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

SUMMARY RECORD OF THE SIXTEENTH MEETING

Held at Headquarters, New York,
on Thursday, 20 November 1969, at 11.35 a.m.

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Ceylon

Rapporteur:

Mr. GAUCI

Malta

CONSIDERATION OF THE DRAFT ADDENDUM TO THE REPORT OF THE COMMITTEE ON THE PEACEFUL USES OF THE SEA-BED AND THE OCEAN FLOOR BEYOND THE LIMITS OF NATIONAL JURISDICTION (A/AC.138/L.1/Add.2) (continued)

The CHAIRMAN said that the draft addendum contained an account of the views expressed in the Committee but did not offer any judgement on them. He therefore hoped that the text would not give rise to any difficulty.

He invited members of the Committee to examine the draft addendum to the report (A/AC.138/L.1/Add.2) paragraph by paragraph.

Paragraph 1

Paragraph 1 was adopted.

Paragraph 2

Mr. GAUCI (Malta), Rapporteur, drew attention to an error in the English text. The words "Committee of the Conference" should read "Conference of the Committee".

Paragraph 2 was adopted.

Paragraph 3

Mr. GAUCI (Malta), Rapporteur, said that, in order to take account of suggestions made during his consultations with several delegations, he had amended a number of paragraphs of the draft addendum. Paragraph 3, for instance, had been replaced by the following new text:

"The Committee heard explanatory statements by the representatives of the Union of Soviet Socialist Republics and the United States concerning the draft Treaty in its relation to the Committee's mandate and programme of work. Both statements pointed out that the proposed Treaty was still in draft form and that further discussion would be held in the First Committee of the General Assembly on the report of the Conference of the Committee on Disarmament; one statement indicated that revisions might be forthcoming in the light of these discussions. The statements welcomed an exchange of views in the expectation that the Treaty which finally resulted would materially assist the Committee in the discharge of its responsibilities and would represent a major step forward towards the reservation of the ocean

floor exclusively for peaceful purposes, and the utilization of its resources in the interests of all mankind; they also stressed the desirability, with this objective in mind, to ensure that a treaty enjoying broad international support would be signed and brought into force as soon as possible."

Mr. THACHER (United States of America) proposed that the following phrase, which his delegation had initially wished to propose for inclusion in paragraph 6, should be inserted after the first sentence in paragraph 3:

"Attention was called to the fact that the draft Treaty contained a disclaimer clause expressly designed to negate any prejudice to the position of any State Party with respect to such law-of-the-sea questions as the extent of territorial waters or the definition of the continental shelf."

Mr. BEESLEY (Canada) said that the sentence proposed by the United States representative was acceptable to his delegation; however, he suggested that the word "negate" should be replaced by the word "avoid".

Mr. STASHEVSKY (Union of Soviet Socialist Republics) felt that the sentence proposed by the United States representative should rather begin with the words "Both delegations called attention to the fact that", which would be more in keeping with the language used elsewhere in the same paragraph.

Mr. THACHER (United States of America) said that he accepted the amendments suggested by the representatives of Canada and the Soviet Union.

Paragraph 3, as amended, was adopted.

Paragraph 4

Mr. OLISEMEKA (Nigeria) said that it would be better to shift the emphasis in the second sentence by re-drafting the sentence as follows:

"Varicus members welcomed the initiative of the Union of Soviet Socialist Republics and the United States in preparing and submitting the draft Treaty and expressed appreciation for the measure of agreement achieved, but stated that their Governments had not had adequate time to study the report and the draft Treaty."

The CHAIRMAN said that if there was no objection he would take it that the amendment proposed by Nigeria was acceptable.

Paragraph 4, as amended, was adopted.

Paragraph 5

Mr. GAUCI (Malta), Rapporteur, recalled that the words "consensus on" had been deleted from the third sentence, which should now read: "The importance of safeguarding the common areas of agreement reached in the Committee was stressed."

Paragraph 5, as amended, was adopted.

Paragraph 6

Mr. GAUCI (Malta), Rapporteur, said that paragraph 6 had been amended as follows: in the fourth line, the words "its reference" had been replaced by "what some delegations considered an unnecessary reference"; in the sixth line, "Members" had been replaced by "countries"; in the twelfth line, the phrase "verification procedures" had been deleted and replaced by: "control; in this respect the need was also emphasized to ensure the participation in the verification procedures of representatives of the coastal States concerned and to safeguard the rights of coastal States on the continental shelf in accordance with international law".

Mr. de SOTO (Peru) recalled that the United States representative had mentioned the disclaimer clause at the beginning of the current series of meetings, and that several delegations had expressed the view that the clause was inadequate. He therefore wondered whether a sentence to that effect should be added in paragraph 6.

Mr. ZEGERS (Chile) proposed that a sentence should be added at the end of paragraph 6 stating that some delegations had felt that the clause referred to in the sentence inserted in paragraph 3, on the proposal of the United States, was inadequate.

Mr. GAUCI (Malta), Rapporteur, proposed that the sentence should read: "Some delegations felt that the disclaimer clause was not sufficient".

Mr. THACHER (United States of America) believed that the expression "Some delegations felt" should be replaced by "Some delegations asserted".

The CHAIRMAN said that if there was no objection, he would take it that the Committee agreed to insert the sentence proposed by the Rapporteur, as amended by the United States representative.

It was so decided.

Mr. KIKHIA (Libya) said that the paragraph was acceptable to his delegation. However, he pointed out that the Geneva Convention was not yet recognized as an instrument of international law and that the reference to the Convention should not be taken to mean that the international community accepted it as such.

Mr. BEESLEY (Canada) noted that the Libyan representative's remark applied to nearly all United Nations conventions.

Paragraph 6, as amended, was adopted.

New paragraph 7

Mr. GAUCI (Malta), Rapporteur, read out the new proposed text:

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

Mr. PAVICEVIC (Yugoslavia) thought that it was wrong for the Committee to offer any interpretation of the terms of reference of the Conference of the Committee on Disarmament. He proposed the addition of the following sentence at the end of the paragraph: "It was also stated that the draft Treaty would not in any way prejudice the legal régime to be established for the sea-bed and the ocean floor beyond national jurisdiction."

Mr. ZEGERS (Chile) supported the Yugoslav proposal.

New paragraph 7, as amended, was adopted.

New paragraph 8

Mr. GAUCI (Malta), Rapporteur, read out the proposed new text:

"8. Several members of the Committee, conscious of the importance, urgency and complexity of the matter, expressed the hope that the implications of the proposed draft Treaty directly relevant to the Committee's mandate would be considered in greater depth at a later stage."

Mr. KIKHIA (Libya) did not think that the paragraph was clear. Everyone was agreed on the need for a more detailed study of the proposed draft Treaty but nobody knew when and how the study would be made. He would not insist on the addition of the words "by the Committee" after the word "depth", but proposed that the text should be amended by deleting words such as "urgency" and "complexity", which did not necessarily reflect the general opinion, and also by deleting the word "implications", which seemed to be redundant.

Mr. ZEGERS (Chile) and Mr. de SOTO (Peru) thought that the text of the paragraph should reflect the various views expressed in the Committee.

The CHAIRMAN suggested that, in view of the comments made, the paragraph should be redrafted as follows:

"The hope was expressed that, in view of the importance and complexity of the matter, the implications of the draft Treaty directly relevant to the Committee's mandate could be considered in greater depth by the Committee at its next substantive session."

Mr. KIKHIA (Libya) said that, in the new text proposed, expressions such as "hope", "could be considered", "implications", "directly" etc., did not reflect strongly enough the desire which undoubtedly existed among a number of delegations to discuss the text of the draft Treaty before it became final.

Mr. ARORA (India) said he would prefer the expression "would be examined", rather "could be examined".

Mr. de SOTO (Peru) and Mr. PAVICEVIC (Yugoslavia) agreed with the views expressed by the representatives of Libya and India.

Mr. HOLDER (Liberia) reminded the Committee of the wording of its terms of reference under General Assembly resolution 2467 A (XXIII), which could not be interpreted as giving the Committee the power to take decisions affecting the

(Mr. Holder, Liberia)

activities of other international organs. He therefore proposed that the words "at its next substantive session" at the end of the proposed text should be deleted, so as not to impose any time-limit for considering the draft Treaty.

Mr. ZEGERS (Chile) thought that the text of the paragraph should reflect the idea that in considering the draft Treaty the Committee should be guided, first and foremost, by its terms of reference.

Mr. DENORME (Belgium) thought on the contrary that the Committee should, in discharging its mandate, be guided by the provisions of treaties.

Mr. BEESLEY (Canada) suggested that the word "implications" should be replaced by the word "provisions".

The CHAIRMAN suggested the following compromise text:

"The hope was expressed that, in view of the importance and complexity of the matter, the implications of the draft Treaty relevant to the Committee's mandate would be considered in greater depth by the Committee at its next substantive session."

The Chairman's proposal was adopted.

New paragraph 8, as amended, was adopted.

New paragraph 9

The paragraph, which was identical with the former paragraph 8, was adopted without change.

The draft report as a whole was adopted.

PLACE OF THE COMMITTEE'S 1970 SUMMER SESSION

The CHAIRMAN recalled that at the last session he had suggested that the Committee should hold two four-week sessions in 1970 - one in the spring at Headquarters and one in the summer at Geneva. Since no objections had been raised, he had asked the Secretariat to make provision in the 1970 calendar of conferences for the Committee to hold its summer session at Geneva. When the First Committee had started its debate on agenda item 32 (The question of the peaceful uses of the sea-bed), he had asked that Committee to request the Secretariat to prepare a statement of the financial implications of holding the summer session at Geneva.

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(The Chairman)

He had intended in fact that the session should be included in the United Nations calendar of conferences for 1970 to be submitted for approval by the General Assembly, so that it would not have any special financial implications. The Secretariat had informed him, however, that under the relevant General Assembly resolution on the pattern of conferences, bodies which were not mentioned in the resolution could not meet away from Headquarters. In other words, the Committee would require special authorization in order to change the place of its session.

The arguments in favour of holding a session of the Committee at the United Nations Office at Geneva were no less weighty as those invoked by bodies which the Assembly had authorized to meet away from Headquarters. The question of equal treatment for the Sea-Bed Committee would have to be pursued in a more appropriate forum, such as the Fifth Committee, for example. Before taking a decision, however, the Committee should study the financial implications of holding its summer session at Geneva and hear a statement from the Secretariat on that subject.

Mr. HALL (Secretary of the Committee) explained that, if the Committee were to meet at Geneva instead of New York, the planned capacity of the United Nations Office at Geneva to service meetings would be exceeded. It would therefore be necessary to engage temporary staff. The estimated cost was \$72,000 for conference servicing staff, \$4,500 for the reproduction and distribution of provisional summary records and in-session documentation, \$3,500 for miscellaneous services and \$15,700 for post-session editing, reproduction and distribution of final summary records. A further \$14,300 would be required for the travel and subsistence of substantive staff from Headquarters. The total cost of holding the Committee's session at Geneva was therefore estimated at \$110,000. That estimate was based on the assumption that it would be possible to hold the session during the period from 3 to 28 August 1970.

Mr. STASHEVSKY (Union of Soviet Socialist Republics) thought that the statement of financial implications needed careful consideration. He therefore reserved his delegation's position.

Mr. THACHER (United States of America) said he was strongly opposed to the idea of the Committee holding a meeting at Geneva at a cost of \$110,000.

Mr. BYATT (United Kingdom) had no objection in principle to the Committee meeting at Geneva. He reserved his position, however, because he wished to study the figures provided.

Mr. HOLDER (Liberia) pointed out that the Secretary had not explained whether the sum of \$110,000 was additional to the expenditure which would in any case be incurred for the Committee's summer session, if it were held at Headquarters. Had that factor been taken into account in preparing the figures given?

Mr. HALL (Secretary of the Committee) said that he could not answer that question without consulting the Budget Division. From the budgetary standpoint, however, the expenditure would be additional expenditure.

Mr. HOLDER (Liberia) said that he would like to have a definite answer from the Secretariat.

The CHAIRMAN said he had been assured that the expenditure would be additional.

Mr. KIKHIA (Libya) thought that the Committee should meet at Geneva. More than 130 international, intergovernmental and non-governmental organizations were interested in the sea-bed. If the Committee met at Geneva, its work would receive more publicity. Like the representative of Liberia, he wanted to be sure that the estimate given was indeed for additional expenditure: and he asked, by way of comparison, how much it cost to hold a session in New York.

Mr. DEJAMMET (France) found it quite understandable that some reservations had been expressed. He wondered however whether the estimates given by the Secretariat were really sufficient grounds for the Committee to change its mind. The information given was not detailed enough. Like the representatives

(Mr. Dejammet, France)

of Liberia and Libya, he too would like some clarifications. Moreover, the figure given was much higher than the estimate provided in 1968 when the representative of Italy had suggested that the Committee should meet at Geneva. It should not be forgotten that questions of financial implications, which were certainly important, were examined by other organs. The Economic and Social Council had at its forty-seventh session adopted a resolution requesting the Secretary-General to submit to it a study showing the estimated cost of recruiting temporary conference servicing staff in New York and at Geneva, and the cost of travel of staff sent temporarily from New York to Geneva to service meetings held at Geneva. The Sea-Bed Committee could not take a decision on the basis of a financial statement from which certain elements were missing. What it had to do was to express a political opinion. The French delegation was in favour of holding a session of the Committee at Geneva.

Mr. ABU SINN (Sudan) said that initially he had not been in favour of holding a session at Geneva, as his delegation was not large enough to send some of its members from New York to Geneva. The same difficulties were shared by other African delegations. The considerable expenditure involved in holding the session at Geneva strengthened his conviction that the Committee should rather continue to meet at Headquarters. However, he hoped that delegations preferring Geneva would explain the advantages of holding the session there.

Mr. BEESLEY (Canada) was not opposed to the principle of holding a session at Geneva, but reserved his position because of the financial implications. The Committee should certainly not be treated differently from other committees merely because it had been established only recently. But many delegations would undoubtedly experience the difficulties which the representative of Sudan had mentioned. Questions relating to the codification of the law were dealt with by several organs, particularly the First and Sixth Committees. Work on those questions should be co-ordinated both in regard to time and from the standpoint of the equal status of the organs concerned. If some organs met at Geneva and others in New York, there should be sound reasons for the arrangement, and representatives should not have to waste time travelling from one meeting place to another.

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Mr. OLISEMEKA (Nigeria) feared that his Government might have to be represented at the Geneva session by members of its Geneva Mission; and that would be unsatisfactory. He hoped therefore that the Committee would consider the matter carefully before taking its decision. If it were to be a standing body, it would be better for it to continue to meet in New York.

Mr. HACHEM (Mauritania) took the same view as the representatives of Liberia and Libya. He would like to know how much the Ad Hoc Committee's session at Rio de Janeiro had cost.

Mr. de SOTO (Peru) had no particular reservations to express; but that did not mean that he would approve the proposal that the Committee should meet at Geneva.

The CHAIRMAN thought that the question should be raised in the Fifth Committee during its discussion on the calendar of conferences for 1970. Perhaps the Fifth Committee could be persuaded to adjust the calendar of conferences to enable the Sea-Bed Committee to hold a session at Geneva without additional expenditure.

CLOSURE OF THE SESSION

Mr. GAUCI (Malta), Rapporteur, said he would not be able to attend the next sessions of the Committee, since his Government had appointed him to another post. He had greatly appreciated the honour which the Committee had done his country and himself by appointing him as Rapporteur. He thanked the Chairman, the officers and members of the Committee and the Secretariat for having helped him so much in his task, and he expressed the hope that his country would continue to be represented among the officers of the Committee, in accordance with precedents already established.

The CHAIRMAN regretted that the Committee was to lose both the Chairman of the Economic and Technical Sub-Committee and the Rapporteur. He thanked Mr. Denorme and Mr. Gauci for the help they had given the Committee and wished them success in their future work. He also thanked the members of the Committee for their valuable co-operation and expressed his appreciation of the services which the Secretariat had provided for the Committee.

The meeting rose at 1.30 p.m.