



UNITED NATIONS
GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.138/SR.68-70
4 February 1972
ENGLISH
ORIGINAL: ENGLISH/FRENCH

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

SUMMARY RECORDS OF THE SIXTY-EIGHTH TO SEVENTIETH MEETINGS

Held at Headquarters, New York,
from 14 to 22 October 1971

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the Committee

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<u>Rapporteur:</u>	Mr. VELLA	Malta

The list of representatives appears in document A/AC.138/INF.5 and Add.1-6.

SUMMARY RECORD OF THE SIXTY-EIGHTH MEETING

Held on Thursday, 14 October 1971, at 3.35 p.m.

Chairman:

Mr. AMERASINGHE

(Ceylon)

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CONSIDERATION OF THE DRAFT ADDENDUM TO THE REPORT OF THE COMMITTEE
(A/AC.138/L.4/Add.2 and L.5-7)

The CHAIRMAN drew attention to document A/AC.138/L.4/Add.2 containing the second part of the Committee's report to the General Assembly. It had been drafted so that the text as a whole, as opposed to the individual paragraphs, would provide a balanced account of the views expressed during the general debate. He, not the Rapporteur, took responsibility for the format. The first part of the Committee's report had already been adopted and he suggested that the only way to ensure the coherence and logical sequence of the report as a whole would be to incorporate the addendum, following its approval, immediately after the first part of the report.

It was so agreed.

Mr. VELLA (Malta), Rapporteur, drew attention to amendments to the draft addendum, submitted by the delegations of the USSR, Brazil and Spain in documents A/AC.138/L.5, L.6 and L.7 respectively.

To avoid reproducing material already appearing in the preceding part of the report, the style of the document before the Committee was general and there were no specific quotations from statements by delegations.

The CHAIRMAN suggested that the Committee should proceed to examine document A/AC.138/L.4/Add.2, paragraph by paragraph. The texts of the various amendments were available only in English and he suggested that delegations using other working languages should take part in the debate while reserving the right to comment further when the relevant language versions were available. If there was no objection, he would take it that the Committee agreed to the course he had proposed.

It was so decided.

Paragraph 1

The CHAIRMAN pointed out that paragraph 1 was purely introductory and would be deleted when the document was incorporated in the Committee's report.

Paragraph 1 was approved.

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Paragraph 2

Mr. BUESLEY (Canada) proposed that the words "what should emerge from" should be replaced by "the problems requiring consideration and resolution by" and that the words "forms of", which were obscure, should be deleted.

It was so decided.

Mr. VELLA (Malta), Rapporteur, proposed that, as paragraph 1 would not be included in the final text, the words "in the general debate" should be added after the word "intervention" in the first sentence of paragraph 2 by way of clarification.

It was so decided.

Paragraph 2, as amended, was approved.

Paragraph 3

Paragraph 3 was approved.

Paragraph 4

Mr. MARJOURI (Morocco) supported the first Spanish amendment, providing for the deletion of the words "supplementing and clarifying existing rules on the right of transit through and over" (A/AC.138/L.7, para. 1). His own country and Spain were neighbours connected by international straits and had a common attitude to such waterways. The Spanish amendment was necessary because it would be contradictory to talk of clarifying rules on the right of transit which did not, in fact, exist. It would be wiser to omit all reference to the issue.

Mr. GUEVARA ARZE (Bolivia) asked whether the question of the right of transit of land-locked States had been discussed during the Committee's recent session.

The CHAIRMAN replied that the issue had been raised and was dealt with later in the report.

Mr. BUESLEY (Canada) said that paragraph 4 appeared to reflect, comprehensively, the views of one particular group of States and paragraph 5 those of another group. He had no observations on the substance of paragraph 4 but was in some doubt as to whether delegations should confine their statements to those

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(Mr. Beesley, Canada)

parts of the report which reflected their own views or should address themselves also to passages reflecting the views of other States.

The CHAIRMAN said that delegations could comment on any part of the report.

Mr. BONNICK (Jamaica) said that the present wording of paragraph 4 gave the impression that the Committee wished to impose adjustments to the 1958 Geneva Conventions, whereas his delegation took the view that the issue was still open. The only solution would be to use such expressions as: "a few delegations believed...", "some delegations thought..." and so on. In that connexion he would like a clarification of the meaning of the words "as well as" in the seventh line, since it was not clear to what antecedent the phrase they introduced was related.

Mr. VELLA (Malta), Rapporteur, said that the phrase referred to by the representative of Jamaica meant that if a new régime was to be established, then the Geneva Conventions might have to be adjusted. There could be no question of the Committee imposing adjustments, as paragraph 14 of the addendum made clear.

Mr. STEVENSON (United States of America) suggested that the difficulty might be avoided by replacing the words "as well as" by "making".

Mr. HJERTONSSON (Sweden) supported the first Spanish amendment, which was more neutral than the present wording.

Mr. CUENCA (Spain) pointed out that the purpose of his amendment was not to defend a particular position but simply to reflect the wording of General Assembly resolution 2750 C (XXV).

Mr. THOMPSON (Brazil) said that the function of the report was to reflect the opinions expressed by members of the Committee during the general debate. Consequently a delegation responsible for stating a particular point of view was most directly concerned by how it was reported. Other delegations were entitled to suggest amendments to such opinions, provided they clarified the text and were acceptable to the delegation directly concerned. On that understanding he supported the first Spanish amendment, which gave a precise formulation of the problem.

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Mr. ENGO (Cameroon) pointed out that if every delegation sought to have its views reflected, the report would become a summary record. The purpose of the report was to present the trend of the debate and the progress made to the General Assembly, focusing attention on certain outstanding issues. He personally was not very satisfied with paragraphs 4 and 5, having particular difficulty over paragraph 4 which gave unwarranted emphasis to the views of a particular group within the Committee.

Mr. ENGEL (Denmark) endorsed the first Spanish amendment.

Mr. ABAS (Malaysia) considered that the first Spanish amendment brought the text more closely into line with the debate that had actually taken place. He personally would go even further since, in his view, the word "international" should apply not to the straits themselves but to the shipping that went through them.

Mr. BOUAYAD-AGHA (Algeria) pointed out that the amendments required careful study since they had to be viewed in the context of the report as a whole. In that light the first Spanish amendment was acceptable to his delegation. In order to reflect the spirit of the general debate, he wished to suggest that the second line of paragraph 4 should be amended as follows: "... particularly from the point of view of young States which had not attended the 1958 Geneva Conference and whose rights could only be regarded as impaired.

Mr. REBAGLIATI (Argentina) said that he could not support the first Spanish amendment since it consisted in deleting words that had actually been pronounced during the general debate. If two opposing views had been put forward, both should be stated, but there was no justification for replacing one by the other.

Mr. KOMATIHA (Yugoslavia) supported the first Spanish amendment, which improved both the form and substance of paragraph 4.

Mr. SAID (Pakistan) also endorsed the first Spanish amendment, which produced a text that was fair to both sides. The present wording was clearly unacceptable to those countries which considered that there were no existing rules on the right of transit.

Mr. ZOTIADIS (Greece) agreed that the first Spanish amendment was more precise and objective than the present text.

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Mr. BAVAND (Iran) also expressed support for the first Spanish amendment.

Mr. BEESLEY (Canada) said he was perturbed by the present trend of the discussion. It was perfectly clear that, as the report now stood, paragraph 4 reflected the views of one group of States, whereas paragraph 5 reflected the views of another group. Neither paragraph was, or was intended to be, comprehensive: for instance, no mention was made in paragraph 4 of such questions as scientific research or the definition of international straits, topics which had been raised during the general debate. It appeared that the Committee was at present attempting to make paragraph 4 comprehensive, but by so doing it was distorting the basic plan of the report.

Mr. CUENCA (Spain) said that, on that point, it was not a question of reflecting opinions expressed in the Committee. The paragraph was supposed to be objective and it required a more objective statement than the present one, which was unacceptable. He appealed to the delegations of the United States and Argentina to withdraw their objections to the Spanish amendment.

Mr. WOLDE-GIORGHIS (Ethiopia) pointed out that his delegation's views on the subject of innocent passage had not been reflected in the report. He therefore favoured the first Spanish amendment, which left the whole issue open.

Mr. ALCIVAR (Ecuador) supported the first Spanish amendment, which struck a balance between the two principal points of view.

Mr. STEVENSON (United States of America) said that in a spirit of accommodation he was prepared to accept the first Spanish amendment. Certain difficulties might be overcome if the words "the right of transit through and over" were retained.

Mr. VALLARTA (Mexico) drew attention to a new element in the discussion. The representative of Argentina had said that the words in paragraph 4 which would be deleted by the first Spanish amendment were actually the reflection of a view expressed in the general debate. The purpose of the paragraph was not to reproduce the terms used in past resolutions, but rather to reflect views which had been put forth by delegations. He therefore supported the Argentine position, without committing himself on the substance of the issues involved.

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The CHAIRMAN said that the omission of the words in question would not prevent any delegation from having its views expressed, since the phrase as amended would allow for the broadest interpretation. He appealed to the Argentine delegation to accept the first Spanish amendment.

Mr. CARASALES (Argentina) said that, in order not to prolong the debate any further, his delegation would accept the Chairman's suggestion. However, he wished to place on record that, as the Canadian and Mexican representatives had said, the fundamental purpose of paragraph 4 was not to summarize the entire debate but to reflect the views of certain delegations.

Mr. PINTO (Ceylon) pointed out that a paragraph which was intended to reflect the views of certain delegations could not be neutral. The neutrality of the Committee itself was adequately reflected in paragraph 14. If the arguments advanced for supporting the first Spanish amendment were to be applied throughout the paragraph, the penultimate sentence, for example, would have to be amended to read: "Reference was also made to the question of accession by States to the 1958 Geneva Conventions...". Such an amendment could provide a neutral wording but would not serve the purpose of paragraph 4.

The CHAIRMAN pointed out that the report was not meant to be a reproduction of the summary records. It was necessary on some occasions to find "umbrella phrases". Since the Argentine representative had accepted his suggestion, he felt that no further discussion was necessary.

Mr. HACHEME (Mauritania) and Mr. ABAS (Malaysia) said their delegations supported the Spanish amendments to paragraph 4.

Mr. BEESLEY (Canada) reiterated his delegation's views, which coincided with those expressed by the delegations of Ceylon, Mexico and Argentina.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee approved the first Spanish amendment (A/AC.138/L.7, para. 1).

The first Spanish amendment was approved.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee approved the second Spanish amendment (A/AC.138/L.7, para. 2).

The second Spanish amendment was approved.

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Mr. POLLARD (Guyana) proposed that paragraph 4 should begin with the words "In noting that..." and that the words "and seeking" in the fifth line should be replaced by "while seeking".

The Guyanese oral amendments were approved.

Mr. BONNICK (Jamaica) suggested that in the third line of paragraph 4, the word "various" should be replaced by "some".

The Jamaican oral amendment was approved.

The CHAIRMAN said that, if he heard no objection, he would take it that the Committee approved the United States amendment whereby the words "as well as", in the seventh line of paragraph 4, would be replaced by "making".

The United States oral amendment was approved.

Mr. VELLA (Malta), Rapporteur, introduced the USSR amendment to paragraph 4 (A/AC.138/L.5).

Mr. GALINDO POHL (El Salvador) said he had no objection to the inclusion of the USSR amendment, since it reflected the views of some delegations. However, other delegations had held a diametrically opposed view; if the balance of the report was to be maintained, the latter delegations would have to submit an amendment offsetting the Soviet one. In order not to make the report too lengthy and repetitious, he proposed an abbreviated amendment.^{1/}

Mr. SMIRNOFF (Union of Soviet Socialist Republics) said his delegation did not object to the Salvadorian amendment, provided such views had actually been expressed in the Committee. He would not agree with its substance, of course; in particular the last sentence was inaccurate, since the developing countries had participated in the Geneva Conference and the Conventions reflected their interests as well as others.

Mr. DE SOTO (Peru) said that all the views expressed in the USSR amendment had already been adequately covered in paragraph 4. If the USSR amendment was to be included, he and other representatives would have to submit a corresponding amendment such as that suggested by El Salvador, which was, however, too moderate to offset the USSR amendment. Since time was of the essence, he appealed to the USSR representative not to press his amendment.

^{1/} Subsequently issued as document A/AC.138/L.8.

Mr. VALLARTA (Mexico) pointed out that during the general debate, three positions regarding the Geneva Conventions had emerged. Some delegations had been totally opposed to the Conventions, which they considered obsolete. Other delegations had held that the Conventions represented an important step in the codification and development of the law of the sea and took into account the views of developing countries, but that they should be revised and updated. Still another group had held that the Conventions were quite adequate and that the question of the breadth of the territorial sea was the only unresolved issue. Paragraph 4 already contained the latter view, as did the USSR amendment. Paragraph 5 reflected the views of the delegations which opposed the Geneva Conventions, whose views were also reflected in the Salvadorian amendment. He proposed an oral amendment, which reflected the views of his delegation and should be inserted after the USSR amendment.^{2/}

Mr. KANIARU (Kenya) said he agreed with the Peruvian representative that the report already adequately reflected the views expressed in the general debate. If the USSR representative did not respond to the appeal made by the Peruvian representative there would be no alternative but to overhaul paragraphs 4 and 5 drastically. He did not see how the amendments which had been submitted could be superimposed on the existing paragraphs without detriment to the balance and style of the report.

Mr. BONNICK (Jamaica) agreed that the amendments proposed would destroy the neutrality of paragraph 4. However, he could agree to their inclusion provided certain changes were made. In the first place, he did not agree with the USSR representative's request that his amendment should be inserted after the second sentence of paragraph 4. That would give undue emphasis to a minority view, particularly since most of the Soviet points had already been covered in paragraph 4. The amendment should instead be included after the first sentence of that paragraph. He also asked the USSR representative to delete the first sentence of his amendment and reword the end of the last sentence to read "... the participation of a number of States, including a few developing countries".

^{2/} Subsequently issued as document A/AC.138/L.9

(Mr. Bonnick, Jamaica)

He also proposed that the first sentence of the Mexican amendment should be changed to read: "Other delegations, while recognizing that the Geneva Conventions...", while the last part of that amendment should be changed to read: "...including some developing countries; those delegations also recognized, nevertheless, the need...".

Mr. ALCIVAR (Ecuador) said that paragraphs 4 and 5 were balanced as they stood. The USSR amendment, which placed special emphasis on the Geneva Conventions should more appropriately be included in a new paragraph, which should also reflect the other positions mentioned by the Mexican representative. His country's views were diametrically opposed to those of the USSR. The Mexican amendment reflected the position of one group of countries. The Salvadorian amendment was too moderate to reflect the views of those countries which, like his own, were opposed to the Geneva Conventions. Those delegations would therefore have to draft a further amendment, which should be just as emphatic as the USSR one. If paragraphs 4 and 5 were not left as they stood, an entirely new paragraph should be drafted.

Mr. THOMPSON (Brazil) said it had been his understanding that the report as a whole would be balanced, with each paragraph reflecting the views of different groups. He had no objection to the USSR amendment, provided the other views were also included. He agreed with the Jamaican sub-amendments to the USSR amendment. The USSR amendment should be followed by the Salvadorian and Mexican amendments. He suggested that the beginning of the second sentence of paragraph 4 should be amended to read "According to those Members, some unresolved issues were mentioned. Some of them were ...".

Mr. BIGGS (Liberia) said that his delegation found it difficult to accept the implications of the final sentence of the USSR amendment, and requested the USSR delegation to agree to its deletion.

Mr. BEESLEY (Canada) said that, taken as a whole, the report was a balanced reflection of views expressed in the general debate. If the trend towards reflecting a balance of views in each individual paragraph continued, the Committee risked involving itself in a protracted debate on substantive issues.

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Mr. IGUCHI (Japan) thought that the report tended to favour the position of coastal States who were endeavouring to expand the area of their economic operations and to limit certain activities which had traditionally been unimpeded on the high seas. There was merit in the USSR proposal, which improved the balance of the text. Paragraph 4 had been discussed at length and the wisest course would be to incorporate the USSR amendment after the first sentence and also to include the Mexican amendment together with the views of the delegation of Jamaica.

Mr. LA (Sudan) said that whereas the contention in the USSR amendment was that proposals to revise the Geneva Conventions were not well-founded other States had misgivings based on the fact that the Conventions did not answer the needs of the developing countries, which had not all participated in their elaboration. He therefore supported the Liberian proposal for the deletion of the final sentence of the Soviet amendment. The reference to seeking solution of outstanding problems that had not been settled at the Geneva Conferences would cater for the views of other delegations.

Mr. LOOMES (Australia) said that he tended increasingly to agree with the representatives of Peru and Kenya that paragraph 4 should be retained as it stood; it was a valid attempt to give general views and was balanced by paragraph 5. He appealed to delegations which had submitted amendments to consider whether they were really necessary.

Mr. YANGO (Philippines) pointed out that the document before the Committee was to be read in conjunction with the part of the report which had already been adopted. Taken together, the two parts would provide the General Assembly with a comprehensive idea of what the Committee had accomplished in 1971. Information on the substance of the debate would be available to the Assembly in the reports of the three Sub-Committees. All that was required was for the Committee to inform the Assembly that it had identified and clarified the issues before it. He shared the views of the representatives of Canada and Ceylon and he, too, urged delegations which had submitted amendments to reconsider their approach.

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Mr. SMIRNOFF (Union of Soviet Socialist Republics) said that the purpose of the report was not merely to inform the General Assembly of the questions that had been discussed, but to present the views of particular groups of States. He therefore saw no objection to including his own amendment, together with the texts proposed by the representatives of Mexico and El Salvador, which would result in a properly balanced account of the general debate. He therefore could not agree to withdraw his amendment, nor to accept the Jamaican proposal to change its position and to add the words "including a few developing countries". In view of the Chairman's plea for brevity, however, he was ready to delete the fourth sentence of his amendment, which would entail transposing the third and fifth sentences.

Mr. DE SOTO (Peru) urged the USSR representative to withdraw his amendment.

Mr. GALINDO POHL (El Salvador) pointed out that his own amendment was dependent on the USSR amendment. If the latter was withdrawn, the Salvadorian amendment would be withdrawn too.

The meeting rose at 6.30 p.m.

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SUMMARY RECORD OF THE SIXTY-NINTH MEETING

Held on Friday, 15 October 1971, at 11.10 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

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CONSIDERATION OF THE DRAFT ADDENDUM TO THE REPORT OF THE COMMITTEE
(A/AC.138/L.4/Add.2 and L.5-9) (continued)

Mr. SMIRNOFF (Union of Soviet Socialist Republics) said the discussion at the previous meeting had shown that the majority of delegations, including his own, were in favour of including in the addendum clear statements of the various positions that had been taken during the general debate. His delegation's amendments (A/AC.138/L.5) reflected its own position, which had been supported by many others, and he would have no objection if delegations holding other views wished to record their positions briefly. In order to keep the report brief, his delegation would be prepared at a later stage to make a few changes in its amendments, in a spirit of compromise, if other delegations continued to display the same spirit.

Mr. GALINDO POHL (El Salvador) said his delegation could approve the draft addendum as it stood. However, if the Soviet amendment to paragraph 4 was adopted, the Salvadorian and Mexican amendments (A/AC.138/L.8 and 9) would be needed to counterbalance it. Some countries felt that the Geneva Conventions were defective and reflected the interests of the great maritime Powers too strongly. That was an over-all political judgement, and he did not intend to analyse the Conventions point by point. El Salvador would be prepared to withdraw its amendment if the Soviet amendment were withdrawn; if not, it would incorporate any changes which delegations sympathetic to its position might wish to suggest.

Mr. ALCIVAR (Ecuador) said he agreed with the representative of El Salvador. To counterbalance the fourth sentence of the Soviet amendment, he wished to propose the addition, at the end of the Salvadorian amendment (A/AC.138/L.8), of the words "they denied, furthermore, that for many aspects of ocean space there existed generally recognized rules of international law".

Mr. BEESLEY (Canada) asked the representative of El Salvador if he would agree to change the phrase "sea-Powers" to "maritime Powers" in the English version of his amendment, to make it clear that certain coastal States were not included.

Mr. GALINDO POHL (El Salvador) accepted that suggestion.

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Mr. BEESLEY (Canada) asked the representative of Mexico if he would be willing to incorporate in his amendment (A/AC.138/L.9), a phrase indicating that in revising the Conventions it would be necessary to take into account State practice and political and economic realities, including scientific development and the rapid technological advances of the last decade. Those words were taken mainly from the fifth preambular paragraph of General Assembly resolution 2750 C (XXV). As an alternative, he would be content to have such a phrase incorporated in the Salvadorian amendment.

Mr. MAHJOUBI (Morocco) said his delegation considered paragraph 4 well balanced in its original form. He hoped the Soviet delegation would agree to delete the last sentence of its amendment. Participation in the Geneva Conference had been rather restricted, and many participants had not signed the Geneva Conventions, as they felt that they did not adequately protect the rights of new States. If the last sentence of the Soviet amendment were deleted, he would not need to submit an amendment of his own to reflect that position.

The CHAIRMAN pointed out that the last sentence of paragraph 5 took note of the position that the origins of existing law reflected the interests of a minority of States, and of the fact that many States had not signed the Conventions or participated in framing them. It also referred to the importance of ensuring that the law be equitable.

Mr. SMIRNOFF (Union of Soviet Socialist Republics) said he was surprised by the persistence of certain delegations. It was a historical fact that the majority of participants in the Geneva Conference had been developing countries. However, in a spirit of compromise, he would reluctantly agree to delete the words "major" and "including developing countries" from the last sentence of his amendment to paragraph 4.

Mr. de SOTO (Peru) said that although he felt the addendum as a whole should be well balanced, balance in each separate paragraph was not essential. If the Committee attempted to put too many details into each paragraph, it might never manage to adopt a report at all. He therefore suggested that paragraphs 4, 6 and 13, which appeared to be the most controversial, should be considered together,

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(Mr. de Soto, Peru)

and an over-all balance should be achieved among them. That meant that if the Soviet Union did not press its amendment to paragraph 6, his delegation could take a much more flexible position with regard to paragraph 4.

Mr. BALLAH (Trinidad and Tobago) said he did not wish to comment on the amendments that had been proposed, as his delegation was prepared to approve the addendum as it stood, with only minor changes. He wished rather to make a procedural proposal. Perhaps the Committee could adopt a practice that was used in Geneva, and select "friends of the Rapporteur" from among interested delegations to meet as a working group and consider the various amendments in detail. His delegation had some suggestions to make regarding the question of scientific and technological training and research, and he would be glad to submit them to such a working group.

The CHAIRMAN pointed out that there was a reference to scientific and technological training and research at the end of paragraph 9.

Mr. SMIRNOFF (Union of Soviet Socialist Republics), referring to the Peruvian representative's statement, said that while paragraphs 4 and 5 were interrelated, paragraph 6 dealt with a different subject, namely the suggestions that had been made as to what should emerge from the new Conference on the Law of the Sea. The proposals listed were not exhaustive, and it was only fair to supplement the list with a number of points that had been raised by his and other delegations.

Mr. de SOTO (Peru) said that in order to save time, he would withdraw his proposal and support the sound procedural proposal made by the representative of Trinidad and Tobago.

Mr. JAYAKUMAR (Singapore) said he also supported the Trinidad and Tobago proposal. When there were many amendments before a Committee, a small working group was often in a much better position to sort them out quickly. He felt that any delegations which wished to join the working group should be allowed to do so.

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Mr. EVENSEN (Norway) also supported the Trinidad and Tobago proposal. He felt that paragraphs 4, 5 and 6 were closely interrelated and that the group might wish to consider them together.

Mr. STEVENSON (United States of America) said that in order to give the working group more guidance, delegations should first have an opportunity to comment briefly on the amendments that had been proposed, or to propose others.

The CHAIRMAN said he thought it would be useful if the working group discussed amendments to all paragraphs of the addendum, so that the Committee would not have to establish another group later.

Mr. VALLARTA (Mexico) said that the Canadian subamendment to the amendment submitted by his delegation was entirely acceptable. The Canadian proposal was genuinely constructive; on the other hand, proposals by one delegation to amend texts submitted by another delegation with which it disagreed tended only to retard the work of the Committee.

Mr. STEVENSON (United States of America) said that his delegation would be willing to accept the Brazilian amendment to paragraph 6 (A/AC.138/L.6, para. 1) as a legitimate reflection of the views of certain delegations, provided the reference in the original text of the paragraph to freedom of scientific research was retained.

Turning to the amendment submitted by Spain (A/AC.138/L.7, para. 4) which would state, in paragraph 6, that the concept of innocent passage required "more precision" rather than "review", he felt that the broader term used in the Rapporteur's text could legitimately be applied to the views of many delegations, including that of Spain, and that the proposed amendment would not be as widely acceptable.

He proposed that the last sentence in paragraph 7 should be slightly amended by inserting the phrase "as well as a relevant international convention and an opinion of the International Court of Justice".

Mr. THOMPSON-FLORES (Brazil) assured the United States representative that his delegation had no objection to retaining the reference to freedom of scientific research in paragraph 6 or including such a reference in paragraph 4,

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(Mr. Thompson-Flores, Brazil)

if that was deemed preferable. His delegation's amendment to paragraph 6 had been intended only to clarify the four specific areas in which coastal States had a special interest.

Mr. CUENCA (Spain) said that the word "review", as used in paragraph 6, had certain connotations, at least in Spanish, which his delegation was reluctant to accept. It would, however, take a flexible attitude towards alternative suggestions.

Mr. KANIARU (Kenya) recalled that his delegation had stated earlier that it supported the text of paragraphs 4 and 5 as submitted by the Rapporteur. It would, however, be willing to accept some of the amendments to paragraph 4 under certain conditions. He would be prepared to accept the Soviet amendment to that paragraph (A/AC.138/L.5, para. 1) if the words "not well-founded" at the very end of the amendment were replaced by the word "inappropriate". If the Soviet amendment was retained, it should be balanced by the text proposed by the delegation of El Salvador (A/AC.138/L.6), which reflected a point of view which had received much wider support in the Committee. In order to maintain the appropriate balance, however, the word "some" at the beginning of the Salvadorian amendment should be replaced by the words "an overwhelming number of". In addition, the text proposed by the delegation of Ecuador for insertion at the end of the Salvadorian amendment should be preceded by a full-stop and should begin with the words "Furthermore, some delegations denied that...".

Mr. BEESLEY (Canada) said that paragraph 5 seemed to over-emphasize the schism between the highly industrialized countries and the developing countries, whereas the real conflict was between those countries which adhered to traditional concepts of the law of the sea and those which desired to introduce a new concept. He therefore proposed that, in order to reflect the situation more accurately, the end of the first sentence of the paragraph should be amended to read "... between the minority consisting of certain highly industrialized countries and the majority made up mainly of developing countries".

Mr. ABAS (Malaysia) proposed that the words "Some members expressed the view that" should be inserted at the beginning of the second sentence of paragraph 4.

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(Mr. Abas, Malaysia)

His delegation would be prepared to accept the Soviet amendment to that paragraph if the phrase "with the participation of all major groups of States, including developing countries" was deleted from the last sentence.

Mr. KUSUMASMOTO (Indonesia) supported the proposals made by the representative of Malaysia.

Mr. THOMPSON-FLORES (Brazil) noted that the amendments submitted by the delegations of the USSR, El Salvador and Mexico respectively represented three different points of view with respect to the law of the sea. It was therefore necessary either to delete the reference to specific issues in the second sentence of paragraph 4 or to identify those delegations which felt that those issues were the only ones remaining unresolved.

Mr. MAHJOUBI (Morocco) proposed that the word "certain" be inserted before the words "developing countries" in the last sentence of the Soviet amendment to paragraph 4. He further proposed that the word "many" be replaced by the word "some" before the words "developing countries" in the amendment submitted by the Mexican delegation (A/AC.138/L.9) and that the word "certain" be substituted for the word "those" immediately after the semicolon in the same amendment.

Mr. VALLARTA (Mexico) said that, while he could accept the second amendment to his proposal suggested by the Moroccan delegation, the fact was that a great many developing countries had indeed approved the Geneva Conventions.

Mr. SULHIMAN (Libyan Arab Republic) drew attention to the statement in paragraph 14 to the effect that the inclusion of ideas in the addendum did not in any way imply their acceptance or endorsement by the Committee. In view of that disclaimer, delegations should adopt a flexible attitude towards the portion of the report which was intended merely to express the views of delegations in a very general way.

Mr. BONNICK (Jamaica) informed members that he would submit in writing an amendment to the end of paragraph 9 to reflect the interest of developing countries in the matter of training; that question had already been referred to by the representative of Trinidad and Tobago.

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Mr. GALINDO POHL (El Salvador) proposed the insertion of the following sentence at an appropriate point in the text of paragraph 6: "It was stated that many criteria had to be taken into account in considering the particular geographic, economic and human situation of countries and regions, including their situation with regard to the territorial sea and the outer limits of the continental shelf."

Mr. VALLARTA (Mexico) proposed that the phrase "; that unanimous agreement should be reached on the definition of the territorial sea" should be inserted after the word "nationals" in the sixth line of paragraph 6.

After a procedural discussion in which Mr. VALLARTA (Mexico), Mr. ZOTIADES (Greece), Mr. BEESLEY (Canada), Mr. SEATON (United Republic of Tanzania), Mr. BALLAH (Trinidad and Tobago), Mr. EVENSEN (Norway), Mr. THOMPSON-FLORES (Brazil), Mr. AGUILAR (Venezuela), Mr. HOLDER (Liberia), Mr. MAHJOUBI (Morocco) and Mr. VELLA (Malta), Rapporteur, participated, the CHAIRMAN suggested that the Committee should consider the proposal made by the representative of Trinidad and Tobago to establish an informal working group which would assist the Rapporteur in considering amendments to the draft addendum.

The proposal was adopted.

The CHAIRMAN suggested that the working group should concentrate on paragraphs 4, 6, 7, 9, 10 and 13, as well as any other paragraphs to which amendments were submitted. He further suggested that the representatives of Brazil, Canada, Ceylon, Ecuador, El Salvador, Ethiopia, Jamaica, Kenya, Mexico, Morocco, Norway, Spain, the USSR and the United Republic of Tanzania be designated to participate in the working group, which would, however, be open to any other representatives who wished to attend.

It was so decided.

The meeting rose at 12.50 p.m.

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SUMMARY RECORD OF THE SEVENTIETH MEETING

Held on Friday, 22 October 1971, at 3.35 p.m.

Chairman:

Mr. AMERASINGHE

Ceylon

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CONSIDERATION OF THE DRAFT ADDENDUM TO THE REPORT OF THE COMMITTEE
(A/AC.138/L.4/Add.2*/Rev.1 and Corr.1) (concluded)

The CHAIRMAN thanked the informal drafting group for assisting the Rapporteur with the amendments to the draft addendum. He stressed the necessity of adopting the report at the current meeting so that it could be submitted to the General Assembly.

Mr. VELLA (Malta), Rapporteur, observed that the report had grown in size but its substance remained the same. He expressed the hope that the efforts of the drafting group to reach a compromise which reflected the amendments proposed at the sixty-ninth meeting would facilitate adoption of the report by the Committee. The first two paragraphs, although reproduced in the text distributed to delegations, had already been approved and need not be discussed further.

Mr. HALL (Secretary of the Committee) drew attention to some inconsistencies between the original English version and the translated versions of various parts of the revised draft addendum. The inconsistencies would be corrected when the final version was prepared.

The CHAIRMAN invited the Committee to take a decision on the paragraphs of the revised draft addendum to the report (A/AC.138/L.4/Add.2*/Rev.1) which had not yet been approved.

Paragraphs 3-10

Paragraphs 3-10 were approved.

Paragraph 11

Mr. WEHRY (Netherlands) thought that, in view of the declaration of principle contained in paragraph 18 of the revised draft addendum and taking into account the wish of the General Assembly to rationalize its procedures and reduce expenses, the Committee should have avoided a long drawn out discussion in the hope of producing a text with perfectly balanced wording.

The foot-note at the bottom of page 4 of document A/AC.138/L.4/Add.2*/Rev.1 should be deleted, since in the absence of similar foot-notes for the many other terms in the report which were still undefined, the reader could gain the mistaken

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(Mr. Wehry, Netherlands)

impression that the meaning of such terms was quite plain, although in many cases that was not true. For the benefit of those members who were uncertain about the meaning of the term "shelf-locked", he offered the following tentative definition: "A 'shelf-locked' State is a State whose continental shelf is limited by the competing rights of surrounding States."

Mr. VELLA (Malta), Rapporteur, replying to the representative of the Netherlands, said that the difficulty of clarifying the meaning of the term "shelf-locked" had led to a compromise solution, namely full reproduction of the foot-note to the term in Sub-Committee's I report. As an alternative he suggested that only a reference be made here to the foot-note in the report of Sub-Committee I.

Mr. JAYAKUMAR (Singapore) requested that the words "reference was made" in the first line of the English text be put in the plural. He considered that the explanation given in paragraph 18 made it superfluous to reproduce the foot-note from the Sub-Committee's report. The purpose of the Geneva Conference had been to clarify a large number of issues; thus a single foot-note about a single term would give the unfortunate impression that every other issue had been clarified. Furthermore, the foot-note was so worded that the reader might be misled into believing that all the members of the Committee felt that the term needed to be defined.

Mr. AL-SABAH (Kuwait) agreed with the views expressed by the representative of the Netherlands and Singapore. If the foot-note were not to be deleted, it should be modified as follows: "Some delegations emphasized the necessity of defining the term 'shelf-locked'."

The CHAIRMAN observed that the term "shelf-locked" had been used for the first time during the current session, which might explain the inclusion of the foot-note.

Mr. BAVAND (Iran) said that he too was in favour of deleting the foot-note.

Mr. TRAORE (Ivory Coast) said that it was regrettable that a mere foot-note should hold up the work of the Committee so long. He was opposed to its deletion; its purpose was officially merely to show that no reliable definition existed,

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(Mr. Traore, Ivory Coast)

a fact which readers of the French text certainly required to know, since if the term was obscure in English it was even more so in French.

Mr. BONNICK (Jamaica) agreed with the representative of the Ivory Coast.

The CHAIRMAN said that the foot-note merely constituted a statement of fact and not a conclusion of the Committee.

Mr. WOLDE-GIORGHIS (Ethiopia), addressing in particular the representatives who had not taken part in the work of the drafting group said that agreement had been reached on a French translation, i.e. "Etats enfermés dans leur plateau continental", which would be followed by the original term "shelf-locked", in brackets and inverted commas. He could not understand why the Secretariat had not put that recommendation into effect and had instead preferred the term "Etats sans accès à la haute mer ('shelf-locked')".

Mr. HALL (Secretary of the Committee) said that the matter just referred to was one of the inconsistencies he had drawn attention to at the beginning of the meeting and had said would shortly be rectified.

Mr. TRAORE (Ivory Coast) said he would not raise any more objections to the French translation provided it was adopted once and for all.

Mr. AGUILAR (Venezuela) said that he was in favour of retaining the foot-note either in its present form or in the form proposed by the representative of Kuwait.

Mr. de SOTO (Peru) said he was opposed to deleting or changing the foot-note because it was taken from the report of Sub-Committee I which it had been decided would be reproduced in the plenary Committee's report. As the term "shelf-locked" had been the subject of much discussion in the Sub-Committee, the drafting group responsible for the draft report had decided that the best way of avoiding further controversy was to reproduce the text already approved. However, land-locked countries were now placed in the same category as shelf-locked countries, which had not been the case in the Sub-Committee's report. The identity of interests of those two categories of countries was not at all clear.

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Mr. PROHASKA (Austria) pointed out that the First Sub-Committee had heard statements according to which the interests of land-locked countries were similar to those of the shelf-locked countries, and vice versa. The foot-note in the report of the First Sub-Committee showed that members of that Sub-Committee had had doubts concerning the definition of the term "shelf-locked". At present the Committee was considering the draft report reflecting the debate which took place in plenary. Inclusion of the foot-note in that part of the report would give the impression that the other terms listed before and after the term "shelf-locked" had all been clearly defined, whereas that was by no means the case. As a compromise he suggested that the foot-note should be changed to read: "The meaning to be attached to several of the terms has still to be defined."

The CHAIRMAN pointed out that the reservation just expressed had been made already in paragraph 10, which stated that "these matters involved delicate and often controversial issues of definition".

Mr. SEATON (United Republic of Tanzania) observed that the purpose of the drafting group had been to prepare a compromise text which the plenary Committee could adopt without any lengthy discussion. Yet the Committee was apparently retreading the ground already covered in the Sub-Committee. It would come up against the same difficulties as the latter and would only waste time. He urged members who saw further flaws in the report to approve it in the form proposed by the drafting group and to defend their views on another occasion.

Mr. SMALL (New Zealand) said it would be well to know whether the term "shelf-locked" had been the subject of discussion in the plenary Committee. If it had, the foot-note should be retained in the report; if not, it should be deleted.

Mr. AL-SABAH (Kuwait) said that if the Sub-Committee's decision to include the foot-note in its report turned out to be mistaken, the plenary Committee should not necessarily follow its example blindly. The text proposed could give the reader the wrong idea and should therefore be changed. A suitable text might be: "Some delegations felt that the term 'shelf-locked' had still to be defined."

Mr. JAYAKUMAR (Singapore) supported the Kuwait representative's proposal.

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Mr. CUBENCA (Spain) pointed out that in the Spanish text of the draft report the term "shelf-locked" was over-simplified in translation, as "Estados encerrados". He noted the promise made by the Secretary of the Committee that the translations of the draft report of the plenary Committee would be brought into line with those in the Sub-Committee's report.

The CHAIRMAN suggested that, as the representative of Singapore had proposed, the words "reference was made" in the first line of the English text should be replaced by "references were made", and that the foot-note to the draft report should be replaced by a reference to the corresponding foot-note in the Sub-Committee's report.

It was so decided.

Paragraph 11, as amended, was adopted.

Paragraph 12

Mr. AGUILAR (Venezuela) proposed that in the Spanish text the words "legislación existente" should be replaced by "derecho vigente", the term used in the Sub-Committee's report.

It was so decided.

Paragraph 12, as amended, was adopted.

Paragraph 13

The paragraph was adopted.

Paragraph 14

Mr. WOLDE-GHIOGHIS (Ethiopia) said that his delegation reserved the right to raise at later sessions of the plenary Committee the position of States whose access to certain parts of the high seas was entirely dependent, because of their peculiar geographical situation, on passage through straits situated close to their coasts.

Mr. MAHJOUBI (Morocco) pointed out that the paragraph referred to the "innocent passage", whereas in the report of Sub-Committee II, the wording of which it had been decided to follow, the term used was "free transit".

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Mr. CUENCA (Spain) said he was prepared to accept the paragraph on the condition that the Spanish text was amended to match the corresponding paragraph in the report of Sub-Committee II.

Mr. HALL (Secretary of the Committee) confirmed that the translations into all the working languages would be brought into line with the text already adopted for the report of Sub-Committee II (A/AC.138/61).

Subject to that understanding, paragraph 14 was adopted.

Paragraph 15 and 16

The paragraphs were adopted.

Paragraph 17

Mr. AGUILAR (Venezuela) said he had taken note of the statement by the Secretary of the Committee that changes would be made where necessary in the French, Spanish and Russian versions of document A/AC.138/L.4/Add.2*/Rev.1, to bring them into line with the English original. He wished in that connexion to draw the attention of the Committee secretariat to the fact that on the 21st line of paragraph 17 of the Spanish text there was a discrepancy between the Spanish translation and the original text; his delegation hoped the error would be corrected.

Mr. de SOTO (Peru) endorsed the comments made by the representative of Venezuela. He thought that changes should also be made in the penultimate sentence of the Spanish text of paragraph 17.

The CHAIRMAN said that the Committee secretariat would take due note of those comments; in any case, paragraph 17 was already the subject of a corrigendum, issued as document A/AC.138/L.4/Add.2*/Rev.1/Corr.1. Additional changes would be made if necessary.

Mr. BEESLEY (Canada) said that as drafted, paragraph 17 reflected certain specific proposals made by members of the Committee, concerning inter alia the question of the continental shelf. His delegation too had made certain suggestions, which had not been taken into account in the paragraph. For that

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(Mr. Beesley, Canada)

reason, while wishing to avoid disturbing in any way the delicate compromise of which paragraph 17 was the result, his delegation wished to propose the addition of two passages. First, a phrase reading "that an over-all accommodation on this issue would be facilitated if every coastal State agreed that a percentage of its revenues from areas within national jurisdiction be contributed to the international community" could be inserted in the 14th line of the paragraph. Second, the following phrase could be added after "accommodation" in the 18th line of page 8: "it was also suggested that present state practice raises the possibility of an accommodation on the question of continental shelf limits, States having the choice of a distance criterion or the outer edge of the continental margin".

Mr. SEATON (United Republic of Tanzania) said that since paragraph 17 was intended to reflect the variety of the proposals made by delegations, there could be no opposition in principle to the insertion of new proposals; nevertheless, it would be desirable to refrain from making too many insertions, in order not to overload the text of the paragraph. If the Committee accepted the second suggestion made by the Canadian delegation, he proposed the addition after "it was also suggested" of the words "by one delegation".

The CHAIRMAN said that it might perhaps be possible to use a phrase such as "in the view of one delegation".

Mr. BEESLEY (Canada) said he was prepared to agree to that.

Mr. BONNICK (Jamaica) said he understood the concern of the Canadian delegation to see its views reflected as accurately as possible in the report. Nevertheless, he felt that the insertion of those proposals might raise serious problems and affect the over-all balance of the paragraph. Moreover, it should be pointed out that the question of State practice was already dealt with in detail in paragraph 8. He therefore urged the Canadian delegation to withdraw its proposals.

The CHAIRMAN asked the representative of Canada if, as a compromise, he would be satisfied to have his proposals reflected in the summary record of the meeting.

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Mr. BEESLEY (Canada) agreed to the deletion of the reference to "State practice", but said he wished to retain the reference to "the possibility of accommodation", which in his view was more important. He was prepared to consider amending his proposal to read "... the possibility of an accommodation on continental shelf limits based on a combination of a distance criterion coupled with geomorphological criteria".

Mr. BONNICK (Jamaica) said he could not support that wording, since paragraph 17 already contained a list of the criteria applicable to the concept of the continental shelf.

The CHAIRMAN suggested that instead of inserting the full text of the Canadian proposal, the text in brackets on the 16th and 17th lines of page 8 should simply be amended to read: "based, for example, on depth, distance or geomorphological factors or a combination of these factors". He also proposed in the absence of objections, that the first Canadian suggestion be adopted.

It was so decided.

Paragraph 17, as amended, was adopted.

Paragraphs 18 and 19

The paragraphs were adopted.

The CHAIRMAN noted that the revised draft addendum to the report (A/AC.138/L.4/Add.2*/Rev.1) had been adopted by the Committee on the understanding that paragraph 20, for which there was no longer any reason, would be deleted. He proposed that the draft, as adopted, should be incorporated in Part I of the Committee's report to the General Assembly as adopted at Geneva on 27 August 1971. Consequentially, certain minor technical changes would have to be made in Part I of that report, and it would be the Rapporteur's task to make them.

It was so decided.

The meeting rose at 5.25 p.m.