138/SC.2/L.9). He hoped that the report would reflect a consensus regarding the amendment proposed by the representative of Kuwait.

Mr. THACHER (United States of America) expressed approval of the Kuwaiti amendment but proposed that it should be followed by a further sentence reading as follows: "Others felt, however, that any controls established should be global in nature and not limited to natural resources coming only from one particular area".

Paragraph 41, amended as proposed by the representatives of Malta, Kuwait and the United States of America, was adopted.

Paragraph 42

Following an observation by the Sudanese representative, the CHAIRMAN suggested that after the words "It was, however, suggested", in the third and fourth lines the words "by some delegations" should be inserted.

Paragraph 42, thus amended, was adopted.

Paragraph 43

Mr. ZEGERS (Chile) suggested that the word "basic" should be inserted before the words "international treaty" in the second line. He reminded the Committee that reference was made in the fifth line of paragraph 34 to a series of multilateral treaties.

Mr. LAPOINTE (Canada), supported by Mr. JAGOTA (India) and Mr. YANKOV (Bulgaria), who referred to paragraph 142 of the Secretary-General's report (A/AC.138/23), said that it was not enough to speak of an international treaty "as universal as possible". The expression "which should be of universal character" was preferable.

Mr. KHANACHET (Kuwait) said that he shared that opinion, but would prefer the text to be more specific and refer to "an international treaty which should be open to ratification or accession by all States".

Mr. SMIRNOV (Union of Soviet Socialist Republics) said that he too found the phrase "as universal as possible" ambiguous. The USSR hoped that the international treaty would be universal and open to participation by all States.

Mr. THACHER (United States of America) said it was clear that there was no agreement in the Committee on the opinion just expressed by the USSR representative. The consensus as expressed in the first sentence of paragraph 43 should therefore be retained, since it was one of the few elements of agreement in the report, and the USSR representative's opinion should be embodied in a new sentence. The sentence referring to the consensus could be made clearer by using the words: "a basic international treaty which should be ratified by a large number of States".

Mr. BERMAN (United Kingdom) and Mr. LIVERMORE (Australia) supported the United States representative's suggestion.

Mr. SMIRNOV (Union of Soviet Socialist Republics) proposed that the first sentence of paragraph 43 should be replaced by the following two sentences, in order to reflect all opinions:

> "Some delegations expressed the view that machinery should be established by a basic international treaty. Other delegations considered that it might be established on the basis of an international agreement of universal character relating to a régime of exploration and exploitation of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction".

Mr. JAGOTA (India) proposed the following wording: "a basic international treaty which should be of a universal character and which, it was suggested, should be ratified by as many States as possible".

Mr. LIVERMORE (Australia) suggested that the USSR representative might accept the words "Most speakers" in the first line, in order to retain the expression of agreement reflected in the sentence.

Mr. HASSAN (Libya) considered it preferable to retain the word "Speakers" rather than to use the words "Most speakers" or "Many speakers".

Mr. SMIRNOV (Union of Soviet Socialist Republics) said that he could not accept the formula proposed by the Australian representative. It was known that one group of delegations desired the establishment of universal machinery while another group considered a basic international treaty sufficient.

Mr. KHANACHET (Kuwait) said that many delegations had favoured a treaty of universal character. That fact could perhaps be reflected by referring in the first sentence to "...an international treaty of universal character". Those words would be followed by a full stop, and reference could then be made to the different interpretations given by delegations to the concept of universality: States Members of the United Nations only, all countries, etc.

Mr. SOTO (Peru) said that in order to reflect the discussion the USSR wording should be adopted. Two different views had been expressed: according to some, the treaty by which the machinery would be established should be international; according to others, it should be universal.

Mr. THACHER (United States of America) said that there was no conflict between a basic international treaty and the principle of universality. The Committee might perhaps adopt the wording proposed by the Indian representative, or else place a full stop after the words "basic international treaty", and go on to say: "While there was agreement on the participation of a large number of States, there was disagreement on the participation of States not Members of the United Nations".

Mr. ZEGERS (Chile) proposed that the Committee should adopt either the Indian representative's formula or the expression of agreement in the first sentence (to preserve the consensus which had been achieved), and that the divergent views expressed should be summarized in a second sentence.

Mr. SMIRNOV (Union of Soviet Socialist Republics) pointed out that some delegations, including his own, had insisted that the international treaty should be of universal character. He asked the United States representative whether he could accept the formula "an international treaty of universal character".

Mr. THACHER (United States of America) said that he would prefer the formula "as universal as possible".

Mr. SMIRNOV (Union of Soviet Socialist Republics) said that he could not accept that formula.

The CHAIRMAN suggested that the meeting should be adjourned and that delegations should consult one another with a view to reaching agreement on the wording of paragraphs 40 and 43 of the Committee's report.

It was so decided.

The meeting rose at 8.5 p.m.

SUMMARY RECORD OF THE FORTY-FOURTH (CLOSING) MEETING

Held on Friday, 28 August 1970, at 9.45 p.m.

Chairman: Mr. AMERASINGHE Ceylon

ADOPTION OF THE REPORT OF THE COMMITTEE (A/AC.138/L.3 and Add.1-4) (concluded)

The CHAIRMAN invited the Committee to continue its consideration of part III of the draft report (A/AC.138/L.3/Add.1).

Paragraph 43

Mr. STEVENSON (United States of America) suggested that, as the opening words of the first sentence "Speakers in the discussion generally concurred in" were not acceptable to all delegations, they be replaced by the words "Some delegations expressed", and that the word "basic" be inserted before the words "international treaty", as proposed by the representative of Chile.

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) suggested that the second sentence be amended to read: "Other delegations expressed the view that machinery could be established on the basis of an international treaty, on a régime, of universal character, that is, open to participation by all States". The words "of universal character" applied, of course, to the international treaty and not to the régime.

Mr. KHANACHET (Kuwait), supported by Mr. BRECKENRIDGE (Ceylon), suggested that the word "could" in the text proposed by the USSR representative for the second sentence should be replaced by the word "should".

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said he preferred to retain the word "could".

Mr. JAGOTA (India) suggested that the word "some" be inserted before the words "other delegations" in the text proposed by the USSR representative.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said he could accept that change.

The USSR amendment, as amended by the representative of India, was adopted.

Paragraph 43, as amended, was adopted.

Paragraph 44

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) suggested that the word "held" be replaced by the word "considered" in the first sentence.

It was so agreed.

Mr. SOTO (Peru) suggested that the word "patronizing" in the second sentence should be deleted.

It was so agreed.

Mr. PAVICEVIC (Yugoslavia) suggested that the words "It was emphasized that" be inserted at the beginning of the last sentence, that the words "interests and" be inserted before the word "needs", and that the word "gaps" be replaced by the words "economic disparities".

It was so agreed.

Paragraph 44, as amended, was adopted.

Paragraph 45

Paragraph 45 was adopted.

Paragraph 46

Mr. BRECKENRIDGE (Ceylon) suggested that the word "agency" in the second sentence be replaced by the words "international machinery", as it might be misinterpreted.

It was so agreed.

Mr. BRECKENRIDGE (Ceylon) also suggested that the second part of that sentence, from the words "and it was suggested" down to the words "in the United Nations system", be replaced by the following passage: "in a broad sense, bearing in mind the need to ensure the widest possible adherence to the régime and participation in the machinery of all States, whether or not members of the United Nations and its associated bodies". His delegation had expressed that view during the discussion.

Mr. BERMAN (United Kingdom) pointed out that the sentence could not then begin with the words "Various speakers".

After a brief discussion, Mr. BRECKENRIDGE (Ceylon) suggested that the words "in a broad sense" be inserted after the words "part of the United Nations system" and that the rest of the sentence remain unchanged.

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said his delegation wished its own view to be recorded in that paragraph and suggested that the following sentence be inserted after the second sentence:

"It was emphasized by other speakers that the international machinery should be open to participation by all States without any discrimination and in accordance with the principle of sovereign equality, irrespective of whether a State is a member of the United Nations or a specialized agency".

It was so agreed.

Paragraph 46, as amended, was adopted.

Mr. SOTO (Peru) said that the first sentence did not accurately reflect the views expressed by his own and other delegations. He suggested that it be amended to read:

"With respect to the elaboration of the international régime, including the international machinery, it was held that account should be taken of the wide diversity in geographical and economic circumstances, which is reflected in the regional trends in relation to the law of the sea."

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the words "it was held" could be taken to mean that the view expressed was that of the entire Committee. He therefore suggested that those words be replaced by the words "the view was expressed".

It was so agreed.

The Peruvian amendment, as amended by the USSR, was adopted.

Mr. PAVICEVIC (Yugoslavia) said that the meaning of the second sentence was unclear; he did not understand what was meant by the phrase "whenever participation by individual developing States would be ineffective". He assumed that the regional organizations referred to were organizations of developing countries, but some developing countries were not members of regional organizations.

Mr. SOTO (Peru) suggested that the phrase "whenever participation by individual developing States would be ineffective" be deleted.

It was so agreed.

Paragraph 47, as amended, was adopted.

Paragraph 48

Mr. ZEGERS (Chile) suggested that the last sentence be amended to read:

"Other delegations considered this matter to fall outside the competence of the Committee, that the régime should have priority, in

accordance with the mandate of the Committee, and that it was not necessary to have a more precise delimitation of the area in order to establish a régime, as in similar cases such delimitation had not been found necessary."

Mr. STEVENSON (United States of America) said it should be made clear that that view of the Committee's mandate was not held by all members of the Committee. He therefore suggested that the words "their understanding of" be inserted before the words "the mandate of the Committee" in the text proposed by the representative of Chile.

It was so agreed.

The Chilean amendment, as amended by the representative of the United States, was adopted.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said he thought that the second sentence should refer to the establishment of a régime and not the establishment of machinery.

Mr. JAGOTA (India) suggested that the words "a régime and" be inserted before the word "machinery", since both were mentioned in the third sentence.

It was so agreed.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that, with the incorporation of the Chilean amendment to the last sentence, the paragraph did not give a balanced picture of the discussion. The first sentence did not adequately present the other point of view. His delegation's reference to the difficulties which might be caused by uncertainty about the limits of the area should be more fully reflected. He therefore suggested that the following sentence be inserted after the first sentence: "Certain delegations pointed out that the indeterminate situation in regard to the limits might prove a serious obstacle in the working-out of a régime".

It was so agreed.

Paragraph 48, as amended, was adopted.

Paragraph 49

Mr. BRECKENRIDGE (Ceylon) suggested that the words "likely to be" be inserted before the word "affected" in the first sentence.

It was so agreed.

Mr. BERMAN (United Kingdom) said it should be made clear that the statement in the second sentence did not represent the general view in the Committee. He therefore suggested that the opening words, "It was considered reasonable", be replaced by the words "Certain delegations considered it reasonable".

Mr. ZEGERS (Chile) said that many delegations had expressed the view mentioned. He therefore suggested that the sentence might begin with the words "A number of delegations considered it reasonable".

It was so agreed.

Paragraph 49, as amended, was adopted.

New paragraph to follow paragraph 40

Mr. DENORME (Belgium), referring to the text he had proposed at the 43rd meeting, said that the USSR was prepared to agree that the Committee recognized the need to study the question of the proceeds of exploitation, but not the need to ensure their equitable distribution. If a generally acceptable wording on that subject could be found for inclusion in the report, the Committee would have agreed on at least one issue. He therefore suggested that the new paragraph read:

> "The Committee recognized the need to study ways of ensuring, within the framework of the international régime to be established, the equitable sharing of the proceeds and other benefits to be derived from the exploitation of the resources of the area. Some delegations, however, pointed out that it was premature to consider at this stage the modalities of application of this concept, in particular the possible methods and criteria which might govern such sharing."

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the suggested wording was too vague and did not reflect the view expressed by the USSR. His delegation had stated that it was premature and unreasonable to raise the question of the benefits of exploitation before there were even any clear plans or proposals for such exploitation. The USSR could not subscribe to the formulation proposed by Belgium unless the words "The Committee recognized" were replaced by some such expression as "A number of delegations recognized" or "It was widely recognized". That would still represent a measure of progress. If full agreement on that point was to be recorded in the report, it would have to be worded to read:

"The Committee recognized that the question of the proceeds and other benefits might be studied during the preparation of an agreement on a régime for the exploitation of resources of the sea-bed and ocean floor outside national jurisdiction."

The CHAIRMAN said that several parallel studies had been initiated by the Committee so that at no stage would work be held up for lack of information. That would be the purpose of the study in question. Only on that basis could the Committee make any progress at all.

Mr. ZEGERS (Chile) said that the text now proposed by Belgium accurately reflected what had been proposed to the Committee. In approving the report of the Economic and Technical Sub-Committee, the Committee had in effect agreed that methods of sharing the benefits of exploitation should be studied by the Secretariat. It was true that the USSR had entered a reservation in that connexion, but he failed to see why it opposed the initiation of such a study since it had already stated that the study might be undertaken when a régime was worked out. That stage had now been reached; the mandate given to the Committee in the relevant General Assembly resolutions provided for the elaboration of such a régime. It was therefore time to carry out the study.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the study which the Secretary-General had been requested to carry out was of a different kind from the one under discussion and was in fact a compilation of documentary material. He thought that many delegations would find it inadequate. Such matters as the benefits of exploitation could only be studied at a conference convened for drawing up an agreement on a régime governing such exploitation and not by the United Nations Secretariat. His delegation's views on the subject had not been recorded in the report of the Economic and Technical Sub-Committee but they were fully reported in the summary records.

Mr. DENORME (Belgium) suggested that, in order to meet the objection raised by the USSR, the paragraph he had proposed might be amended to read:

"The Committee recognized the need to study, at an appropriate time, namely, during the elaboration of an international régime, ways of ensuring, within the framework of that régime, the equitable sharing of the proceeds and other benefits to be derived from the exploitation of the resources of the area."

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the term "equitable sharing" would have to be carefully studied, as there were different conceptions of what would be equitable. The USSR believed that the benefits should be available to all mankind and not merely certain sections of it. Others believed that the monopolies exploiting the resources were entitled to most of the benefits and that only a proportion should be made available to the international community as a whole. So long as exploitation lay in the distant future, the USSR could subscribe only to the formulation he had suggested.

The CHAIRMAN said that one of the objectives of the study would be to determine what would constitute equitable apportionment of the benefits.

Mr. DENORME (Belgium) said that if the concept of equitable sharing was open to different interpretations, instead of opposing all mention of it in the report, delegations could have their interpretations of it recorded in the summary record. If that procedure were adopted, his delegation would wish its own interpretation of the term to be recorded. If not, he would maintain his original proposal, replacing the words "The Committee" by "The overwhelming majority of the Committee's members".

Mr. KHANACHAT (Kuwait) suggested that the phrase "for the benefit of all mankind and taking into account the needs and interests of developing countries" be added to the first sentence of the text proposed by the representative of Belgium. If, however, that suggestion was unacceptable to the USSR and Belgium he would withdraw it.

Mr. JAGOTA (India) said that the part of the report under discussion was concerned only with the question of establishing international machinery and therefore need only record the two points of view expressed on that question. The initiation of a further study had already been considered during the adoption of the Economic and Technical Sub-Committee's report; a decision had already been taken and no further reference to the matter was needed.

After some further discussion, the following text for a new paragraph to follow paragraph 40 was adopted:

"It was widely recognized that there was a need to ensure, within the framework of the international régime to be established, the equitable sharing of the proceeds and other benefits to be derived from the exploitation of the resources of the area. Some delegations pointed out

that the question of proceeds and other benefits might be studied in the elaboration of an international régime for the exploitation of the resources of the area."

Mr. BRECKENRIDGE (Ceylon) said that the discussion on the structure of the proposed international machinery and its financial aspects was not reflected in the report. He therefore proposed that the following text be inserted as a new paragraph after paragraph 49:

"It was observed with regard to the Secretary-General's report on international machinery that little was said about the structure of the international machinery and its financial aspects. It was felt that these two matters should be examined in greater detail. Certain delegations made preliminary proposals regarding a structure for the international machinery which would consist of possibly four main organs, namely, a plenary assembly of representatives of all member States, a smaller executive organ, a secretariat and an appropriately constituted judicial organ".

The new paragraph to follow paragraph 49 was adopted.

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Paragraph 2 of the introduction

Paragraph 2 was adopted.

New paragraph to follow paragraph 7

The new paragraph, with the word "Under-Secretary" replaced by "Under-Secretary-General", was adopted.

Addition to paragraph 12

The addition to paragraph 12 was adopted.

Text to follow paragraph 15

Mr. BALLAH (Trinidad and Tobago) suggested that the following sentence be added to the third paragraph of the text:

"The view was also expressed that, prior to the establishment of a régime for the area beyond the limits of national jurisdiction, UNESCO and its subsidiary body IOC, FAO and other agencies within the United Nations family might usefully consider intensifying, expanding and expediting their programmes for the training of nationals of developing countries in the various aspects of marine science and technology."

It was so agreed.

Mr. STEVENSON (United States of America) suggested that the phrase "for the encouragement of investors and of technical operations", at the end of the sixth paragraph of the text, be replaced by the following phrase: "and for revenues to be divided between economic development and wider community purposes such as the training of nationals of developing countries in sea-bed operations and the encouragement of sea-bed research".

It was so agreed.

The text to follow paragraph 15, as amended, was adopted.

Addition to paragraph 16

The addition to paragraph 16 was adopted.

Addition to paragraph 22

The addition to paragraph 22 was adopted.

Conclusion (A/AC.138/L.3/Add.3)

First paragraph

The first paragraph was adopted.

Second paragraph

Mr. ZEGERS (Chile) said that, since the Committee's primary objective was to obtain general agreement on a working system, the last sentence should be more explicit. He suggested that the last part of that sentence should read: " ... to maintain confidence in the emergence of the general agreement necessary to elaborate the basis and determine the requirements of the international régime which would take the form of a treaty".

It was so agreed.

Third paragraph

Mr. JAGOTA (India) said that the report of the Legal Sub-Committee lacked substance; it did not specify areas of agreement and of disagreement. In his view it was inappropriate that the Committee should end its conclusions with a list of areas of disagreement, particularly when that list included "the meaning of the concept of the common heritage of mankind" a question on which his delegation felt that there had been a consensus. He therefore suggested that the whole paragraph be deleted or, if that suggestion were unacceptable, that only those points on which there was real disagreement should be indicated.

The CHAIRMAN suggested that the second sentence of the paragraph should be deleted.

It was so agreed.

The third paragraph, as amended, was adopted.

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

CLOSURE OF THE SESSION

The CHAIRMAN said he had been told by the Co-Chairmen of the Conference of the Committee on Disarmament that they expected that a third revised draft of 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 the Sub-Soil thereof would be submitted to the Conference the following week. That revised draft would take into account the main preoccupations and concerns of the members of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, and of the non-aligned States members of the Conference of the Committee on Disarmament. An operative article would be added to the Treaty by which the parties to the Treaty would undertake to continue negotiations in good faith concerning further measures in the field of disarmament and prevention of an arms race on the sea-bed, the ocean floor and the sub-soil thereof. Also in amplifying the verification provisions of the treaty to ensure that parties in the region of an activity giving rise to doubts regarding compliance, including any coastal State, were entitled to participate in the verification activities and to receive a report of the results, care had been taken to ensure that the position of States with regard to the continental shelf and the territorial sea was in no way prejudiced by the provisions of the draft treaty. The revised draft was expected to secure widespread support in the Conference, which would transmit it to the General Assembly for adoption.

Mr. THACHER (United States of America) said that the Committee had one of the most difficult mandates of any Committee set up by the General Assembly. It had been asked to propose an international régime which would ensure that the sea-bed and the ocean floor beyond the limits of national jurisdiction did not become a new arena of conflict for the kind of disputes which had characterized so much of man's history on land. It had been given a chance to seek international solutions to problems which were inherently international in nature. Its primary

purpose was to contribute to international peace and stability. It had been given an opportunity to create an important and independent source of revenue for the international community which would not depend upon the will of individual nation States. It could point the way to solutions to the critical boundary issue and it could move to protect the ocean from pollution caused by activities in the area. It had a chance to establish new international machinery to deal with problems of an unprecedented nature.

While the lengthy discussions had been taking place in the Committee and the General Assembly the international sea-bed area had been diminished by new unilateral national claims of jurisdiction over many hundreds of thousands of square miles. The significance of that fact for the international community was obvious.

When President Nixon had made the difficult political decisions inherent in his announcement of 23 May and in the draft conventionl he had attached great importance to international community interests. The United States, as a Party to the 1958 Geneva Convention on the Continental Shelf, could have relied on the exploitability test to extend its boundary unilaterally. It had felt, however, that in view of the uncertainties surrounding sea-bed boundaries, and in the light of the great opportunity the international community now had to correct the inequities of the law of the sea, it would be better for States to renounce under a treaty all national claims beyond the 200-metre isobath, leaving the international sea-bed area as extensive as possible. Such action would make it possible to reconsider the proper relationship of international community interests to those of coastal States. He hoped that other coastal States would re-examine their own assertions of national jurisdiction and consider whether the United States' concept furthered the international and domestic interests which they felt were most important. He made a similar appeal to land-locked and shelf-locked States.

A number of delegations had raised questions concerning the United States draft treaty and he would endeavour to answer a few of the most important.

The use of the word "trusteeship" had caused difficulties for some delegations which felt that it evoked old ideas of colonialism. In using the term "trusteeship", the United States was trying to convey the idea that in a portion of the international sea-bed area a coastal State acted for and on behalf of the international community. The coastal State's rights derived from and were

specifically defined in the draft treaty. The proposal had also been criticized for giving unfettered power to the trustee State. While the coastal State did have important but limited functions, the international machinery had a supervisory role in the trusteeship zone, including such powers as inspection and the power to suspend licences and even in certain cases the trusteeship itself.

A few coastal States had questioned whether the United States proposal adequately protected their interests. His delegation considered that, by providing a stable investment climate free of dispute and by ensuring that coastal States could decide when, how and to whom licences for exploitation should be issued in the trusteeship area, coastal States would be able to protect their interests fully.

Some delegations had stated that the draft treaty placed undue emphasis on the distribution of revenues, as distinct from actual participation in exploration and exploitation by developing countries. His delegation believed that developing countries should develop their own exploitation capability, and the treaty attempted to help them to do so. Nevertheless, his delegation found the criticisms on that point very constructive and that aspect of the draft treaty would be reconsidered.

Another point had been raised with regard to the structure of the Council. The Council was balanced between developed and developing countries in much the same way as comparable organs in commodity agreements were balanced between producers and consumers, so that all major interests would be reflected in the deliberations and actions of that body.

Some delegations had asked why the machinery was called "International Seabed Resources Authority" rather than "International Seabed Authority". The former had seemed the more appropriate since the Authority's functions were primarily concerned with resources.

A number of delegations had asked whether a distance criterion might be used instead of, or in conjunction with, the formula employed in the draft treaty for the limits of the trusteeship zone. His delegation believed that the 200-metre isobath criterion, which was taken from the 1958 Geneva Convention, and the use of a gradient formula to delimit the outer boundary of the trusteeship zone, offered the best basis for agreement. No attempt had been made to determine the outer

boundary precisely, but his delegation agreed that the treaty ought to draw a precise line and had indicated the factors which would have to be taken into consideration in determining that limit.

He hoped that Governments would direct any further questions that they wished to raise to the United States Government.

While principles might be the most difficult issue, agreement might prove easier once the stage of serious negotiation had been reached. The United States had found that it was easier to agree on principles when they were set against the background of a comprehensive régime.

The Committee had reached a dangerous crossroads. For the first time in history a common resource could be shared equitably. The alternative was to perpetuate a world of national rivalry and selfishness. His Government would do everything in its power to ensure that the interests of the international community were protected.

Mr. BERMAN (United Kingdom) said that while the Committee had not succeeded in completing its main task - to draw up a draft declaration of principles for submission to the General Assembly at its twenty-fifth session - the session had not been a failure. Every one had learnt a great deal about the problems of the sea-bed. Material had been submitted which would be of assistance in the future and there had been a significant approximation of views in the informal consultations on a declaration of principles.

Three years previously the Committee had decided, by analogy with the work that had led to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, that the way to begin was by the separation of agreed general principles. Agreement on that treaty had not been reached quickly and the issues confronting the Committee in connexion with the sea-bed were far more complex. The interests of all States were materially engaged, whereas in outer space there were no resources which might be exploited for the benefit of mankind. One of the difficulties the Committee had encountered in its search for agreement on a declaration of principles was that its members looked beyond the generalities to the detailed concrete issues which needed to be resolved. Perhaps therefore it might have been better to proceed directly to those detailed issues. However, he was optimistic about the

outcome of the work which the Committee had undertaken, provided that before the next session delegations were prepared to make a radical reappraisal of their positions and to consider where and how they could offer compromises. Without such a spirit of compromise there would be no principles, no régime and no profits to be shared among the international community. His delegation was determined that the sea-bed beyond national jurisdiction should be exploited for the benefit of mankind as a whole and that the revenues to be derived from its exploitation should be equitably shared.

Mr. BARBOZA (Argentina) said that he wished to comment on the Committee's failure to complete its task of preparing a comprehensive and balanced declaration of principles for submission to the General Assembly at its twenty-fifth session. A large number of delegations had made a serious attempt to reduce the existing area of disagreement and to establish reasonable bases for negotiation. He regretted that their efforts had not been successful and assured the Committee that his Government was prepared to do its utmost to achieve constructive results.

Admittedly, it was urgent to establish the general lines of an international régime applicable to the sea-bed and the ocean floor beyond the limits of national jurisdiction. But it was urgent only if the declaration was to protect the interests of the international community as a whole, in other words, if the area and its resources were destined for mankind as the sole beneficiary. If that idea were disregarded, however, the urgency might perhaps be lost since the time would have come to renounce the legal concept which in his delegation's view should govern the system to be established, namely, that the sea-bed area was the common heritage of mankind.

His delegation had maintained during the informal consultations that other controversial aspects of the law of the sea should be excluded from the text in order to avoid impairing the positions taken by many countries on those aspects. One such was the legal status of the super-jacent waters of the international sea-bed area. If they were deemed to be high seas, an element of conflict would be introduced which had no relevance to the international area and its resources. To introduce such issues could endanger the Committee's work. His delegation could have agreed to the inclusion of a paragraph stating that nothing in the Declaration of Principles would affect the legal status of the super-jacent waters of the international sea-bed and ocean floor area.

Perhaps the main reason for the failure to make progress had been the existence of substantive disagreement on the scope of the rules to govern the activities of States in the international area. That disagreement could be inferred from the discussion on topics such as the common heritage of mankind and on the question of the applicability of international law.

There seemed to be two tendencies in the Committee: one, clearly defined, in favour of the application to the international area of principles which had their origin in the concept of the common heritage of mankind, and the other which sought to keep as close as possible to its interpretation of the existing status quo and which might be described as more conservative.

His delegation could not understand how an extension by analogy of the freedom of the high seas to the sea-bed beyond the limits of national jurisdiction could be reconciled with the Committee's mandate. It was important to consider operative paragraph 2 (a) of General Assembly resolution 2467 (XXIII). That resolution did not state that the elaboration of the legal principles and norms applicable to the international area was limited by the Law of the Sea in force. On the contrary, it made provision for a new régime for a new situation. It stated that the principles and the international régime to be established should "ensure the exploitation of their resources for the benefit of mankind". When it wished to avoid any derogation from existing international law it did so expressly, as when it recognized that it was "in the common interest of all nations that the exploration and exploitation of the resources of the sea-bed and the ocean floor ... should be conducted in such a manner as to avoid infringement of the other interests and established rights of nations with respect to the uses of the sea". General Assembly resolution 2574 (XXIV) was even more precise and its part A defined clearly the different nature of the principles and the international régime to be established. If the Committee was to carry out the tasks entrusted to it efficiently it should avoid any renewed discussion of questions which had already been resolved by the General Assembly. His delegation did not consider it impossible to find a wording which would combine the necessary guarantees that some countries wished to introduce with the provisions of a régime for the international area in which the principles desired by most of the members of the Committee, the General Assembly and the international community would apply.

Mr. JAGOTA (India) said that, although he had been disappointed that the preparation of the draft declaration of principles had not been completed, the pinpointing of outstanding differences and the establishment of areas of agreement which had been achieved during the session led him to hope that success was not far distant. The valuable material submitted by a number of delegations would be studied carefully by his Government. The expectations of the international community were that the international régime for the exploration and exploitation of the sea-bed and its resources would follow the declaration of principles and would include appropriate international machinery to give effect to its provisions. The declaration was an imperative need for all States, more particularly the developing States, and India would continue to co-operate fully in its preparation.

Mr. VALLARTA (Mexico), speaking on behalf of the Latin American countries, said that while he had felt frustrated at the Committee's inability to complete its work, he was convinced that it would succeed in doing so in the near future.

Mr. ODA (Japan) said he regretted that, despite the goodwill and strenuous efforts of all the members of the Committee, it had proved impossible for it to complete its preparation of a comprehensive and balanced declaration of principles. Its failure showed the difficulty and complexity of the task it had undertaken. It had, however, made significant progress on such items as marine pollution, methods and criteria for sharing the proceeds from sea-bed exploitation, and some of the basic points involved in the international régime and machinery to be established. In respect of real principles, a number of common denominators had been found.

Mr. HOLDER (Libera), speaking on behalf of the African countries, said that the spirit of compromise and understanding shown by the members of the Committee augured well for its future work.

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that although the Committee had achieved certain positive results at the present session, there might have been more progress if all delegations had shown a genuine spirit of co-operation in the search for mutually acceptable solutions which safeguarded the interests of all States. He did not share the pessimism of other delegations about the outcome of the present session. The extensive exchanges of views would enable

the Committee to make further progress towards its objective of ensuring that the resources of the sea-bed would be used for the benefit of all nations.

Mr. LIVERMORE (Australia) said that the session had been useful in that it had proved possible to identify the differences dividing the members of the Committee.

The CHAIRMAN, after expressing his confidence that the Committee would be able to complete its task in the near future and thanking the other officials of the Committee for their co-operation, declared the session closed.

The meeting rose at 1.10 a.m. on Saturday, 29 August 1970