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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 SEVENTEENTH TO THE TWENTY-EIGHTH MEETINGS

Held at Headquarters, New York  
26 February to 26 March 1970

Chairman:

Mr. AMERASINGHE

Ceylon

Rapporteur:

Mr. VELLA

Malta

The list of representatives is to be found in documents A/AC.138/INF.2 and  
Corr.1 and 2, Add.1-5.

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SUMMARY RECORD OF THE SEVENTEENTH MEETING

Held on Thursday, 26 February 1970, at 11 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

## ELECTION OF THE RAPPORTEUR

The CHAIRMAN proposed that Mr. Vella, the successor to Mr. Gauci in the delegation of Malta, be elected to replace Mr. Gauci as Rapporteur of the Committee.

Mr. Vella (Malta) was unanimously elected Rapporteur.

## ELECTION OF VICE-CHAIRMAN OF THE ECONOMIC AND TECHNICAL SUB-COMMITTEE

The CHAIRMAN proposed that Mr. Teja (India) be elected Vice-Chairman of the Economic and Technical Sub-Committee in the place of Mr. Arora (India), who would shortly be leaving New York.

Mr. Teja (India) was unanimously elected Vice-Chairman of the Economic and Technical Sub-Committee.

## ORGANIZATION OF WORK

The CHAIRMAN said that at a meeting of the officers of the main Committee and the two Sub-Committees on the previous day, there had been general agreement that the forthcoming session should begin with one week of plenary meetings at which the Committee could review and appraise the detailed discussions of specific matters which had taken place in the Sub-Committees over the past two years. It was important to establish a synthesis of the views which had been expressed, and to reach an understanding - if not full agreement - on the political issues involved, in order to provide a basis for subsequent agreement on specific matters.

During the first week, there could also be a general debate in which delegations which had not yet expressed their views could give the Committee some idea of their general position. The General Assembly in resolution 2574 B (XXIV) had requested the Committee to expedite its work of preparing a comprehensive and balanced statement of principles designed to promote international co-operation in the exploration and use of the sea-bed and ocean floor, and the sub-soil thereof, beyond the limits of national jurisdiction and ensure the exploitation of their resources for the benefit of mankind. While the actual drafting of the statement of principles was the task of the Legal Sub-Committee, the latter would probably appreciate some suggestions from the main Committee as to the manner in which it should proceed. The main Committee could also express its views on other matters; the Secretary-General, in preparing his report on appropriate international

(The Chairman)

machinery, would no doubt welcome the assistance which he would derive from an exchange of views on the matter between delegations.

After the general debate, the main Committee could offer some indications to both Sub-Committees as to how they should proceed with their work and what questions they should examine in greater detail. The deliberations of the Sub-Committees would occupy the following two weeks; and in the final week of the session there would be a further series of plenary meetings to draft the recommendations which had been agreed upon.

Mr. DENORME (Belgium) said that on 27 August 1969 the Chairman had referred quite rightly to the need to begin considering political implications, a task which would involve a synthesis of legal and the economic and technical aspects. On 29 August 1969, the Belgian delegation had endorsed the Chairman's proposals for the time-table for 1970 but had said that, if the Committee wished to get straight down to the items included in its programme of work, it should do so in the light of the work already done by the two Sub-Committees. It had also expressed the view that the procedure adopted in 1969 should bear fruit precisely in 1970, thus enabling the main Committee to exercise its special responsibility for producing a political synthesis. It was apparent from the Committee's report to the twenty-fourth session of the General Assembly that the Sub-Committees had compiled a considerable amount of material, but had not been able to reach specific conclusions. The Committee had accordingly stated that it was not in a position to make specific recommendations on the questions of substance before it.

Since then, the material available had been studied in depth by Governments, and the time had now come for the Committee to inform itself of the results of those studies. While the report for the previous year contained many specific suggestions made at the Sub-Committee level, it contained few positive recommendations based on political decisions taken at the governmental level and reflecting the general view of Governments. It was time for the main Committee to attempt to make good that omission and try to synthesize the material available. It would then be able to issue general guidelines to the Sub-Committees and to bring its own activities into line with the broad pattern of trends which had enlarged during the last session of the General Assembly.

The organization of work was not a matter which required lengthy discussion, since the General Assembly had in resolution 2574 (XXIV) clearly outlined the course to be followed and the priority objectives to be aimed at. The Legal

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(Mr. Denorme, Belgium)

Sub-Committee was required inter alia to expedite its work of preparing a comprehensive and balanced statement of principles, to enable the Committee to submit a draft declaration to the General Assembly at its twenty-fifth session. The tasks of the Economic and Technical Sub-Committee included the formulation of recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of the sea-bed in the context of the régime to be set up. It appeared that the discussion of certain other important matters such as the prevention of marine pollution, and the various types of international machinery which could be set up, could not be undertaken until the summer session.

It was important that in 1970 the Committee should not confine itself to the preparation of reports but should succeed, before the twenty-fifth anniversary session of the General Assembly, in defining the basic concepts which would eventually lead to the utilization of the resources of the sea-bed for the benefit of mankind as a whole.

Mr. PROHASKA (Austria) said that the Committee's present task was merely to consider a possible order of priorities for the forthcoming session, since a precise plan allocating the various items and functions between the main Committee and the two Sub-Committees was already available in document A/AC.138/8. His delegation believed that the Committee should contribute in an appropriate and substantial manner to the celebration of the twenty-fifth anniversary of the United Nations. The General Assembly in resolution 2574 B (XXIV) had given a precise indication of the manner in which such a contribution could be made; it had, in particular, requested the Committee to expedite its work of preparing a comprehensive and balanced statement of principles, and had invited it to submit a draft declaration to the Assembly at the twenty-fifth session.

However, the continued endeavour to reach agreement on a statement of principles would not be the Committee's only task. Some reassessment and reappraisal of the results of the work of the past two years also seemed to be desirable; and it would certainly help the Committee in charting the course for its future activities. Such an appraisal should be made by the main Committee, and would constitute the political basis for the work of the Sub-Committees. The Committee should analyse the present situation in the light of the resolutions adopted by the twenty-fourth session of the General Assembly, and delegations should be able to refer to the whole range of subjects covered by the Committee's terms of reference. His delegation thought it would be particularly interesting to assess the purpose of a

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(Mr. Prohaska, Austria)

set of principles in the light of General Assembly resolution 2574 D (XXIV), and to discuss the question of the peaceful uses of the sea-bed in the context of the draft Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-Soil Thereof, which was at present before the Conference of the Committee on Disarmament at Geneva.

The tasks of the Sub-Committees were clear from the indications given by the General Assembly; the Legal Sub-Committee would have to continue its efforts to prepare a statement of principles, while the Economic and Technical Sub-Committee was to formulate recommendations regarding economic and technical conditions and the rules for the exploitation of the resources of the sea-bed. In that context, the Secretariat had made available an excellent document dealing with government measures relating to the development of mineral resources on the continental shelf (A/AC.138/21), a document which would constitute a starting point for the work of the Economic and Technical Sub-Committee. The study in question had been undertaken as a result of a proposal by the delegation of India, which was referred to in paragraph 99 of Part Three of the Committee's report to the twenty-fourth session of the General Assembly (A/7622). Since then, additional proposals had been made in the Economic and Technical Sub-Committee (A/7622, Part Three, paras. 155-157); and the Sub-Committee should consider those proposals as well.

The latter part of the March session should be reserved for further meetings of the main Committee, to enable it to consider the interim reports of the Sub-Committees and discuss the work programme for the August session. At that time the Committee would also have a clearer idea as to the availability of the Secretary-General's reports on international machinery and pollution, which would be the basic documents for the Committee's work at Geneva.

Mr. PIÑERA (Chile) said his delegation was not opposed to a general debate which would provide an opportunity for taking stock of the Committee's past work. However, it should not be forgotten that the Main Committee already had before it the eight items for discussion listed in document A/AC.138/8.

His delegation did not believe that the question of the elaboration of legal principles should be discussed too fully by the main Committee. The Committee's work programme had been approved during the special series of meetings in March 1969, after complex negotiation covering a period of two months, and it would be inadvisable to reopen the matter.

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(Mr. Piñera, Chile)

The main task of the Legal Sub-Committee would be to prepare the statement of legal principles. It had been stated in that connexion that a distinction should be made between the political and legal aspects of the problem. However, his delegation did not believe that the two aspects could be separated. The establishment of international law was bound to have political implications in that rules of law were based on existing practice or agreement among States. The programme of work did not authorize the main Committee to study the formulation of principles. The main Committee was required to deal with the political implications of operative paragraphs 2 (a) and (b) of General Assembly resolution 2467 A (XXIII), and was therefore competent to discuss the consequences - but not the antecedents - of the Sub-Committee's work.

The main Committee could, of course, hold a general debate on its work, review what had already been achieved and deal with the subjects listed for its consideration in document A/AC.138/8. His delegation believed that a week of discussions by the main Committee was essential to discuss such matters as the draft Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and the Sub-Soil Thereof, international machinery, and scientific research on the sea-bed and ocean floor beyond national jurisdiction. However, the major task of the session was to elaborate the legal principles, which was the function of the Legal Sub-Committee.

The CHAIRMAN pointed out that while the Legal Sub-Committee was clearly responsible for elaborating the legal principles, the main Committee undoubtedly had an overriding responsibility for considering the political implications of operative paragraphs 2 (a) and (b) of General Assembly resolution 2467 (XXIII); there could be no question of a Sub-Committee taking over that responsibility.

Mr. ARCORA (India) said that he agreed with the Chairman that the time had come for the main Committee to provide guidelines for the work of the Sub-Committees, after a review of their past activities. The tasks for the two Sub-Committees had been clearly laid down in General Assembly resolution 2574 B (XXIV), and spelt out in detail by the representatives of Belgium and Austria.

Although he himself would no longer be present at the Committee's meetings, he hoped that it would succeed in 1970 in preparing a draft declaration of legal principles for submission to the twenty-fifth session of the General Assembly.

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Mr. ENGO (Cameroon) said he was sure that the Chairman's suggestions with regard to the programme of work of the Committee were acceptable to the majority of members.

His delegation feared that unless the time available to the Committee were properly used, it might prove **inadequate** for all the work which had to be completed. He therefore believed that the Committee might usefully consider the possibility of conducting much of its work in an informal manner during the session, in the hope of reaching agreement without lengthy debate on political issues which were of a delicate and complex nature, as well as on legal issues which were difficult to resolve since no precedents existed.

The CHAIRMAN said it had been his intention to suggest that informal consultations should be held whenever necessary.

Mr. de SOTO (Peru) said his delegation had no objection to a general debate, but had some doubts as to the advisability of issuing directives to the Sub-Committees. It would be particularly unwise to issue directives to the Legal Sub-Committee in connexion with the elaboration of legal principles. The main Committee should not take any decision which would involve reorganization of the work of the Legal Sub-Committee, since the programme contained in document A/AC.138/8 had been arrived at after lengthy discussion, and he did not believe that the question should be reopened.

The CHAIRMAN said that, in the absence of any objection, he would take it that the Committee approved the suggestions he had made regarding the organization of work.

It was so agreed.

The meeting rose at 11.55 a.m.

SUMMARY RECORD OF THE EIGHTEENTH MEETING

Held on Monday, 2 March 1970, at 11 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

## GENERAL DEBATE

Mr. DENORME (Belgium) said that the Committee's purpose in holding an introductory general debate was to produce a political synthesis of the work done by its Sub-Committees in 1969. Such a synthesis should make it possible in the course of 1970 to define the basic concepts which would eventually lead to the utilization of the resources of the sea-bed for the benefit of mankind as a whole. The time had come to reach agreement on some, if only very general, recommendations. To that end, it might be useful if the Committee, rather than dissipating its efforts by trying to solve the many problems before it - the question of boundary, the statement of legal principles, preparation of a treaty to halt the arms race on the sea-bed, rules governing exploitation of the resources of the area and the establishment of administrative machinery to ensure implementation of those rules - were at the present stage to concentrate its efforts on one important subject, namely the international régime for the exploitation of sea-bed resources.

He had various reasons for suggesting that subject. In the first place, it seemed to be the one to which the Committee could most usefully turn its attention. The Legal Sub-Committee was already engaged on elaborating legal principles and the Conference of the Committee on Disarmament on elaborating a draft treaty on the prohibition of the emplacement of nuclear and other weapons of mass destruction on the sea-bed and the ocean floor and in the subsoil thereof. Recent statements affirming that it was the right of coastal States to proclaim "maritime zones" over which those States would exercise exclusive jurisdiction, and that it was the duty of the international community to recognize that right, illustrated the urgency of working out a precise definition of the areas not subject to national jurisdiction. The competence of the Committee to deal with the question of boundary had, however, been disputed and it would therefore seem vain, at the present stage, to hope to settle that question successfully. A decision on the question of international machinery should be deferred until the further study on various types of international machinery called for in operative paragraph 1 of General Assembly resolution 2574 C (XXIV) was available, and until a decision had been taken on the exploitation régime which the international machinery would be called upon to apply.

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(Mr. Denorme, Belgium)

A second reason for his suggestion was that agreement on the international régime for the exploitation of sea-bed resources was an essential prerequisite for the study, which the Committee was to undertake at its next session, of the Secretary-General's two reports on international machinery. A third reason was that, as was clear from chapters II and IV of the report of the Economic and Technical Sub-Committee (A/7622, Part Three), that Sub-Committee had already given some consideration to the question. If on the basis of paragraph 138 of that report the Committee could at the present session succeed in adopting a recommendation on the objectives of the international régime, it would have made some progress.

His suggestion had been prompted also by the eight propositions on the nature and scope of the international régime, as formulated by the United Kingdom representative in the First Committee on 4 November 1969 (A/C.1/PV.1676, pp.57-62), which seemed to provide an excellent point of departure in the search for a consensus on a limited number of specific recommendations. It would be noted that the second, third, fourth and fifth propositions reflected the conclusions emerging from the work accomplished by the Economic and Technical Sub-Committee in 1969, whereas the seventh and eighth propositions reproduced, in part, the ideas expressed in paragraph 96 of the report of the Legal Sub-Committee (A/7622, Part Two). The first proposition provided evidence of the way in which terminological difficulties had been overcome, and it confirmed his view, expressed at an earlier session, that the word "régime" in General Assembly resolution 2467 A (XXIII) covered all the principles governing activities in a given field and that the phrase "international arrangements" was the generic term applied to all agreements between States, whether in the form of treaties, pacts, conventions or other legal instruments. The régime applicable to the exploitation of the sea-bed resources would be fixed by one or several international arrangements, in other words by one or several treaties or conventions. The sixth proposition did not imply any extension of the Committee's mandate since the area of application of the régime would have to be defined by international agreement. Furthermore, since the proposition did not specify the method of definition, it did not prejudice the right claimed by certain coastal States to fix the limits of their sovereignty over the seas adjacent to their coasts.

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(Mr. Denorme, Belgium)

The General Assembly in resolution 2574 B (XXIV) had extended the Committee's mandate and entrusted it with a specific task for 1970. The Committee must prove itself worthy of the trust which had been placed in it. If his suggestion were adopted, the Committee would be able to take a first step in moving beyond the stage of reports and studies towards the stage of recommendations.

The meeting rose at 11.30 a.m.

SUMMARY RECORD OF THE NINETEENTH MEETING

Held on Tuesday, 3 March 1970, at 10.55 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

GENERAL DEBATE (continued)

Mr. CUEVAS CANCINO (Mexico) said that the Committee's task was to ensure that the sea-bed and ocean floor, which were of vital importance for the destiny of man, were not seized by powerful countries, as other new regions opened up by science and technology had been seized in the past. The attitude of the Mexican Government was based on General Assembly resolution 2574 D (XXIV), which declared that, pending the establishment of an international régime, States and persons, physical or juridical, should refrain from all exploitation of the resources of the area and that no claim to any part of the area or its resources should be recognized.

If the area's resources were to be exploited for the benefit of mankind as a whole, it was essential to reach agreement on a formulation of the concept that the area was the common heritage of mankind. As reported by the Legal Sub-Committee, that concept was widely supported but not acceptable to all. In view of the Mexican delegation, the obstacles to agreement were semantic rather than juridical; objection had been raised, for instance, to the use of so-called neologisms, on the ground that they were devoid of legal content. There could in fact be no doubt that the riches of the area in question belonged to all mankind, and not to those who could make arbitrary use of their material superiority. It should therefore be possible to reach a consensus which would enable the Legal Sub-Committee to evolve a formulation of the "common heritage of mankind" principle, without which no progress could be made on the other issues, such as the question of international machinery.

Mr. ARAUJO CASTRO (Brazil) said that the General Assembly had at its twenty-fourth session adopted a number of important resolutions concerning the sea-bed and marine activities in general. In resolution 2574 (XXIV) the international community had for the first time affirmed that "there exists an area of the sea bed and ocean floor and the subsoil thereof which lies beyond the limits of national jurisdiction" and that the exploration and exploitation of the resources of that area should take into account "the special interests and needs of the developing countries, whether land-locked or coastal". The text of the resolution provided important guidelines for the Committee. In part A, the General Assembly had noted that "the establishment of an equitable international régime for this area would facilitate the task of determining the limits of the

(Mr. Araujo Castro, Brazil)

area to which that régime is to apply". In part B, it had endorsed the objective of "a comprehensive and balanced statement" of principles and thus rejected the idea of a partial declaration based on the points on which some agreement had existed at the Committee's session in August 1969 and which were described in the report of the Legal Sub-Committee as "common denominators". It had also clearly indicated that the rules for the exploitation of the resources of the area concerned would be only a part, although a very important one, of the legal régime to be set up.

Part D of resolution 2573 (XXIV) did not place any limitations on the rights of States but simply recognized the limitations which already existed because of the mere fact that international law did not provide a basis for the exploitation of the resources of the sea-bed. The Geneva Convention on the Continental Shelf could not provide such a basis, since the international community had recognized the existence of an area beyond national jurisdiction, thus disposing of the median line interpretation of article 1. The argument that what was not prohibited was permitted was not a principle of international law and raised controversial questions of legal theory. The principle of the freedom of the high seas had been established for the use of the waters of the high seas and had later been extended to the air space above them, but could not be automatically applied to the resources of the sea-bed. Analogy was not one of the sources of international law enumerated in Article 38 of the Statute of the International Court of Justice. Resolution 2574 D simply described the present state of international law regarding the exploitation of sea-bed resources. It did not deal with the question of limits, because it could not prejudge a question which was still unresolved and on which conflicting views existed. The criterion of depth alone was inadequate for determining which areas could not be exploited under the terms of the resolution; the fundamental criterion was the geomorphological province to which the area in question belonged. In the light of resolution 2574 D (XXIV), it would appear that States were free to exploit their own continental slopes and rises - but not those of other States - and that they were not free to exploit the abyssal depths beyond the rise.

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(Mr. Araujo Castro, Brazil)

With regard to the task facing the Committee in 1970, his delegation considered that the Legal Sub-Committee should try to enlarge the area of agreement, starting from the "common denominators" mentioned in its report. Considerable agreement already existed on several points and final agreement was dependent only on a solution to the intricate problems of the legal definition of the area, the applicability of international law, the use of the resources for the benefit of mankind as a whole and the freedom of scientific research. Those were the problems to which the Legal Sub-Committee should give priority.

The Economic and Technical Sub-Committee, in addition to studying the ways and means of promoting the exploitation and use of the resources of the area in question and of international co-operation to that end, should also consider criteria for the allocation of the financial proceeds from exploitation of sea-bed resources among the members of the international community. There was already substantial agreement in the Committee on the need for such an allocation, which would take into account the special interests and needs of the developing countries. An examination of the criteria to be applied would be extremely useful not only for the establishment of a legal régime but also for the work of the Legal Sub-Committee on a draft declaration of principles.

The Committee should also give priority to the question of peaceful uses, as well as the question of scientific research and the dissemination of scientific knowledge. In paragraph 8 of document A/7622/Add.1, the hope had been expressed that the implications of the draft treaty on the denuclearization of the sea-bed would be considered in greater depth by the Committee at its current session. Consideration of the report to be submitted by the Secretary-General in connexion with General Assembly resolution 2467 D (XXIII) on the International Decade of Ocean Exploration should not be further postponed but should take place at the August session. The Committee and the General Assembly had an important responsibility in that regard, which should not be left to unrepresentative and purely scientific bodies. The IOC Working Group

(Mr. Araujo Castro, Brazil)

on legal questions related to scientific investigations of the ocean had recently met to consider a preliminary draft convention on ocean data acquisition systems, and at least one of the possible data collection and processing systems was directly relevant to the Committee's work, since it was designed to be placed on the sea-bed. Data acquisition systems raised very serious political and legal issues, which should be decided in political bodies such as the General Assembly and its subsidiary organs.

Mr. BADAWI (United Arab Republic) said that his delegation agreed with other delegations that the general debate would provide a good opportunity for the Committee to undertake a political synthesis of past discussions, with a view to offering some guidance to the two Sub-Committees.

A useful starting point for the discussion was provided by the eight propositions put forward by the United Kingdom delegation at the twenty-fourth session of the General Assembly (A/C.1/PV.1676, pp. 57-62). The delegation of the United Arab Republic had no difficulty in accepting the first proposition - that the régime should be established by means of an international agreement. It simply felt that the régime should constitute an indivisible whole, regardless of the number of international agreements involved. With regard to the second United Kingdom proposition his delegation felt that the régime should not apply only to exploration and exploitation of the natural resources of the area; a more permissive and less restrictive approach should be adopted. It would be premature at the present stage to comment on the function to be discharged within the régime, which was the subject of the third proposition. The Committee had held only a preliminary discussion on the report by the Secretary-General in document A/AC.138/12 and the General Assembly had requested him to prepare a further study. At the August session, however, it should be possible to take a definite stand on that subject. The fourth proposition of the United Kingdom was the logical consequence of the agreement on the need for an international régime and required no comment. The fifth proposition was closely linked to the two preceding ones and would require further study before a political decision could be taken. With regard to the sixth proposition,

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(Mr. Baḡawi, United Arab Republic)

due consideration should be given to the question of timing. In connexion with the seventh proposition, care should be taken to ensure that the desire to preserve the status quo did not affect the unity and coherence of the new international régime. His delegation would not for the time being comment on the last proposition, which was related to the question of general principles.

The meeting rose at 11.35 a.m.

SUMMARY RECORD OF THE TWENTIETH MEETING

Held on Wednesday, 4 March 1970 at 11 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

GENERAL DEBATE (continued)

Mr. SOLOMON (Trinidad and Tobago) said that the Committee had made some progress in its work; areas of agreement had been clearly identified and members had redefined their positions on the issues before the Committee. There was broad agreement on three elements of principle regarding the area - first, that it should not be subject to appropriation by any individual person, group or State; secondly that, because the area was the heritage of all mankind, all should have the opportunity to participate in its administration; and thirdly, that the benefits to be derived from its exploitation should be distributed equitably in the interests of all mankind, with special reference to the needs and interests of the developing countries. There was also general agreement in favour of the creation of an international régime which would provide an equitable arrangement for regulating activities in the area and averting conflicts and rivalries; and there was therefore an urgent need for the Committee to formulate balanced and comprehensive rules governing activities in the area before uncontrolled developments rendered its work completely meaningless.

Turning to the question of scientific research he said that the objective of the Long-Term and Expanded Programme of Oceanic Exploration and Research should be to enable scientists from developing countries to participate, on an equal footing with their counterparts from developed countries, in co-operative scientific investigations of the marine environment. The Committee must therefore keep in mind the need for training marine scientists and oceanographers from the developing countries and, if necessary, make recommendations to the General Assembly for the establishment and funding, on a regional basis, of oceanographic institutions in those countries.

Provisions regarding the principles of fundamental oceanographic research should not be considered in vacuo, but together with provisions relating to other aspects of the marine environment. The Committee must be careful to ensure that the deployment of ocean data acquisition systems was not harmful to fundamental oceanographic research or incompatible with the development of the resources of the area for peaceful purposes. The provisions of General Assembly resolution 2574 D (XXIV) did not inhibit fundamental oceanographic research or preclude exploration for purely scientific purposes. Above all, it could not be

(Mr. Solomon, Trinidad and Tobago)

interpreted as prohibiting coastal States from exploiting the resources of the maritime zone under their economic jurisdiction.

His delegation would give its final views on the question of international machinery after it had received the further study called for in General Assembly resolution 2574 (XXIV). In the meantime, it wished to reiterate the view it had expressed at the Committee's eighth meeting (A/AC.138/SR.8), to the effect that the agency set up to administer the area should not be the same agency as that which operated the fund, since the two would have basically different functions. The functions of the first would be administrative and legal, while those of the second would be economic and financial; the first would be concerned with obtaining for the legal owners the maximum benefits to be derived from ownership, and the second with the distribution of such benefits, with particular reference to the needs of developing countries. With regard to the principle of progressive and equitable distribution of benefits, Trinidad and Tobago supported the Japanese and Brazilian requests for a new study regarding criteria to be applied in the apportionment of benefits derived from exploitation of the resources of the area lying beyond national jurisdiction. Such a study would not be premature nor would it delay establishment of the appropriate agencies.

Mr. PINTO (Ceylon) reminded members that at the Committee's seventh meeting he had said that the task of highest priority would be the drafting of a declaration prohibiting the use of the sea-bed and ocean floor for military purposes and a further declaration setting forth the general legal principles applicable to the sea-bed (A/AC.138/SR.7). That view remained unchanged. As a result of the initiative of the Soviet Union and the United States, important steps had been taken towards agreement on the demilitarization of the sea-bed. At its current session, therefore, the Committee should, as the Belgian representative had suggested (A/AC.138/SR.18), concentrate on the formulation of general principles governing all peaceful activities with respect to the sea-bed, including its conservation, exploration, use and exploitation. It seemed in that connexion that in calling for a "comprehensive and balanced statement" of principles the General Assembly had in resolution 2574 B (XXIV) gone beyond the "common denominator" approach adopted by the Legal Sub-Committee. What the General Assembly

(Mr. Pinto, Ceylon)

required was a declaration of clear principles covering all the main aspects of the subject, and that could not be produced until the issues on which members disagreed were faced squarely and openly and settled either through reasonable compromise or majority decision. Ceylon earnestly hoped that members would reach a consensus on all the matters before them. It recognized the need for the support and co-operation of the politically and economically powerful States, since it was by the technology which those States now controlled that the sea-bed would finally be made to yield up its resources. However, with or without a consensus, decisions on important questions of principle must be taken if the Committee's work was to proceed and if it was to fulfil the mandate given to it by the General Assembly. His delegation had, in its statement in the First Committee on 31 October 1969, outlined twelve principles which it believed should be covered in the declaration to be adopted by the General Assembly (A/C.1/PV.1673, pages 21 and 22). The United Kingdom and Soviet delegations had also made proposals on the subject (A/C.1/PV.1676, pp.57-62, and A/AC.138/SC.1/8). He hoped that consultations would soon be started with a view to reaching an early decision on the principles covered in those texts. Decisions on such matters should, in view of their political implications, be taken in the main Committee.

Implicit in the principle that all activities with respect to the sea-bed must be carried out in accordance with the international régime to be established was the prohibition of any activity in that area prior to the establishment of the régime. In adopting resolution 2574 D (XXIV) the General Assembly had endorsed that prohibition. Some delegations had argued that, as no agreed limit had yet been placed upon national jurisdictional claims, the resolution's area of operation was unclear. His delegation did not consider that that criticism was crucial; but it would be glad to work toward further clarification of the prohibition by reference to depth or other criteria physically ascertainable with precision, if the principle would then be acceptable to a wider group of States.

He had two comments to make on the prohibition. First, it was not an end in itself but only a means to an end; and the Committee should now move ahead towards a declaration of general principles governing activities with respect to the sea-bed and the establishment of a régime based on those principles. His

(Mr. Pinto, Ceylon)

second comment related to the efficacy of the prohibition. Ceylon did not share the doubts of those who argued that resolution 2574 D (XXIV) might not be treated as legally binding. In the immediate future many of the exploitation activities connected with the sea-bed would be carried out not by Governments, but by private enterprises relying to a very great extent on private sources of finance. It was those financial sources, rather than Governments, that would have to evaluate the force of the General Assembly resolution. It seemed to his delegation that a financier with several investment alternatives available to him in areas less remote than the sea-bed would make his choice against the background of the General Assembly's prohibition.

On the question of international machinery, he said it would be sufficient if the Committee's declaration of principles were to contain a bare outline of the type of international machinery to be established; details of its structure and foundations could be worked out at a later stage on the basis of the Secretary-General's studies and views expressed by member States. The machinery must, however, possess adequate authority and its aim must be to utilize the resources of the sea-bed to the greatest possible advantage by ensuring their exploitation in an orderly manner and with maximum efficiency.

The limits of national jurisdiction must be determined without delay. It was to be hoped, therefore, that favourable replies would soon be received to the letter addressed by the Secretary-General to Member States on 29 January 1970 in pursuance of operative paragraph 1 of General Assembly resolution 2574 A (XXIV), concerning the convening of an international conference which would consider, along with related questions, the precise extent of the international zone of the sea-bed.

Mr. KJARTANSSON (Iceland) said, first, that a statement of general principles should include the concept that there was an area of the sea-bed and the ocean floor which lay beyond the limits of national jurisdiction, and that that area should be used exclusively for peaceful purposes. Secondly, in the view of the Icelandic delegation, it was difficult to envisage the future limits of national jurisdiction as being much less than 200 miles from the coast, though the criterion used might possibly be a combination of that figure with the 500 metre depth mark.

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(Mr. Kjartansson, Iceland)

Thirdly, the sea-bed and the ocean floor beyond the limits of national jurisdiction should not be subject to national appropriation and no State should exercise or claim sovereignty over any part of the area, since the area itself and its resources were the common heritage of mankind. A fair share of the benefits accruing to the international community from the exploitation of the sea-bed should be used for the technical and economic advancement of the developing countries.

Fourthly, all future activities on the sea-bed should be regulated and supervised by the international community, and international machinery should be created for that purpose. The international machinery should not be a mere registration office but should provide for orderly licensing, payment of royalties and adequate regulation of all aspects of exploitation. In addition, it should insist on strict liability for damages arising from sea-bed exploitation, and strict compliance with regulations to prevent harmful interference with marine resources and pollution of the oceans.

Fifthly, the régime of the sea-bed could not be considered in isolation from the régime of the superjacent waters, and consideration should be given to the effect which rules relating to the sea-bed might have on the superjacent waters. The exploitation of the sea-bed required intrusion into the superjacent waters, which was bound to have far-reaching effects on the condition and balance of the surrounding marine environment, as was clear from recent examples of pollution of the sea by oil. In addition, sea-bed exploitation would severely restrict the principle of the freedom of the high seas, including the freedom of fishing and navigation. In view of the threat to the resources of the superjacent waters, coastal States should be granted preferential rights in the protection and utilization of the living resources of their coastal areas. They should have the right to control their continental shelf fisheries; it was illogical that the mineral resources of the shelf, but not the living resources of the epicontinental sea, should be considered as within the jurisdiction of the coastal State.

More research should be conducted on the potential resources of the marine environment and the riches of the sea-bed, and technological capabilities should be developed. Iceland had already pledged its support for a new, concentrated effort of international co-operation to stimulate progress in that regard.

Mr. WARNER (United Kingdom) agreed with the suggestion made by the Belgian representative (A/AC.138/SR.18) that the Committee should at the present stage concentrate its efforts on the important subject of the international régime for the exploitation of sea-bed resources. The Belgian representative had suggested that the propositions put forward on that subject by the United Kingdom delegation at the twenty-fourth session of the General Assembly (A/C.1/PV.1676, pp. 57-62) might form a basis for the discussion. These were not firm proposals but represented the preliminary views of the United Kingdom Government, who would like to hear the views of others. With this in mind he would have the propositions distributed as a working paper.

There was a close link between fundamental issues of the nature of an international régime and the question of drafting a declaration of principles. There seemed to be general agreement as to the ends which a declaration of principles should serve. As was clear from paragraph 3 of General Assembly resolution 2574 B (XXIV), the principles were to be a means of promoting international co-operation in the exploration and use of the sea-bed. However, views differed as to how those ends could be achieved. Some felt that the principles should serve as guidelines for the regulation of activities by States and their nationals, pending agreement on a detailed and explicit international régime for the purpose. Others thought that activities could be effectively regulated only by a properly agreed régime, and that the main purpose of a statement of principles was to provide a stepping-stone to agreement on such a régime. At the present stage, it might be best to keep an open mind as to whether the principles should serve the first or second of those two purposes, or both.

A number of proposals had been made concerning the form and content of a declaration of principles. At the third session of the Ad Hoc Committee, the United Kingdom delegation had submitted on behalf of several delegations a list of principles which subsequently appeared in the Ad Hoc Committee's report as statement "B" (document A/7230, para. 88). The statement had been a compromise and not a definitive statement of the views of the United Kingdom or any other delegation. His delegation had refrained from submitting specific proposals of

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(Mr. Warner, United Kingdom)

its own, because it was convinced that consultations would be more conducive to agreement than the submission of conflicting drafts. It had therefore been encouraged by the progress made at the last session of the Legal Sub-Committee and reflected in the synthesis at the end of its report (A/7622, Part Two). That synthesis could be the starting-point for further detailed work at the current session, which might be undertaken in informal meetings or consultations as well as in the formal meetings.

He would not comment at length on the work of the Economic and Technical Sub-Committee, which was not so strictly related to the main issues of an international régime and a declaration of principles. The review prepared by the Secretariat of Government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21) was a clear and concise document which should be of great assistance to both Sub-Committees. The regulations governing the exploration and exploitation of the United Kingdom's continental shelf had demonstrated their effectiveness. Further areas in the North Sea and in the Irish Sea had recently been designated for exploration or leased for production. Scientific research programmes in more distant areas, including geophysical surveys in the North Atlantic and in the region of the Canary Islands, had also continued.

At the preceding meeting, the representative of the United Arab Republic had made some interesting comments on the United Kingdom propositions concerning the international régime. He agreed with that representative that the régime must form a cohesive whole, even if it was composed of a series of separate international agreements. In the First Committee's discussions, his delegation had in fact pointed out that, with a series of agreements, it would be possible gradually to expand the single régime, so that it covered at each step a broader range of matters.

The meeting rose at 11.50 a.m.

SUMMARY RECORD OF THE TWENTY-FIRST MEETING

Held on Thursday, 5 March 1970, at 11.5 a.m.

Chairman:

Mr. AMERASINCHE

Ceylon

GENERAL DEBATE (continued)

Mr. SULEIMAN (Libya) noted that the important study covering in depth the status, structure, functions and powers of an international machinery having jurisdiction over the peaceful uses of the sea-bed and the ocean floor, which was being prepared by the Secretary-General in pursuance of General Assembly resolution 2574 C (XXIV), would not be available for consideration at the current session. Accordingly, he agreed with the Belgian representative that the question of international machinery should be discussed in detail during the August session. However, delegations should be allowed to comment on the question even at the present stage, since their observations might provide the Secretary-General with new ideas which could be included in the study.

In his view, it was not essential at the moment to concentrate on the problem of defining the boundaries of the sea-bed and ocean floor beyond the limits of national jurisdiction. It was enough at present for the Committee to accept the principle of the existence of an area of the sea-bed beyond the limits of national jurisdiction, a principle which enjoyed the general support of the international community. He totally disagreed with those who denied the existence of such an area and who maintained that, under present international law, the sea-bed was divided among the coastal States, in accordance with the rules contained in the 1958 Geneva Convention on the Continental Shelf.

Precise determination of the limits of the sea-bed beyond national jurisdiction was of course necessary and inevitable, but was not a prerequisite for determining the legal status of the area. He believed that agreement on the legal status would in fact facilitate the task of delimitation. Consequently, the determination of the legal status should not be hampered by existing obstacles to early agreement on precise and internationally acceptable boundaries. Indeed, a legal régime existed for outer space, the high seas, territorial waters, the contiguous zone and the continental shelf, despite the absence of internationally agreed boundaries for those areas. Similarly, although the definition of legal principles and the establishment of an international régime would involve a long and difficult search among existing legal systems and criteria in order to find elements which were applicable in the context of the sea-bed, the Committee should in the current phase of its work be able to agree on some basic principles which

(Mr. Suleiman, Libya)

were not too controversial and which would provide an appropriate framework for future work by the United Nations on the subject of the peaceful uses of the sea-bed. The direct interest which the General Assembly had displayed in that important subject stemmed from the need to achieve two basic objectives: first, the reservation of the sea-bed and the sub-soil thereof exclusively for peaceful purposes and, secondly, the use of the sea-bed and the sub-soil thereof for the benefit of the international community as a common heritage of mankind. In operative paragraph 3 of resolution 2467 A (XXIII) the General Assembly had called upon the Committee to study further the question of the reservation of the area exclusively for peaceful purposes; and, in his opinion, the principle which entailed the prohibition of the emplacement of military installations and nuclear weapons - and the testing of weapons - in the area under discussion was one of the most urgent questions to be considered by the Committee and by the General Assembly at its twenty-fifth session. Such a prohibition would contribute to the realization of the international community's desire for workable arms limitation measures, and would strengthen international peace and security. In that connexion, the Committee could profit from the experience gained in the preparation of the Antarctic Treaty and the Treaty Governing the Activities of States in the Exploration and Use of Outer Space, which offered valuable precedents. The Moscow Treaty of 1963 constituted another important step towards the denuclearization and demilitarization of the area. Lastly, he welcomed the initiative taken by the United States and the Soviet Union in proposing a draft Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Sub-soil thereof, and hoped that an opportunity would be provided to consider the draft Treaty in greater detail at the next session.

Mr. TSURUOKA (Japan) said he felt that the time had now come for the Committee to consider the possibility of reaching specific agreement on some of the more basic points, rather than indulge in endless debate. It should be remembered that the successful completion of the Committee's very important task would be of enormous benefit to future generations of mankind.

(Mr. Tsuruoka, Japan)

The Belgian representative had suggested that the theme of the current debate should be the question of an international régime of exploitation; and the Japanese delegation certainly regarded that topic as a possible point of departure which would serve as a useful basis for determining the direction of the Committee's work. One point to which the Committee's attention should be drawn at the very outset was that the General Assembly at its last session had taken some important decisions in a manner which was not wholly consonant with the Committee's work. His delegation had stated in the First Committee in November 1969 that the failure to formulate a set of general legal principles to regular activities on the sea-bed and the ocean floor beyond the limits of national jurisdiction was not due to any lack of enthusiasm or diligence on the part of members of the Committee, but to the great complexity of the issues involved. It had also expressed the belief that, despite all the difficulties, the Sea-Bed Committee had made considerable progress in clarifying and narrowing down the differences of opinion between Member States; and it now wished to stress again that it was primarily for the Committee to examine the various problems in depth and to arrive at appropriate conclusions and recommendations, before they were considered by the General Assembly for final action.

At the present session, priority should be given to the elaboration of legal principles governing the exploration and exploitation of the deep ocean floor. The legal principles had been extensively discussed at the session of the Ad Hoc Committee held at Rio de Janeiro; but agreement on a set of formulations had not been reached, partly owing to lack of time. Now, however, a synthesis of legal principles had been prepared by the Legal Sub-Committee (A/7622, Part Two, paras. 82-98); and that synthesis offered an excellent point of departure for the Committee's future work. His delegation was confident that, with the necessary spirit of mutual understanding and co-operation, discussions on the legal principles at the current and forthcoming sessions would lead to the formulation of an agreed statement. He sincerely hoped that the new legal principles applicable to the exploration and exploitation of the deep ocean floor would be the result of a common effort and that, taken together with the existing principles concerning the régime of the high seas, they would form a

(Mr. Tsuruoka, Japan)

comprehensive régime for the oceans as a whole, which would determine the future development of the oceans for the benefit of mankind. At the same time, although an agreed statement of legal principles was most desirable, it was essential not to overlook the importance of the more practical and substantive issues of the delimitation of the area and the character of the régime to be applied in the exploration and exploitation of its resources. It was unrealistic to expect that any considerable progress would be made on the question of delimitation at the present time. On the other hand, that question was inseparably linked to the other major issues under consideration, and it might even be said that its solution was an essential prerequisite for progress on other issues.

His delegation attached great importance to the principle that the sea-bed and ocean floor should be developed in a manner which would benefit all mankind; and it had already stated in the Sea-Bed Committee and in the First Committee that Japan endorsed the idea that some portion of the financial proceeds from exploitation should be used in the interests of the international community and that a study should be undertaken of means for attaining that end. That idea should now be translated into a more realistic concept in order to fit properly into the framework of the basic scheme which the Committee was endeavouring to establish.

With regard to the problem of the international machinery to be set up, his delegation agreed that, since the exploration and exploitation of the minerals of the area was to be undertaken for the benefit of mankind as a whole, some kind of organizational arrangements would have to be made in order to ensure the realization of that aim. However, before a satisfactory solution to that problem could be found, a number of complex issues still had to be carefully studied - in particular, the problem of the most appropriate type of organizational arrangements for the orderly development of the exploration and exploitation of the deep ocean floor. The General Assembly had requested the Secretary-General to prepare a study on the various types of international machinery, and it would not be possible to hold a constructive discussion until that study was available. The review of Government measures pertaining to the development of mineral resources of the continental shelf (A/AC.138/21) could serve as useful reference material for further consideration of the international machinery to be set up.

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(Mr. Tsuruoka, Japan)

In the meantime, it was essential to ensure that the international régime to be established would not hinder the effective development of the resources of the area. Whatever kind of régime was finally established, it should be sufficiently attractive to induce a nation or enterprise to initiate the costly and difficult undertaking of exploiting the resources of the deep ocean floor; and it should also ensure that the international community as a whole, and not only those who were directly involved in the undertaking, would benefit from the results of exploitation. In short, attractive incentives and arrangements to guarantee that a portion of the financial proceeds of exploitation was used for the benefit of mankind, with particular reference to the special needs and interests of the developing countries, should be the cornerstone of the international régime.

In conclusion, his delegation hoped that the régime would be established through the adoption of an international instrument by all members of the international community. The universal acceptance of such an instrument would be a most significant achievement which would introduce entirely new elements into the legal régime governing the sea-bed and would open up new vistas for the future of mankind.

Mr. PROHASKA (Austria) endorsed the Belgian representative's suggestion that the main Committee should concentrate its efforts on one important subject, namely the international régime for the exploitation of sea-bed resources (A/AC.138/SR.18). Progress in the consideration of such a régime was indeed a prerequisite for the study of possible forms of international machinery. It should also influence the position of other delegations who at present object to the discussion of the delimitation of the area beyond national jurisdiction, a question to which Austria, a land-locked country, attached great importance. His delegation expected that other members of the Committee might come to the same conclusion since geographically they were virtually in the same position as Austria and would therefore presumably share his point of view. Finally, since the two issues were so closely associated, the main Committee would, by concentrating on the nature and scope of an international régime, be assisting the Legal Sub-Committee in its task of drafting a declaration of legal principles. The eight propositions on the nature and scope of the international régime formulated by the United Kingdom representative at the 1676th meeting of the

(Mr. Prohaska, Austria)

First Committee (A/C.1/PV.1676, pp.57-62) seemed to provide the most practical point of departure for the Committee's endeavours. In view of the short time available to the main Committee, members should adopt the Cameroonian suggestion (A/AC.138/SR.17, p.7) and hold informal consultations with a view to preparing, on the basis of the United Kingdom propositions and for consideration by the Committee at the end of March, a preliminary draft recommendation to the General Assembly.

Mr. DIACONESCU (Romania) endorsed the Chairman's suggestions concerning the organization of work for the current session (A/AC.138/SR.17). Appraisal of the Committee's accomplishments would reveal the matters on which members should now concentrate if they were to make real progress in the establishment of a legal régime to govern States' activities in the exploration, exploitation and peaceful use of the sea-bed and ocean floor beyond the limits of national jurisdiction. In 1969 the Committee had agreed that its first task should be to formulate generally acceptable legal principles. The Legal Sub-Committee had already reached agreement on a number of points and its main task now was to define existing areas of agreement more clearly and endeavour to extend them to the point where it would be possible to draft a declaration of legal principles. The idea of establishing an international régime for the sea-bed and ocean floor was so novel and complex that progress in the matter would inevitably be slow. Indeed, the establishment of an international régime would mark the successful culmination of the Committee's work, the first phase of which should consist of the formulation of a declaration of legal principles. By adopting such a declaration the General Assembly would lay the foundations for the future international régime. The Committee's duty in 1970, therefore, was to comply with the provisions of resolution 2574 B (XXIV) and draft a declaration of principles for submission to the General Assembly at its twenty-fifth session. It was true that there were still matters on which agreement had not been reached; but, since the declaration would be supplemented by other international instruments relating to those matters, it might be useful to try to formulate

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(Mr. Diaconescu, Romania)

as complete and balanced a draft declaration as was currently possible, and leave the way open for other measures leading to the establishment of an international régime for the sea-bed and ocean floor beyond the limits of national jurisdiction. Experience gained in the creation of space law showed the merits of gradual progress towards the achievement of major objectives. The matters still outstanding on which international instruments supplementing the declaration would have to be elaborated included delimitation of the area in which the régime was to apply, additional provisions to ensure that the exploitation and use of the resources of the area served the interests of mankind as a whole and the establishment of international machinery.

Romania attached great importance to the establishment of an international régime which would promote international co-operation in the exploitation and use of the resources of the sea-bed and ocean floor. The régime should enable all countries of the world without exception to benefit from the exploitation of the resources of the area and should, consequently, exclude the possibility of exploitation by unilateral interests. By making rapid progress in its work the Legal Sub-Committee would facilitate the task of the Economic and Technical Sub-Committee since - as the General Assembly had requested in resolution 2574 B - the recommendations regarding the economic and technical conditions and the rules for the exploitation of the resources of the area were to be formulated "in the context of the régime to be set up".

The meeting rose at 11.55 a.m.

SUMMARY RECORD OF THE TWENTY-SECOND MEETING

Held on Thursday, 5 March 1970, at 3.30 p.m.

Chairman:

Mr. AMERASINGHE

Ceylon

GENERAL DEBATE (continued)

Mr. KULAZHENKOV (Union of Soviet Socialist Republics) said that the Committee on the Peaceful Uses of the Sea-Bed had done a great deal of work in examining the political, legal, economic, scientific and technical aspects of the use of the sea-bed and the ocean floor beyond the limits of national jurisdiction, and after long discussions, it had achieved positive results in certain areas. One example was the question of the use of the sea-bed and the ocean floor exclusively for peaceful purposes. Study of that question by the Committee had shown how real the problem was and had demonstrated that it was possible not only to adopt general principles but also to work out specific measures to prohibit the use of the sea-bed for military purposes. In keeping with the mandate given to it by the General Assembly on 21 December 1968 in paragraph 3 of resolution 2467 (XXIII), the Committee on the Peaceful Uses of the Sea-Bed had examined that question, taking into account the studies and international negotiations undertaken in the field of disarmament. His delegation considered that the Committee's work had favourably influenced the discussions of the Disarmament Committee on means of preventing the arms race from being extended to the sea-bed and the ocean floor. Since the proposals made had been supported by numerous countries, it had been possible to prepare a first important measure in that field, and following prolonged and productive debate the Disarmament Committee had elaborated a draft treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the sea-bed and the ocean floor and the subsoil thereof. In its resolution 2602 (XXIV), the General Assembly had declared itself convinced that the conclusion of such a treaty would "constitute a step towards the exclusion of the sea-bed, the ocean floor and the subsoil thereof from the arms race". It was to be hoped that the Disarmament Committee, which had resumed its discussion in February at Geneva, would soon complete the task entrusted to it. The Soviet Union was prepared to conclude an agreement on the total prohibition of the use of the sea-bed and the ocean floor and the subsoil thereof for military purposes. The Committee on the Peaceful Uses of the Sea-Bed should try to formulate, within the context of a declaration of legal principles, the principle of the Use of the sea-bed exclusively for peaceful purposes.

(Mr. Kulazhenkov, USSR)

Another significant result was the adoption by the General Assembly of resolutions concerning the extension of scientific research to the sea-bed and the ocean floor and improved co-ordination of the efforts of various States within the framework of the expanded long-term programme of oceanographic research. Those resolutions had to some extent stimulated the efforts of States to study the world's oceans and particularly the ocean floor. It was to a great extent through such study that the exploitation of the mineral resources of the sea-bed beyond the limits of national jurisdiction could be developed for the benefit of all mankind. Scientific study of problems concerning the world's ocean floor and its resources was beyond the capabilities of individual States, even the most developed of them. For that reason his delegation had continually stressed the importance of proceeding rapidly to organize research on a basis of co-operation among States and of co-ordination of the various national efforts. However, excessive optimism should not lead to an exaggeration of the existing possibilities of exploration and exploitation of the mineral resources of the sea-bed beyond the limits of national jurisdiction. The results obtained by various countries in the course of the previous decade in the exploration and exploitation of mineral resources - petroleum and natural gas reserves in particular - on the continental shelf, did not justify an assumption that the resources of the sea-bed beyond the continental shelf could be developed at the same pace. The industrial exploration and exploitation of the mineral resources of the area in question necessitated the creation and use of new techniques and materials fitted to the circumstances and of new methods which would make it possible to exploit the resources without polluting the marine environment. That would require not only much time but considerable effort and enormous investment, and the present state of knowledge was not such as to foretell the economic return from the exploitation of the resources of the sea-bed at great depths.

Another positive result had stemmed from the consideration by the Committee on the Peaceful Uses of the Sea-Bed of measures to be taken to prevent the pollution of the marine environment. The purpose of the resolutions adopted on that subject by the General Assembly on the initiative of Iceland was the elaboration by the specialized agencies of the United Nations of international agreements the

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(Mr. Kulazhenkov, USSR)

importance of which could not be over-estimated. The resolutions were also intended to promote the adoption by States of the measures which were necessary at the national level.

Because of the problems which the Committee on the Peaceful Uses of the Sea-Bed had to resolve, its main task was to work out solutions which would contribute to promoting international co-operation in the exploration and use of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction. A number of delegations had said that the Committee should proceed to devote all its attention to examining the problem of the international régime, its characteristics and sphere of application. That was certainly a problem which merited careful and comprehensive study. Nevertheless, it was necessary to establish a method of work and to follow a certain order in considering the different questions. In his delegation's view, that order had been clearly laid down in General Assembly resolution 2467 (XXIII) and confirmed by resolution 2574 (XXIV). In the former the Assembly had instructed the Committee "to study the elaboration of the legal principles and norms which would promote international co-operation in the exploration and use of the sea-bed...".

In resolution 2574 B (XXIV) the General Assembly had requested the Committee "to expedite its work of preparing a comprehensive and balanced statement of these principles and to submit a draft declaration to the General Assembly at its twenty-fifth session".

Obviously, therefore, a start should be made by formulating the legal principles. The only possible basis for a régime to govern the exploitation of the mineral resources of the sea-bed and the ocean floor was an international agreement of a universal nature, which should reflect the legal principles agreed upon in the Committee and embodied in a General Assembly declaration. In that connexion it should also be emphasized that, in accordance with the Charter, the General Assembly could not adopt a decision in that matter which was binding on States Members of the United Nations. It could only recommend them to conclude an appropriate international agreement, and the latter would bind only those States that ratified it. In the present situation, there was a danger that the uncertainty surrounding the question of delimitation of the area under

(Mr. Kulazhenkov, USSR)

consideration might present a real obstacle to the formulation of legal standards applicable to the exploitation of the sea-bed. There was no need to dwell further on that question since his delegation had already made known its position on it.

It was in any case gratifying that a certain amount of agreement had been reached, in the Legal Sub-Committee, on a number of important principles. In the opinion of his delegation, further progress in that direction was possible if the Committee devoted its attention to principles on which the agreement of interested parties might be forthcoming, in areas which had already been studied by the Legal Sub-Committee and in which general agreement or a consensus already existed.

It would obviously be unrealistic to expect the future declaration of principles to cover all the details referred to during the consideration of the principles. The formulation should in fact be general in nature. It should also be balanced in the sense that the principles should reflect the interests of mankind as a whole in the matter of exploring and using the sea-bed and the ocean floor for peaceful purposes, and should guarantee the legitimate rights of all States, developed and developing alike. The concept of a "common heritage of mankind" obviously did not satisfy those requirements. As interpreted in the Committee by its champions, it could not serve as a basis for the legal status of the sea-bed and ocean floor beyond the limits of national jurisdiction. Of the various interpretations of the concept, there was one which viewed the area of the sea-bed and the ocean floor as the common property of all States. Such a concept appeared dangerous to his delegation, because it would enable various "inheritors" to lay claim to a part of that area and invite the risk of national appropriation or the extension of State sovereignty to various regions of the sea-bed - actions which would conflict with the point of view expressed by all members of the Committee. As many delegations had observed, the concept also raised various difficulties of a political nature and would consequently be unacceptable to many States. It would therefore be preferable for the Committee to concentrate on the principles on which general agreement could be reached and in fact already had been reached in the Legal Sub-Committee. In the opinion of his delegation, those principles could be set forth as follows:



(Mr. Kulazhenkov, USSR)

(1) There was an area of the sea-bed and the ocean floor beyond the limits of national jurisdiction of coastal States.

(2) The precise limit of that area would be fixed on the basis of principles of international law. No coastal State which had already undertaken activities relating to the exploration and exploitation of the natural resources of the sea-bed prior to the determination of that limit could oppose that limit, even if it took the view that the exploitation had occurred on the continental shelf.

(3) The area in question was at the disposal of all States, land-locked and coastal alike, on the basis of equality and respect for international law.

(4) The area as such could not be subjected to national appropriation, nor could any State claim to exercise its sovereignty or its sovereign rights over any part of the area. No one could acquire proprietary rights to any part of the area by utilizing it, by occupying it, or by any other means.

(5) The sea-bed and the ocean floor should be used exclusively for peaceful purposes. Any activity or use for military purposes was prohibited.

(6) The activities of States in the area should be undertaken in accordance with international law and the principles of the Charter of the United Nations and in accordance with the principles of the Declaration, in the interests of the maintenance of international peace and security and the development of co-operation and mutual understanding among States.

(7) Each State was internationally responsible for its national activities in the area, whether they were conducted by public bodies, juridical persons, or physical persons.

(8) Juridical or physical persons should not undertake activities except with the authorization and under the permanent supervision of the State concerned.

(9) The exploration and exploitation of the area should be undertaken for the benefit and in the interests of mankind as a whole, irrespective of the geographical location of States, taking into account the special needs of the developing countries.

(10) Exploitation of the mineral resources of the area should be conducted in such a way as to promote the development of the world economy and international trade.

(Mr. Kulazhenkov, USSR)

(11) When undertaking exploration or exploitation activities in the area, States should take appropriate action to prevent pollution, particularly radio-active pollution of the marine environment, and to avoid interfering with existing biological, chemical and physical relationships and processes, as well as with the flora and fauna of the marine environment.

(12) In conducting their activities, States should take account of the legitimate rights of other States in the area.

(13) The activities of States in utilizing the area should not encroach on the recognized freedoms of the high seas and should not constitute an obstacle to navigation, fishing, the laying and maintenance of underwater cables and pipelines, the conservation of the biological resources of the sea, or scientific research.

(14) States should publish relevant information in good time when equipment, devices or material were emplaced in the area; they should also take steps to give permanent warning of the presence of such objects. Scientific research could be undertaken freely in the area and States should co-operate at the international level by participating in international scientific research programmes, by conducting joint research projects, and so on.

(15) Efforts should be made to settle any dispute which might arise between States in connexion with activities undertaken by them in the area by having recourse either to the procedure provided for in the agreement or to the means set forth in Article 33 of the United Nations Charter.

(16) In so far as it would appear practicable, a régime would be established governing the activity of States in the exploration and exploitation of the mineral resources of the area, such régime to reflect the principles of the declaration.

In enumerating those principles, his delegation was not submitting a formal draft declaration but merely recapitulating the points on which general agreement could be reached. The formulation of the legal principles should be of a general nature, and the only acceptable principles would be those on which general agreement was reached in the Committee. An attempt to force through principles which reflected only the interests of certain groups of States would simply make it more difficult to solve the problem, whereas a declaration of fundamental legal

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principles of a general nature would provide a practical means of regulating State activity in the area of the sea-bed beyond the limits of national jurisdiction.

His delegation also felt that the work of the Economic and Technical Sub-Committee was very important and intended to review that work in the course of the Sub-Committee's discussions.

Mr. VINCI (Italy), after expressing his satisfaction with the decision to maintain the geographical distribution of responsibilities among the officers of the Committee and its subsidiary bodies, recalled that the Committee had had to overcome a number of obstacles and difficulties in order to make progress towards the elaboration of a set of principles governing the exploration and exploitation of the resources of the sea-bed and ocean floor and the sub-soil thereof beyond the limits of national jurisdiction.

That task had lost none of its urgency; quite the contrary. It was a fact that the exploitation of the resources of the sea-bed beyond the limits of national jurisdiction having been until recently only a distant prospect, the members of the Committee had not felt themselves urged to narrow the differences on the definition of a set of principles acceptable to all. Nevertheless, it was important to realize that, unless a decision was taken soon, it would become increasingly difficult to reach a consensus because the development of the technology of the exploration and exploitation of deep-sea resources could give increasing weight to the "profit" factor and intensify the pressure of economic interests. The Committee should therefore hasten its efforts to reach a solution, and should show a sense of realism; in other words, it should try to solve the problems involved in a spirit of compromise and conciliation which were essential for the attainment of any rational consensus.

His delegation believed that the proposal to reserve the resources of the sea-bed for the benefit of mankind as a whole fully reflected the ideal of international social justice. It doubted, however, whether that aim could be achieved by translating such an abstract principle into a formulation whose legal significance would be questionable and which had in fact already been questioned. Therefore, while it agreed that the "common heritage" concept should be included in the preamble of the document which the Committee was to prepare, his delegation felt that the interests of all countries would be better served if the set of

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principles that the Committee was intending to submit to the next General Assembly had clear and indisputable contents on which the definition of the rights and duties of all participants might subsequently be based. That was the only way of ensuring that the set of principles could become the corner-stone of the régime whose definition was the final goal of the Committee's work.

In his delegation's view, the elaboration of a set of agreed principles was the main task to be entrusted to the Legal Sub-Committee for immediate consideration. The discussion of the other issues mentioned in the terms of reference embodied in General Assembly resolution 2574 (XXIV), however important they might be, either presupposed the completion of preliminary studies - as was the case with the projected conference on the law of the sea and the question of "machinery" - or came essentially within the competence of other United Nations bodies - as was the case, for example, with the draft Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and in the Subsoil Thereof. If the Committee's work was successful, it would make an important contribution to the celebration of the twenty-fifth anniversary of the United Nations.

The views of his Government on the "principles" and on the "régime" were already well known. The results achieved during the previous year were encouraging and the synthesis contained in paragraphs 84 to 97 of the report of the Legal Sub-Committee already outlined a number of "common denominators" on basic issues. Moreover, the eight propositions on the future régime submitted to the First Committee by the United Kingdom representative, whose position was very close to that taken by the Italian delegation, constituted a good point of departure. He welcomed the support they had received from the delegations of Belgium and the United Arab Republic and hoped that they would be supported during the debate by other delegations. At the same time, there were two specific points which were still not clearly defined: the first related to the delimitation of the area and the second to the machinery.

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His delegation had always regretted that the competence of the Committee to study the first of those two questions had been contested. If the question of the delimitation of the area was settled, many obstacles to the acceptance of a body of rules would be overcome. It was understandable that many Governments, including the Italian Government, were reluctant to commit themselves to agree on principles which might in the end infringe what they considered as their established rights. A corollary of that problem was whether the proposed principles would apply only to resources or to the sea-bed itself as well. While his delegation understood the position of delegations which were opposed to any attempt by the Committee to suggest a limit for the area, a compromise proposed could be agreed upon consisting in the acceptance of a "working hypothesis" on delimitation as a basis for the definition of the principles. The final decision would, of course, be left either to the proposed conference on the law of the sea or to another ad hoc conference, but at least the discussions in the Legal Sub-Committee could be started again on a better basis. The Brazilian representative had implied that States should feel free to exploit their own continental slopes and rises. In his delegation's view, the limit set by the continental rise, which constituted an indisputable geomorphological criterion, could usefully be taken as a "working hypothesis" for the delimitation of the area during the discussion of principles. It might be very difficult for all States to agree to take part in a conference whose mandate - as was clear from resolution 2574 A (XXIV) - was to cover all the complex problems relating to the régimes of the high sea, the continental shelf, the territorial sea and the contiguous zone, together with fishing and the conservation of the living resources of the high seas. Such a conference would in any case require long and exhaustive preparation. The situation would have been completely different if the General Assembly had endorsed the original proposal submitted by the representative of Malta, who had called for a conference for the revision of the Convention on the Continental Shelf, a proposal to which the Italian delegation had given its full support.

A close interrelationship also existed between the problem of principles and the problem of the machinery, and the decisions on both questions should be taken at

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the same time. As far as the machinery was concerned, his delegation strongly favoured a flexible approach at the present stage, pending completion of the new study requested of the Secretariat. It felt that the proposed machinery should be based on an international agreement to which the great majority of States would wish to be parties, and that the machinery should not be directly responsible for the exploitation of the resources of the sea-bed but should merely set up an administrative framework for issuing exploitation rights to Governments and defining the criteria for licensing such rights. For greater efficiency and economy, the administrative structure of the machinery should be simple and the royalty rates to be imposed should be such as not to discourage those who might in the future wish to exploit sea-bed resources. It would also be advisable to take account of the experience gained by the coastal States in granting licences to private corporations for the exploitation of their continental shelves. An excellent comparative study of relevant legislation was contained in document A/AC.138/21.

While public opinion was attracted by the prospect of exploiting the almost inexhaustible riches to be found on the sea-bed, there was still a long way to go before the exploitation of those riches would be technically and economically feasible. For the time being, exploitation was still limited to a part of the continental shelf, and almost exclusively to the extraction of hydro-carbons. Every further step forward required gigantic efforts and enormous financial investments. Generally speaking, the basic exploration was the responsibility of the Governments and the results of such exploration were available to all and everyone. For example, the Italian National Council for Research was currently implementing an extensive programme of oceanographic studies in the Mediterranean, and would be glad to share its results with all interested States. On the other hand, applied research and the invention of the technology necessary for exploitation were undertaken by private enterprises. The Committee should therefore not only speed up its work but also refrain from taking any decision that might discourage private corporations whose investments were badly needed to start the exploitation of the resources of the sea-bed for the benefit of mankind.

Mr. VARGAS (Chile) said that his delegation was approaching the current session with some optimism in view of the considerable progress already made since the General Assembly in resolution 2340 (XXII) had established the first Ad Hoc Committee. The first report of the present Committee (A/7622 and Add.1), which his delegation regarded as very important, showed quite clearly the extent of current knowledge - which was still incomplete - about the sea-bed and the ocean floor, their resources and the possibilities of exploiting them. With regard to the legal aspects of the question, some elements which should help in elaborating the relevant legal principles had already been defined, and the points of agreement and disagreement had been established. The ground had therefore been prepared for Governments to adopt the political decisions which would make it possible to exploit that new area for the benefit of mankind as a whole, particularly the less developed countries, as the international community had decided.

In his delegation's view, the time had come to make the utmost efforts and display the maximum political goodwill with a view to attaining the Committee's basic objective: the establishment of an international régime for the utilization of the sea-bed and ocean floor beyond the limits of national jurisdiction. Chile, for its part, was resolved to collaborate fully with a view to the attainment of that objective.

With regard to the legal régime for the area in question, the Legal Sub-Committee's task during the current session should be essentially of a practical nature. In accordance with General Assembly resolution 2574 B (XXIV), the Sub-Committee was to expedite its work of preparing a comprehensive and balanced statement of the relevant principles. That was an urgent task; and there was now sufficient material, both in the Committee's report to the General Assembly at its last session (A/7622 and Add.1) and in the General Assembly resolutions and the discussions preceding their adoption, for completing the task. One factor pointing the way towards possible agreement was that the General Assembly had decided that the statement of principles should be comprehensive and balanced; it had stated that the so-called problem of limits should be dealt with by an international conference on all questions relating to the sea, similar to the 1958 and 1960 Geneva conferences; it had stated that the establishment of an equitable international régime would facilitate the task of determining the limits

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of the area to which that régime was to apply; it had reiterated the important observations, implicit in the General Assembly resolutions 2340 (XXII) and 2467 (XXIII), that there existed an area of the sea-bed and ocean floor and the subsoil thereof which lay beyond the limits of national jurisdiction; it had further declared - as a statement of international law at the present time - that States and persons, physical or juridical, were bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction; it had finally declared, as a corollary, that all economic activity to exploit the area should "be carried out under an international régime, including appropriate international machinery". The Legal Sub-Committee, in defining its task more precisely, should be guided not only by those resolutions but also by the Committee's report to the General Assembly and the discussions in the First Committee. The latter had been particularly important in that they had shown that many delegations accepted the view that the area of the sea-bed and ocean floor were the "common heritage of mankind". It was on that basis that the Legal Sub-Committee should resume the elaboration of principles. Most of the principles had already been stated; and the Sub-Committee's task was merely to express in acceptable legal terms the political will which the international community rightly expected the Committee to show.

The essential problem, as his delegation saw it, was to determine which countries would benefit from the enormous resources of the sea-bed and ocean floor and how they would benefit thereby. The point to be established, therefore, was whether the resources situated beyond the limits of national jurisdiction were to be made available to all countries - with all countries participating in their administration and exploitation - or whether the resources of that area would be subject to the legal régime of the high seas which was applied to fishing - in other words, freedom of exploration and exploitation. The latter view might be advanced by those States which, on account of their economic and technical superiority, were in a better position to exploit the resources in question; but his delegation, like many others, advocated a régime based on the concept that the sea-bed and ocean floor beyond the limits of national jurisdiction were the common heritage of mankind. In other words, there could be no question of



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their being the property of any particular State, and their exploitation should be governed by the interests of the international community, especially the interests of the developing countries, whether coastal or land-locked. That was tantamount to saying that the legal régime of the high seas, which was based on the freedom of exploitation, could not be applied to the sea-bed and ocean floor.

The Economic and Technical Sub-Committee, for its part, would have to consider the economic requirements which the legal régime would have to satisfy in accordance with operative paragraph 2 (a) of General Assembly resolution 2467 A (XXIII). In doing so, it could make use of such existing material as the Committee's report, the Secretary-General's study on international machinery and the discussions in the First Committee, particularly the propositions submitted by the United Kingdom delegation. In his delegation's view, that material should be supplemented by a study undertaken by the Secretary-General on the procedures for enabling all States to benefit from future exploitation activity, as the Brazilian delegation had proposed.

It had been suggested that the main Committee should consider the question of the legal régime for the exploration and exploitation of resources, in the light of the propositions submitted by the United Kingdom delegation. Many of those proposals seemed acceptable to his delegation, which felt that they should be analysed and considered by the main Committee on the basis of the work done by the Economic and Legal Sub-Committees. He nevertheless had certain reservations with regard to the sixth proposition, to the effect that the agreement should define the area in which the régime was to apply. His delegation had no objection to a definition of the sea-bed and ocean floor beyond the limits of national jurisdiction provided that the criterion adopted for that purpose was not too rigid and that the economic and geographical characteristics - especially the latter - of coastal States were taken into account. It nevertheless felt that the Committee should endeavour first to define the legal régime; and for that purpose it was not absolutely necessary to define the area in which the régime was to apply. For example, in the case of conventions relating to the high seas, fishing and outer space, it had been possible to establish a legal régime without determining beforehand the boundaries within which such a régime would apply. It

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should also be remembered that the General Assembly had decided that the Committee should concentrate its efforts on the elaboration of a legal régime.

His delegation had no doubt that the Committee would succeed in its task of elaborating the legal principles, and felt sure that the Committee's work would enable the General Assembly to adopt, at its twenty-fifth session, a resolution which would testify to the progress made. His delegation would make every effort to help in achieving that result.

The meeting rose at 4.40 p.m.

SUMMARY RECORD OF THE TWENTY-THIRD MEETING

Held on Friday, 6 March 1970 at 11 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

GENERAL DEBATE (continued)

Mr. GALINDO POHL (El Salvador) said that the stage of study and evaluation was past and that the time had come for the Committee to take decisions. Technological progress and pressure from enterprises which wanted to exploit sea-bed resources were influencing certain Governments, and the international community must at all costs prevent the creation of vested interests which would impede the establishment of a suitable international régime. A renewed effort should be made to resolve the remaining differences through negotiation.

The eight propositions of the United Kingdom delegation (A/C 1/PV.1676, pp. 57-62) were in certain cases too broad and left some important questions open. The wording of the first proposition was vague, it was not enough to say that the régime should be established by means of "an international agreement", since there were many kinds of international agreement. In addition, it should be specified that agreements should not be concluded separately, since the régime had to form a single whole. The United Kingdom delegation had expressed the view that, if the régime was to be effective, it would have to be approved by all States. In the view of the delegation of El Salvador, it would be preferable to state that the régime of exploration and exploitation should be part of the general régime of the sea-bed and ocean floor and that the latter régime should be expressed as a unity, in the form of a treaty.

Complications and conflicts would arise if the concept of the area of the sea-bed and ocean floor were separated from the concept of the area's resources. It would therefore be preferable for the second proposition to state that the régime should apply to the international area of the sea-bed and ocean floor and the subsoil thereof and, consequently, to the exploration and exploitation of the natural resources of the area. The use of the phrase "international area of the sea-bed and ocean floor" would show that the region concerned was the one which lay beyond the limits of national jurisdiction.

With reference to the third United Kingdom proposition, it should be remembered that the granting of licences was not the only method of authorizing exploration and exploitation. Other methods would no doubt be suggested in the studies to be made on the international machinery which would ensure that the sea-bed and ocean floor were used for the benefit of all peoples. Provision should also be made for the possibility of licences being granted not only to

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States but also to groups of States and to international organizations. However, the international authority should not deal directly with private enterprises; it would be the responsibility of States to make arrangements with such enterprises. The third proposition should therefore be re-drafted as follows:

"The régime could, in addition to other methods of authorizing exploration and exploitation, provide for the granting of licences exclusively to States, groups of States and international organizations."

His delegation could accept the fourth United Kingdom proposition, if the words "some form of" before the words "international body", were deleted. In its view, the machinery was an integral and essential part of the régime.

The fifth proposition should be clarified, in order to ensure that the international community obtained a fair share of the proceeds from the exploration and exploitation of the sea-bed resources. It could be re-worded to state that the régime should provide for the payment of fees, taxes, and royalties and for participation in the profits from the exploration and exploitation of sea-bed resources, in reasonable proportion to the nature, scope, international value, investment and risks of the exploration and exploitation.

The sixth proposition, on the need to define the area in which the régime was to apply, had to be viewed in the light of certain facts. There was as yet no generally accepted norm of international law which defined the limits of the continental shelf under national sovereignty and the area of the sea-bed and ocean floor which would be subject to an international régime. The Geneva Convention on the Continental Shelf had been ratified by only a small number of countries and contained rules whereby the limits of the continental shelf under national jurisdiction could be advanced as the technical possibilities of exploiting its resources increased. However, the United Kingdom proposition concerned not the régime of the sea-bed and ocean floor in general but one aspect of it - the régime of exploration and exploitation; and the scope of that régime should be defined in the form of a positive statement to the effect that the régime applied to the international area of the sea-bed and ocean floor and the subsoil thereof. That approach did not mean that the other definitions or tasks to be tackled by the Committee should be abandoned or postponed. The régime of exploration and exploitation was only one element in the over-all structure and had no value on its own but only as part of the larger whole.

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While the seventh United Kingdom proposition was quite true, the converse was equally true: the legal status of the superjacent waters of the high seas or of the air space above those waters should not affect the régime of the sea-bed and ocean floor. The proposition should therefore state that the régime of exploration and exploitation of the sea-bed and ocean floor and the régimes of the superjacent waters of the high seas or of the air space above those waters should be harmonized and co-ordinated.

The same remark could also be made about the eighth proposition: the régime of exploration and exploitation should not be affected by other uses of the sea-bed or of the high seas. Care should be taken to ensure that all activities were mutually compatible and all relevant rules were consonant with each other. The men who would engage in exploration and exploitation activities had to be protected and a minimum requirement concerning safety, coverage of risks and other normal guarantees should be included, based where appropriate on the recommendations of the International Labour Organisation. It should also be made quite clear that the holder of a licence or of any other permit for exploration and exploitation assumed responsibility for compliance with the relevant rules and for any damage which might unintentionally be caused during the performance of legitimate activities. In addition, licences and exploration and exploitation permits in general should not be irrevocable; failure to meet certain requirements should cause them to lapse.

The general régime, on which the régime of exploration and exploitation would be based, should be adapted to the different geological, geographical, oceanic and human circumstances which existed. That requirement - and also the requirement of equitability - would perhaps be met by establishing different sets of rules. In any case, it was important to keep an open mind on that subject.

Since the international community as such was not an international legal person, it would be necessary either to create an international legal person in whom the rights relating to the exploitation and exploration of sea-bed resources would be vested, or to authorize the United Nations to represent the international community in that regard. Of course, the fact that the rights were vested in a legal person did not mean that the legal person would exercise the rights directly. It would not be appropriate for the United Nations to exercise any

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right directly but it would seem normal for the Organization to be entrusted with supreme authority in the matter of the establishment and possible modification of the international régime to govern the sea-bed and ocean floor.

Mr. TARABANOV (Bulgaria) recalled that General Assembly resolution 2574 B (XXIV) reflected the importance attached to the formulation of general principles on the subject under consideration, and set the twenty-fifth session of the General Assembly as the dead-line for the submission of a draft declaration. It also indicated that the synthesis at the end of the report of the Legal Sub-Committee should be taken as the starting-point for work on the principles. The adoption of a declaration of principles would be a landmark in the process of the establishment of an international régime for the area concerned. There had been many cases in the history of the United Nations where a declaration of the General Assembly had stimulated the adoption of important international treaties.

The international régime for the exploration and exploitation of the sea-bed and ocean floor could be established by means of one or more international agreements. The agreements would fix the mutual rights and obligations of contracting parties in the matter of international co-operation in the exploration and exploitation of the sea-bed.

The report of the Legal Sub-Committee (A/7622, Part Two) showed that broad areas of agreement existed on a number of important issues, which could serve as a basis for the international régime. It was true, however, that some concepts did give rise to difficulties. He was thinking, in particular, of the questions relating to the determination of the limits of national jurisdiction, and the definition of the sea-bed beyond those limits as the "common heritage of mankind". Two main arguments had been advanced in order to demonstrate the need for accepting the "common heritage" concept. First, it had been stated that acceptance of the concept would prevent appropriation of the sea-bed by States possessing the technical means to exploit the resources of the sea-bed, including the area beyond the limits of the continental shelf. Secondly, it had been argued that acceptance of the concept was necessary in order to create the essential conditions for distributing the proceeds resulting from exploitation. In fact, in order to prevent the seizure of parts of the sea-bed by certain States, it might be sufficient merely to prohibit national appropriation of the area, without resorting to a concept which, from the legal point of view, was vague and undefined. In that way, the interests of the developing countries, and of other

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countries requiring economic and technical assistance, could be protected. What mattered was not so much the general "common heritage" concept as the framework, content and legal nature of the international régime. An a priori definition should not be permitted to become an insurmountable obstacle to the elaboration of the general principles.

At the same time, he wished to stress that an "all or nothing" approach was completely unacceptable. Efforts should be made to arrive at a situation in which the maximum possible number of States were in agreement on the maximum number of general principles. Only then could the régime which the Committee was endeavouring to establish be effective and worth while.

The most pressing need at the present time was to transform the synthesis contained in the report of the Legal Sub-Committee (A/7622, Part Two, paras. 82-98) into a set of basic principles combined in a generally accepted draft declaration, which would give the principles a new status. At the same time, attempts should be made to broaden the general area of agreement. In his view, the Committee should focus its attention on the principles contained in the synthesis, as such a course was the one most likely to yield tangible results. In that connexion, the suggestions made by the USSR representative at the previous meeting merited particular consideration.

The Bulgarian delegation had always endorsed the idea of the complete demilitarization of the sea-bed and ocean floor. Accordingly, it had fully supported the draft Treaty submitted by the United States and the Union of Soviet Socialist Republics at the last series of meetings, and it hoped that the negotiations in the Conference of the Committee on Disarmament at Geneva would be successful.

The question of the institutional aspects of the international machinery would not be successfully resolved until the fundamental problems concerning the legal nature, scope and content of the régime of exploration and exploitation had been clarified. Consequently, the characteristics and status of the international machinery could best be determined after the international legal régime had actually been defined.



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With a view to formulating recommendations regarding the economic and technical conditions for the exploitation of the resources of the sea-bed, the Economic and Technical Sub-Committee would of course be considering the report on government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21). For the moment, he wished merely to state in that connexion that it would have been preferable not to extrapolate on the experience acquired by a few countries, since conditions existing in different parts of the world differed so much that comparisons were impossible.

In conclusion, he would reiterate that priority should now be given to the formulation of general principles. The task should be undertaken in an atmosphere of mutual understanding and general agreement, so that the principles could serve as a basis for subsequent work on the elaboration of an international régime.

Mr. ENGO (Cameroon) said his delegation had hoped that it would be possible for the Committee in the first week of its current session to make significant, if modest, progress towards resolving at least some difficult and complex matters. It seemed, however, that the work of the Technical Sub-Committee, and particularly that of the Legal Sub-Committee, would continue to be hampered by grave political problems if the latter were not settled in the appropriate forum. So far, the Committee had heard statements which revealed nothing new; and he hoped that the Chairman, perhaps through informal consultations, would attempt to ascertain the existence of some measure of agreement which could be taken as a basis for further action by the Committee.

The establishment of an international régime was vital, since the régime would contain all the rules and principles governing activities in the area under discussion, upon which the future survival of mankind might well depend. However, he was unable to agree that the working paper submitted by the United Kingdom should form the basis of the Committee's discussions. The paper was not sufficiently comprehensive, and was little more than a statement of views which were already known. To that extent, it was of course useful, but other delegations should take the same initiative and produce papers which could be used for a comparative study, which would make it easier to discover the areas of broadest agreement. His delegation was now working in conjunction with other delegations

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holding similar views, and it hoped to produce a written statement on the question of the international régime and its principles. He did not agree with those who maintained that the discussion should be confined only to legal principles. In fact, the Committee was dealing with a completely new field. It was even difficult for all members to agree that general principles of international law were applicable to the area of the sea-bed and ocean floor. The political decisions still to be taken would lead to new principles, some of which might be purely legal, while others might have a unique politico-legal character.

Valuable time should not be wasted on academic questions and the moment had arrived for stating what the relevant principles were. The question of the sea-bed and the ocean floor represented the greatest challenge of the day. The sea-bed could provide an excellent source of wealth or, alternatively, it could be transformed into an arena of international conflict which could spell the end of man. He strongly appealed for a more objective and realistic approach to outstanding problems, to ensure the survival of mankind and the removal of all threats to peace.

Mr. KHANACHET (Kuwait) said that, although the question of delimitation of the area under discussion was of great importance, a conference on the law of the sea - if one were convened - should have the opportunity to review the law of the sea as a whole. In addition, he fully endorsed the General Assembly's appeal that States and persons, physical or juridical, should refrain from all activities of exploitation of the resources of the area. Such a prohibition was an excellent incentive for the Committee's work, since the exploitation of the resources of the sea-bed should be contingent on the establishment of an international régime, including appropriate international machinery. Moreover, the prohibition would prevent the establishment of new monopolies for the exploitation of sea-bed resources and also protect the interests of those countries which did not have the means to undertake such activities.

The time had come for the Committee to reach a consensus on the fundamental legal principles, particularly the principle that the area was the common heritage of mankind. He considered that, in discussing the applicability of international law, it was necessary to treat the sea-bed separately from the superjacent waters, since the principles and rules of existing international law

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did not apply to the area of the sea-bed lying beyond national jurisdiction. The main task, in fact, was to elaborate the legal rules which were to apply to the area once it was defined. He did not share the view that the international régime should be qualified as "agreed", since that term was devoid of precise legal meaning. His delegation's conception of the régime was that, once it was established, it would have an objective international legal status. Furthermore, the establishment of the régime would also have political implications. The acceptance of the concept of the common heritage of mankind would prevent a new race to colonize the area and exploit it to the benefit of the technically advanced countries at the expense of the developing countries. Every effort should be made to use the new resources to close the widening gap between the wealthier and the poorer nations.

While he agreed that the question of delimitation was still doctrinally and politically open, he felt that it would be premature at the present stage to consider in detail a matter which would have to be dealt with by the projected conference on the law of the sea. On the other hand, the eight propositions formulated by the United Kingdom representative in the First Committee (A/C.1/PV.1676, pp. 57-62) - though they were neither comprehensive nor exhaustive - deserved special attention. The fifth, sixth, seventh and eighth propositions were sufficiently broad to accommodate all viewpoints, and followed closely some of the general principles on which there had been a large measure of agreement.

With regard to the first four United Kingdom propositions, he said that his delegation agreed that the régime should be established by an international agreement. Should several agreements prove necessary, they should be treated as an integral whole containing a body of legal rules which in their entirety would constitute a new universally-accepted legal order. The agreement or agreements bringing them into being should be of a solemn law-making character and have wider application than the Geneva Conventions on the Law of the Sea. The concept of the common heritage of mankind should give the contemplated agreement or agreements some special sanctity that would distinguish them from normal contractual agreements. The Charter of the United Nations provided an example of an international agreement which created an objective universal order binding on all States, and Article 103 thereof provided an indication of the type of

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treaty suited to a new universal order for the sea-bed which would give concrete form to the concept of the common heritage of mankind. The proposed régime could not be confined to Member States of the United Nations and specialized agencies, since the exclusion of non-member States would conflict with the concept of the common heritage of mankind.

As to the second United Kingdom proposition, his delegation maintained the view that the régime should be applied to the area as a whole rather than merely to the exploration and exploitation of the natural resources of the sea-bed.

Kuwait objected to the third United Kingdom proposition because it meant that licences would be issued only to Member States which would then be responsible for issuing licences to operators under their own legislation. Licences should be issued by the international machinery to be set up and that machinery should be an autonomous universal organization possessing full international legal personality within the United Nations system. It should have jurisdiction over the sea-bed and ocean floor beyond the limits of national jurisdiction and, since it would be endowed with both regulatory and operational functions, it should be perfectly free to issue licences to competent organs in the private or public sector or to any joint venture of the two which satisfied the standards and criteria established by the international agreement for undertaking operational activities. As to sub-paragraph (f) of the proposition, a distinction should be made between scientific exploration and exploration conducted with a view to commercial exploitation.

As to the fourth proposition, Kuwait had always advocated the widest range of functions for the international machinery which should regulate exploitation of the sea-bed resources with a view to preventing fluctuation of prices of raw materials in the world market. As had been suggested, discussion of the details of the structure and functions of the machinery should be postponed until the Secretary-General's further study on the matter was available.

Kuwait shared Ceylon's misgivings about the common denominator approach. It had always viewed the international legal régime and the international machinery as two integrated aspects of one broad system which would translate into reality the over-all objective embodied in the concept of the common heritage of mankind.

(Mr. Khanachet, Kuwait)

It would therefore view with scepticism any action designed to curtail the Committee's broad objectives; such action might lead to the fragmentation of its work and undermine the international order it was striving to create. His delegation would collaborate in efforts to adopt a set of principles covering the following points: that the sea-bed and ocean floor should be reserved exclusively for peaceful purposes; that no State could claim sovereign rights over the sea-bed and ocean floor in the area beyond the limits of national jurisdiction, that the area not subject to national jurisdiction should be exploited for the benefit of mankind as a whole, taking into account the special needs of the developing countries, whether coastal or land-locked; that the exploration and exploitation of the resources of the area should not contravene the legal status of the superjacent high seas or of the airspace above those seas and should not impair freedom of navigation, fishing or the conservation of biological resources; that exploration activities should not prejudice the rights of coastal States in the area under their jurisdiction and must be carried out with the prior consent and active participation of the coastal States; and, that exploration and exploitation activities should avoid pollution of the sea and any other hazards which might affect the biological resources of the sea and the coastal regions.

Miss MARTIN-SANE (France) said that while endorsing the suggestion made by the Belgian representative at the seventeenth meeting (A/AC.138/SR.17), her delegation wished to suggest that the Committee should first establish the broad outlines of an international régime for the exploration and exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction and, secondly, determine the nature and functions of any international machinery established to apply the régime established by international agreement.

The international régime to be established should contain general rules delimiting the areas of exploration and exploitation, the duration of the activities envisaged and the technical and legal conditions of those activities, and rules to ensure that exploration and exploitation were not incompatible with positive international law. It should also determine the dues payable, establish guarantees to protect commodity prices, and define the nature and functions of the machinery which would apply the provisions of the international agreement.

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(Miss Martin-Sane, France)

In considering the types of exploration and exploitation, a distinction should be made between two types of activity: first, the exploration and exploitation of mineral substances by operations requiring the use of fixed equipment; and, secondly, the exploration and exploitation of mineral substances by means of mobile equipment. In the case of the second type of activity, it seemed that all that would be required was the registration of requests by States sponsoring the activities, and the payment of dues. The exploration and exploitation would be subject to the provisions of international law, and it did not seem that there was any need for special rules and regulations. Obviously, as soon as technological developments resulted in the mobile equipment being transformed into fixed equipment, the rules applicable to the first category of activity would come into force.

Turning to the first category of activity, she said that as soon as the question of installing fixed equipment arose, it would be necessary to assign exclusive rights in a specified area for a specified period - rights which would lapse in the case of non-exploitation. She would henceforth refer to that type of activity as an exclusive activity. The international convention establishing the régime should first specify who was entitled to exercise an exclusive activity. From the point of view of the United Nations, it seemed that only States, or States grouped in ad hoc or regional organizations, could submit applications on behalf of natural or juridical persons. It could be agreed, however, that applications submitted by a Government might relate to activities not necessarily undertaken by its own nationals. The convention should also provide that the responsible Government would apply its domestic law to the undertaking, or undertakings, working within the specified area - on the understanding, of course, that the general conditions laid down in the convention were complied with. A Government's application to engage in exclusive activities should contain proof of the technical and financial capacity of the undertakings, listed by name, which would be responsible for the exploitation. In conditions to be determined, exclusive activities would be concerned with a substance or related substances requiring similar extraction procedures in a given area, for a specific period of time, it being understood that the right would lapse in the case of non-exploitation.

(Miss Martin-Sane, France)

The convention should therefore contain rules concerning the delimitation of areas and their extent and should also provide for the establishment of rules and regulations designed to preserve the freedom of the seas and the marine environment. There would also have to be some special conditions and restrictions relating to the positioning and marking of workings, access to the sites in question, by sea or air transport, etc. All those questions should be studied very carefully and adequate provisions should be included in the rules and regulations which could form an annex to the international convention. The rules and regulations should also contain provisions relating to the protection of the freedom of the high seas and the air space above those seas, the conservation of the resources of the sea and the environment, the prevention of pollution, the protection of equipment, the protection of workers, a relief and rescue régime and a liability régime. They should also establish a maximum period for the pursuit of exclusive activities. The period of validity would vary according to the substance involved, the extent of the area to be exploited and its distance from the shore. It would also be necessary to establish a time-limit after which the exclusive activity would be regarded as having lapsed. In that way the danger of "freezing" would be avoided. It was essential to devise very strict rules to prevent the freezing of entire areas by States which declared themselves ready to engage in exclusive activities, but whose undertakings did not in fact engage in them. Agreements should also be reached on trade and prices so as to take account of the economic effects of exploitation; and the necessary steps should be taken to reduce fluctuations in commodity prices on the world market. Existing international conventions covering those and related problems should also be taken into account. Whenever possible existing conventions should be supplemented or adapted in order to avoid overlapping in - or even contradictions between - a number of different instruments of international law.

Mr. TEJA (India) said that he wished to discuss possible ways of widening the existing area of agreement. The Committee's mandate for the year was laid down in General Assembly resolution 2574 (XXIV), particularly parts B and C thereof. India had already, in the General Assembly and at previous meetings of the Committee, expressed its views on the formulation of the declaration

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(Mr. Teja, India)

of principles and the establishment of international machinery. It had also expressed its opinion on the type of régime that should be established for the area beyond national jurisdiction. The Sub-Committees had already considered some of the questions allotted to them, and it was now up to the main Committee to give them further directions concerning their immediate tasks and the manner in which they could expedite the work before them.

The Legal Sub-Committee should base its work on the synthesis it had worked out in 1969. It should draft the language of the principles on which general agreement existed and find ways and means of narrowing the differences on concepts on which there was disagreement. India strongly believed that the sea-bed was the common heritage of mankind. Time and again it had emphasized the need for an appropriate régime for the control of the sea-bed and administration of its resources. It had also expressed the conviction that the sea-bed and ocean floor beyond the limits of national jurisdiction must be regarded as the common heritage of mankind, since it would be most unfortunate if the fruits of the rapid advances being made in science and technology were not available to humanity as a whole. It was for that reason that his delegation had insisted that, pending the adoption of the new principles and rules to be developed and the establishment of the international régime, the resources of the sea-bed and ocean floor and the subsoil thereof should not be exploited at all, since the effective participation of the developing countries in such exploitation must be ensured.

Turning to the work of the Economic and Technical Sub-Committee, he stressed the need for freedom of scientific research and exploration. A distinction should be made between scientific research and commercial exploration. It was essential, therefore, that research programmes should be made known in advance and that the results of such programmes should be made available to all concerned. It must be clearly understood that the right to carry out scientific research did not imply the right to exploit. The participation of nationals of different States in common research programmes should be encouraged and the research capabilities of the developing countries strengthened. The sea-bed should be used exclusively for peaceful purposes and only activities consistent with that concept should be permitted. During the current session the Economic and Technical Sub-Committee



(Mr. Teja, India)

should concentrate its efforts on fulfilling the mandate entrusted to it by operative paragraph 6 of General Assembly resolution 2574 B (XXIV). It could defer consideration of the question of international machinery until the further report called for by resolution 2574 B (XXIV) was available.

The meeting rose at 1 p.m.

SUMMARY RECORD OF THE TWENTY-FOURTH MEETING

Held on Friday, 6 March 1970, at 3.25 p.m.

Chairman:

Mr. AMERASINGHE

Ceylon

GENERAL DEBATE (concluded)

Mr. PHILLIPS (United States of America) congratulated the Chairman and officers of the Committee and the Sub-Committees on their election, and commended Mr. Denorme (Belgium) for the very constructive initiative he had taken in proposing on 3 March that the Committee should devote all its efforts during its plenary meetings to defining its aspirations for a régime. Aspirations for a régime should be taken to mean objectives to be achieved in part by a declaration of general legal principles and later, and more comprehensively, by rules, procedures, and international machinery to be established by treaty. It was now generally recognized that the declaration of principles should expressly envisage arrangements to be instituted by treaty and should spell them out in some degree, giving greater attention to the practical objectives to be achieved by legal arrangements; defining those objectives would make it easier for the Committee to extricate itself from the tangle of semantic abstractions into which the debate had fallen. The objectives to be served by an international régime for sea-bed resources had been described in detail in the Economic and Technical Sub-Committee. The United States representative had made a statement on the matter on 15 August 1969. The objectives were also defined in paragraphs 136 to 138 of the Committee's 1969 report. The propositions set forth by the United Kingdom representative in the First Committee on 4 November 1969 were extremely valuable and the United States delegation essentially agreed with them. Some of them, however - the first, third, fourth and sixth points, for instance - were not directly related to objectives to be served by a régime but rather, in a subsidiary manner, to the means of achieving the objectives. For example, with respect to one of the basic objectives of the régime - namely, to assign exploitation rights in an equitable fashion - the issuance of licences was one of the ways in which that might be achieved. Similarly, while it was true that an international organization to carry out many of the basic functions of a régime would be essential, the formation of that organization was not in itself a basic objective.

He proposed that during the current plenary session, the Committee should attempt to reach a consensus on the basic objectives to be achieved by the régime,

(Mr. Phillips. United States)

which would serve as guidelines for the further development of principles and machinery, and perhaps also for transmittal to the General Assembly. To that list of objectives, one might add other recommendations, such as the first, second, sixth and seventh United Kingdom propositions. As a general recommendation, one might also include the proposal made by the representative of Trinidad and Tobago for the accelerated training of ocean scientists and technologists in the developing countries to make it possible for them to participate in sea-bed exploration and exploitation at the earliest possible time. As for the objectives of the régime, he proposed that the Committee should consider the following twelve points: (1) to encourage exploration and exploitation of sea-bed resources - that objective was basic, since there could be no benefits without production; (2) to ensure that all interested States would have access, without discrimination, to the sea-bed for the purpose of exploring and exploiting mineral resources; (3) to encourage scientific research and the dissemination of scientific and technological information related to sea-bed resources; (4) to encourage the development of services, such as aids to navigation, maps and charts, weather information and rescue capability, all of which were necessary to support sea-bed operations; (5) to provide procedures for the assignment of rights to minerals or groups of minerals in specific areas under terms that would protect the integrity of investments in sea-bed resources development, that would encourage economic efficiency in the exploration and exploitation of sea-bed resources, that would prevent a race for claims and that would discourage operators from seeking to hold large areas for purely speculative reasons. It was essential that the régime should make for maximum economic efficiency in the exploration and exploitation of resources, and it was also essential that exploitation should not be delayed by the manoeuvres of speculators; (6) to provide for a reasonable return on risk investment. That objective was basic and, moreover, it was of equal importance to all entrepreneurs, whether international organizations, State enterprises or private enterprises; (7) to provide revenue to benefit international community purposes, taking special account of the needs of the developing countries, and to meet the operating expenses of the international body established to administer its provisions; (8) to ensure that exploration and exploitation of sea-bed mineral resources would

(Mr. Phillips, United States)

be carried out in a manner that would protect human life, prevent conflict between users of the sea-bed, safeguard other uses of the ocean environment against undue interference, avoid irreparable damage to the environment and its resources and promote the use of sound conservation practices. In that connexion, standards would have to be developed and the necessary measures taken to ensure their application; (9) to provide terms and procedures governing liability for damage resulting from exploration and exploitation of sea-bed minerals so that damage would be adequately repaired or compensated. In that regard, prevention was better than cure, but that fact did not obviate the need for providing for compensation procedures for damages; (10) to provide for the stability of rules, and yet for the flexibility to introduce modifications over time responsive to new knowledge and new development; (11) to provide effective procedures for the settlement of disputes; (12) in general, to establish an international régime so plainly viable that States would in fact ratify the treaties establishing it. Unless the régime was acceptable to the vast majority of the nations which would participate in sea-bed resource development, its chance of success was small.

It was clear that all those points should be considered in the context of the whole, and that, no matter what the character of the régime adopted, they would constitute its basic elements. His delegation was convinced that the Committee could reach a consensus on those objectives, but was aware none the less of the volume of work that remained to be done. If agreement was reached on a statement of basic objectives, that would surely facilitate deliberations concerning the legal principles and the kind of machinery necessary to achieve the stated objectives.

In conclusion, the United States delegation explained that it did not consider General Assembly resolution 2574 D (XXIV) to be declaratory of the current state of international law in the field. The declaration of principles on outer space was declaratory of the current state of international law, since a consensus of the international community had been expressed on that declaration. Resolution 2574 D, on the other hand, dealt with an extremely controversial field.

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Mr. de SOTO (Peru) said he was pleased to see the Committee resume its work. He considered that the General Assembly had taken measures at its last session which should facilitate the advancement of the Committee's work. As more than one representative had pointed out, resolution 2574 (XXIV) illustrated the increasing interest the United Nations was showing in the question. The United Nations had a unique opportunity to work effectively for the benefit of mankind, and to contribute to the solution of the problems of the developing countries through the establishment of a new legal régime which would take account of the interests of small States. In that context, he drew attention to the importance of part D of resolution 2574 (XXIV) as the first step in a process which would make the United Nations the trustee of the common heritage of mankind. As the representative of Kuwait had said at the last meeting, the adoption of that resolution would be an incentive to the Committee in its essential task of formulating a comprehensive and balanced statement of principles in 1970 as a basis for the future régime. He hoped that members would soon be able to reach agreement on that point, and that the agreement would take account of all the interests at stake, particularly those of the developing countries.

In regard to the proposal made by the Belgian representative, which was itself based on the propositions submitted to the First Committee by the United Kingdom delegation, he wondered whether transmittal to the General Assembly of a draft such as that contained in the United Kingdom paper might not cause the Committee, in an excess of optimism, to overlook its real task, which was to draft a declaration of principles. If, on the other hand, the Committee set itself realistic objectives, and if the technically advanced countries demonstrated the necessary political will, he believed the Committee could produce substantial results.

Mr. BLAGOJEVIC (Yugoslavia) said that few issues had aroused so much interest in the United Nations as the question at present under consideration, which was extremely complex. However, discussion of the problem should not be prolonged unduly and, because of its very complexity, an effort should be made to solve it as quickly as possible. If the problem was solved in the appropriate manner, the resources of the sea-bed would enable the developing countries to advance more rapidly. The two objectives which the Committee should endeavour

(Mr. Blagojevic, Yugoslavia)

to attain were, first, to establish an international régime for the exploration and exploitation of the resources of the sea-bed and the ocean floor and, secondly, to ensure that the régime took into account the needs of the developing countries. The moratorium imposed on future activities should be replaced by an international régime, in order to prevent a repetition of previous mistakes. The point at issue was no longer whether the problem should be solved at the international level, but rather how it could be solved. As had been stated in a number of reports, especially those by the Secretary-General, the gap between the developing and the developed countries was widening constantly. Since new resources now existed, agreement should be reached immediately on the exploitation of those resources, particularly for the benefit of the developing countries. It was also necessary to know how soon it would be possible to reach an agreement on the matter, in order to avoid any possibility of usurpation or misuse. In spite of the difficulties which remained to be solved, an attempt should be made to adopt a practical solution as early as possible. Subsequently, it would still be possible to perfect and modify the proposed régime. His delegation believed that the declaration envisaged by the Committee should be based on the following principles: that the natural resources of the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction belonged to mankind as a whole and were the common heritage of the international community; that the exploration, use and exploitation of that heritage should be effected in the interests of mankind as a whole, irrespective of the geographical location of each country; that the area of the sea-bed and ocean floor and the subsoil thereof beyond the limits of national jurisdiction could not be appropriated by any State or group of States and was not subject to the jurisdiction of any State or group of States; that the exploration, use and exploitation of the resources of the sea-bed and ocean floor and the subsoil thereof should be undertaken exclusively for peaceful purposes; that exploration and access to exploitation should be open to all on the same terms and without discrimination. His delegation also believed that exploitation of the natural resources of the sea-bed should be conducted in such a way that the activities of one party engaged in exploitation were not prejudicial to those of another party and did not interfere with fishing

(Mr. Blagojevic, Yugoslavia)

or navigation. It also believed that the riches of the sea-bed should be used in the most rational manner possible. The international community, through the organization to be set up for that purpose, would provide the necessary services on the basis of the international régime which would be established, and would ensure that the proceeds were used to further the universal progress of mankind. In formulating principles relating to exploitation and exploration of the sea-bed, all previous concepts should be entirely forgotten, because the area in question was completely new and should be governed by a régime which was new in its conception. Traditional legal concepts should not apply either to the area or to its resources. The representative of Norway, Mr. Hambro, had in fact supported that viewpoint. It was also essential that the new international régime should provide effective protection against marine pollution and destruction and deterioration of the biological resources of the sea. It should also guarantee freedom and safety of navigation and the freedom of scientific research. The co-operation of many international organizations, and of the specialized agencies concerned, could make a valuable contribution to the work of the proposed organization.

Although virtually complete agreement had been reached on the need to set up an international organization to guarantee the application of an international régime, there were still many different views on the functions of such an organization. Efforts should nevertheless be continued in a positive spirit, and the proposed machinery should be given the necessary flexibility. The question of the delimitation of the area was another controversial problem, and the necessary action should be taken as soon as possible to define the area in accordance with precise criteria. The obstacles encountered should not serve as a pretext for delaying the establishment of the proposed international régime, which could begin to function even before the area had been defined precisely. His delegation was also particularly interested in the work of the Conference of the Committee on Disarmament on the prohibition of the installation of nuclear weapons on the sea-bed. It was willing, as in the past, to make every effort to ensure that the work of the Sea-Bed Committee would be successful.

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Mr. RUDA (Argentina) said that, as a result of earlier discussions, the initiatives and solutions which had been submitted, and the resolutions which had been adopted, the Committee at its present session had a more clearly defined framework in which to start its discussions. It was regrettable that it had not so far proved possible to prepare the text of a comprehensive and balanced statement of the principles which would serve to promote international co-operation in the exploration and utilization of the sea-bed. That was due primarily to the fact that some delegations had not been able to accept the principle that the sea-bed was the common heritage of mankind. However, as a result of the discussions at the twenty-fourth session of the Assembly, considerable progress had been made in that area. It was sufficient merely to recall the statement by Mr. Hambro, the Ambassador of Norway, and the declaration made on 23 July 1969 by Mr. Mulley, the Minister of State for Foreign Affairs of the United Kingdom, who had said that his Government accepted the concept of the common heritage of mankind and that the concept had been approved at the Commonwealth Prime Ministers' Conference. The Argentine delegation hoped that changes in the legal and political outlook of other great Powers would make it possible to formulate the statement of principles. The best means of achieving the objectives established in the preamble to General Assembly resolution 2574 A (XXIV) was to prepare an explicit statement to the effect that the sea-bed constituted a common heritage of mankind. That principle was aimed only at promoting international co-operation and solidarity on the basis of the provisions of the Charter.

General Assembly resolution 2574 A (XXIV) also dealt in particular with the question of the limits of the area under consideration. His Government would shortly be submitting a reply to the questions asked by the Secretary-General concerning the desirability of reviewing the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, in the light of the international régime to be established for that area. The same resolution stated that the establishment of an equitable international régime for the area would facilitate the task of delimitation. One of the first things which seemed to be needed, therefore, was a precise outline of the international régime.

(Mr. Ruda, Argentina)

With regard to the exercise of the freedom of scientific research, the international community should at all times be able to verify whether research activities were of a strictly scientific nature. His delegation believed that the Committee should consider the draft convention on ocean data acquisition systems prepared by the Working Group on Legal Questions relating to Scientific Investigation of the Ocean, which had recently met in New York. The Committee should then inform the Inter-Governmental Oceanographic Commission (IOC) of the result of its discussion on the draft.

In resolution 2560 (XXIV), the General Assembly had commended the close working relations that existed between the Committee and IOC, and had also noted with appreciation the comprehensive outline of the scope of the long-term and expanded programme of oceanic exploration and research prepared by IOC. His delegation considered that great care should be exercised in implementing the various elements of that programme, since many delegations believed that it would be dangerous to apply the term "pure scientific research" to exploration aimed at the economic exploitation of the resources of the sea-bed. Considerable caution would therefore be necessary in order to prevent the international community, and the coastal States in particular, from becoming suspicious about the scientific research undertaken.

Resolution 2574 B (XXIV) declared that, pending the establishment of the international régime, States and persons, physical or juridical, were bound to refrain from all activities of exploitation of the resources of the area. That was a provisional measure designed to preserve the sea-bed from any exploitation prejudicial to the common interests of mankind; it was not intended to delay plans for exploitation or the development of the necessary techniques. His delegation felt that the Legal Sub-Committee could usefully consider, whenever it deemed it appropriate, the legal aspects of an expanded, long-term programme of oceanographic exploration and research.

It was to be hoped that the Committee's work would begin to show results in 1970. The time had come to produce basic agreements which would make possible, in the near future, the equitable and efficient exploitation of the resources of the sea-bed.

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Mr. LEGAULT (Canada) noted that very nearly three years had passed since an initiative of the delegation of Malta had added to the agenda of the United Nations a proposal calling for the reservation exclusively for peaceful purposes of the sea-bed and ocean floor beyond the limits of national jurisdiction. That proposal had since been studied in both the Ad Hoc Committee and the standing Committee established for the purpose. It had been extensively debated at three sessions of the General Assembly and had been the subject of exhaustive negotiations in the Eighteen-Nation Committee on Disarmament. The political, legal, economic and military questions raised by the proposal had been searchingly explored and a number of very useful documents had been produced.

His delegation believed that the present Committee had in fact reached a substantial measure of agreement on certain fundamental principles. Unfortunately, however, it had not succeeded in formulating a declaration of principles reflecting the progress made. His delegation believed that a useful task that the Committee might undertake would be to identify and then attempt to overcome the difficulties which had inhibited it from giving expression to the measure of agreement so far reached. The Committee could then recommend to the General Assembly a declaration of legal principles which would be comprehensive enough to serve as the foundation of an international régime for the sea-bed beyond the limits of national jurisdiction without, at the same time, substituting either for the régime itself or for the subsequent international agreement which must give it force and effect. If the Committee was unable to achieve that result, then its deliberations would be overtaken by events and become increasingly unrealistic. It would be invidious to suggest that the major factor inhibiting the Committee's progress was some supposed "split" between various groups of States or between the forces of conservatism and nationalism, on the one hand, and the forces of progress and internationalism, on the other. The delegations assembled in the Committee shared a common dedication to working out an international régime which would encourage, in the interests of humanity, the peaceful and orderly exploitation of the sea-bed and ocean floor beyond the limits of national jurisdiction. At the same time, all States wished to ensure that the régime would be consistent with their national interests, as they saw them. It was not

(Mr. Legault, Canada)

helpful to mask particular national interests; what was necessary was for all delegations carefully and clearly to define their interests and to seek a responsible accommodation of their interests with those of other States. Perhaps one of the factors slowing the Committee's progress was the fact that grave uncertainties still existed concerning the balance of national and international interests relative to the sea-bed both within and beyond national jurisdiction. Too little was known about the resource potential of the oceanic basins. More serious still was the lack of a precise agreed boundary for the area beyond national jurisdiction, which made it difficult for States to determine their position on the régime to be developed for that area. Conversely, the present uncertainty about the nature of the régime which would apply to the area beyond the limits of national jurisdiction also made it difficult for States to decide what their position should be concerning the precise boundary of that area.

Those difficulties made it necessary to adopt a gradual approach which did not insist on the immediate elaboration of a full-blown legal régime. That proposal was not original; it had been made before by Canada and by other delegations.

That did not mean that the Committee must content itself with the lowest common denominator, but at least it should concentrate its efforts on the synthesis of legal principles achieved in the Legal Sub-Committee. It could proceed from that synthesis to the adoption of a statement of fundamental principles which were sufficiently balanced and comprehensive to provide the foundation for an international régime, while at the same time remaining flexible enough to admit of further development in various forms.

His delegation was in general agreement with the proposals made by the representative of the United Kingdom in the First Committee on 4 November 1969. Those proposals should be considered in the plenary Committee with a view to securing a consensus on the nature of the international régime. Those goals might seem too modest to some delegations, but some results were preferable to none at all.

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(Mr. Legault, Canada)

The proposal made by the representative of Italy was consistent with Canada's view of the limits of national jurisdiction. However, the Italian proposal might present some difficulty for some delegations. In view of the dilemma involved in determining the limits of national jurisdiction and establishing the régime which would govern the area beyond, the Committee had little choice. Although it was outside the powers of the Committee to establish the precise limits of national jurisdiction, it was within its powers to elaborate and recommend principles which would form the basis of a régime for the area beyond such limits. Accordingly, the Committee should clarify the uncertainty arising out of the close relationship between the boundary and the régime, so that it could more readily address itself to the elaboration of fundamental legal principles underlying the régime. His delegation had made that suggestion previously in the First Committee, during the twenty-fourth session of the General Assembly, but it was one that could most appropriately be studied in the Legal Sub-Committee, which should consider the possibility of accepting the principle that every ocean basin and sea-bed should have a percentage of its area reserved for the benefit of mankind. It might be that the Committee could not only elaborate legal principles but also establish some useful guidelines for the eventual redefinition of the limits of national jurisdiction by adopting a new approach in which it would proceed landward from the centre of every ocean and sea and reserve out of each some considerable percentage of the underwater acreage for exploitation under a régime dedicated to the interests of humanity as a whole. In terms of providing immediate benefits to the developing and land-locked nations, that approach would be infinitely more effective than any now being considered since it would encompass areas in smaller and shallower seas which were already being exploited but which under other approaches, would not fall within the region beyond national jurisdiction and would continue to be exploited for the exclusive benefit of the coastal nations.

Two important concepts had occupied much of the time of the Legal Sub-Committee at its last session. The first was the concept that the sea-bed beyond national jurisdiction had the same status as the superjacent waters and that the freedoms of the high seas also applied to the sea-bed **below**. There was a theory of

(Mr. Legault, Canada)

so-called "creeping jurisdiction" which held that coastal-State jurisdiction over the resources of the continental shelf had tended to creep upwards and be translated into claims to comprehensive jurisdiction over the superjacent waters. Conversely, with respect to the freedoms of the high seas, there appeared to be some tendency to have those freedoms creep downwards and apply to the subjacent sea-bed beyond the limits of national jurisdiction. Although his delegation was firmly of the view that the sea-bed beyond national jurisdiction did not represent a legal vacuum, and although there was an interplay between activities on the sea-bed and the freedoms which prevailed in the superjacent waters, that did not mean that a traditional concept related largely to activities on the ocean surface could be made applicable to new activities on the bottom. The traditional concept of the freedom of the seas was undergoing a difficult transformation in response to new situations which had created new needs and problems. Its essential features must be preserved but in a form which would provide greater flexibility for the protection of the interests not only of coastal States but of the international community as well.

What was needed for the new régime for the sea-bed beyond national jurisdiction was a new concept, in the same way that a new concept had been required in developing the régime of the continental shelf. One such new concept had been advanced in the Committee, namely, that the sea-bed beyond national jurisdiction represented "the common heritage of mankind". That concept was an attractive one to his delegation, which nevertheless had to admit that as a legal principle it presented certain difficulties, particularly with regard to its possible implications for other areas and other resources. However, his delegation was willing to explore it further with other interested delegations in an attempt to resolve those difficulties. The concept of the common heritage should not be viewed as necessarily and automatically predetermining the nature of the proposed régime for the sea-bed beyond national jurisdiction.

Since the last session of the Committee the Canadian Government had ratified the Geneva Convention on the Continental Shelf. His Government's position was that

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the Convention generally represented accepted principles of customary international law. That had been made clear in the 1967 reference to the Supreme Court of Canada with respect to jurisdiction over the continental shelf off the coast of British Columbia. Domestic considerations had delayed Canada's ratification, but that ratification in no way represented a change in policy on the part of the Canadian Government and was, rather, a formal act confirming earlier policies. His delegation had referred on previous occasions to the ever-increasing pace of exploration activity on Canada's continental shelf. One of the most promising areas was certainly the shelf adjacent to the Canadian Arctic archipelago. The exploitation of Canada's Arctic shelf posed special problems and involved some dangers which the Canadian Government was determined to avoid. The Committee, unfortunately, had not yet been able to give sufficient consideration to the threat of marine pollution, and it was that threat which was of particular concern to his Government in respect of the Canadian Arctic. The Prime Minister, Mr. Trudeau, had stated on 14 October 1969 that Canada regarded itself as responsible to all mankind for the ecological balance existing precariously in the water, ice and land areas of the Arctic archipelago and would do all it could to protect the region from pollution.

Mr. EL HUSSEIN (Sudan) said that, although the Committee had not been able to achieve tangible results regarding the legal principles or the international régime to be applied, the useful deliberations and consultations which had taken place had led to the identification of areas of agreement and common denominators, an excellent survey of which was given in document A/70.7.

It could therefore be hoped that the two Sub-Committees would be able to remove the remaining obstacles to general agreement. The General Assembly, in its resolution 2574 B (XXIV), had extended the Committee's mandate and requested it to expedite its work of preparing a comprehensive and balanced statement of principles and to submit a draft declaration to the General Assembly at its twenty-fifth session. He hoped that the Committee would prove to be worthy of that trust. The statement of general principles should affirm that there existed an area of the sea-bed and ocean floor which lay

(Mr. El Hussein, Sudan)

beyond the limits of national jurisdiction - a concept already adopted by the General Assembly in its resolution 2574 A (XXIV). Secondly, since that area was the common heritage of mankind, no State might exercise or claim sovereignty or sovereign rights over it, by use, occupation or any other means. Resolution 2574 A (XXIV) had recognized that the definition of the continental shelf contained in the Geneva Convention on the Continental Shelf did not define with sufficient precision the limits of the area over which a coastal State exercised sovereign rights for the purpose of exploration and exploitation of natural resources. His delegation hoped that a legal conference on the law of the sea might bridge that gap. It was gratifying that unanimity had been reached on the principle that the resources of the sea-bed should be used for the benefit of all mankind, taking into account the special interests and needs of the developing countries, whether coastal or land-locked. His delegation wished to stress that in any activity involving the exploration or exploitation of the sea-bed, due regard should be had to the legitimate rights of coastal States. A principle dealing specifically with that point would have to be formulated. Similarly, a principle relating to the prevention of pollution of the marine environment should be formulated. Finally, the prohibition of the use of the sea-bed for military purposes was a matter of prime importance. The draft treaty prepared by the representatives of the Soviet Union and the United States to the Conference of the Committee on Disarmament was a step forward in the right direction towards world peace.

Mr. APLAN (Malaysia) said that, for the same reasons as had been stated at the preceding meeting, by the delegation of El Salvador, his delegation doubted the value of and need for general debates; in the present instance, however, it welcomed the opportunity to review the activities of the Committee as a guide to the direction its future work should take.

His delegation was generally satisfied with the progress made by the Committee. As other speakers had pointed out, the Committee had sought to identify the major economic, scientific, military and political problems arising in connexion with the exploitation of the sea-bed and ocean floor. However, all the issues had remained unresolved. With regard to one of the main issues - the legal regime for the area in question - his delegation believed that a speedy decision should be made on the



(Mr. Adlan, Malaysia)

declaration of principles. The synthesis contained in the Committee's report (A/7022 and Add.1) opened the way to further progress in that respect; for, while no agreement had as yet emerged on the statement of principles, it must be recognized that the Members of the United Nations had agreed to affirm, in resolution 2574 A (XXIV), that there existed "an area of the sea-bed and ocean floor and the subsoil thereof which is beyond the limits of national jurisdiction" and that the resources of that area should be exploited for the benefit of mankind, "taking into account the special interests and needs of the developing countries, whether land-locked or coastal". The same resolution had also stated that "the establishment of an equitable international régime for this area would facilitate the task of determining the limits of the area to which that régime is to apply". Another fact which should be recognized by all countries was that the area in question should be strictly for peaceful purposes. It was on that basis that his delegation had voted in favour of resolution 2574 D (XXIV) at the last session of the General Assembly.

It was largely as a result of the Committee's work that the attention of world public opinion and Governments had been focused on the problems of the sea, and in particular on the need to review existing Conventions on the law of the sea. The Committee's work had also had the effect of highlighting the need for uniformity of law and practice in that area, since the Convention on the Continental Shelf was a totally inadequate instrument for dealing with the problems which the exploitation of the resources of the sea-bed would create. His delegation accordingly attached great weight to resolution 2574 A (XXIV), operative paragraph 1, concerning the desirability of convening at an early date a conference on the law of the sea to review the régimes of the high seas, the continental shelf, the territorial sea and contiguous zone, fishing and conservation of the living resources of the high seas, particularly in order to arrive at a clear, precise and internationally accepted definition of the area of the sea-bed and ocean floor which lay beyond the limits of national jurisdiction, in the light of the international régime to be established for that area. In view of the prevailing uncertainty about the term "sea-bed and ocean floor", the Government of Malaysia believed that the holding of a conference on the law of the sea would be a logical step, since the establishment of an

(Mr. Adlan, Malaysia)

international régime for the area in question had been agreed upon. Such a conference would definitely facilitate a precise determination of the limits of the area to which that régime was to apply.

With regard to the establishment of international machinery for the exploration and exploitation of the area in question, the machinery adopted should naturally be equitable, realistic, effective and non-discriminatory. His delegation would, of course, have to reserve its position concerning the status, structure, functions and powers of such machinery until it learnt the results of the study to be undertaken by the Secretary-General on the subject.

As a number of delegations had pointed out, it was now time for the Committee to move on to the stage of political decisions. In view of the advances of science and technology and the scientific, economic and military possibilities which they would open up for the exploitation of the sea-bed and the ocean floor, the latter might become a source of total anarchy which could endanger world peace and stability.

His delegation welcomed the consideration of government measures pertaining to the development of mineral resources on the continental shelf and felt that the review prepared by the Secretariat on the subject (A/AC.138/21) would assist the work of the Economic and Technical Sub-Committee. That document contained references to a number of Malaysian legal provisions - in particular the legislation exclusively for off-shore development of solid minerals - and cited them as an outstanding example of modern legislation dealing with the matter. His delegation would be glad, should the occasion arise, to explain the details of that legislation in the relevant Sub-Committee.

The CHAIRMAN said that in summing up the general debate he would try to indicate the procedure which might be followed in the future work of the Committee.

It seemed clear that the two main questions which were fundamental to the Committee's task were, on the one hand, the question of general principles and, on the other, the question of an international régime. The question of the economic and technical conditions, rules and means for exploration and exploitation came, strictly speaking, within the competence of the Economic and Technical Sub-Committee. The question of institutional arrangements, or machinery, was related to the question of a régime, but its further consideration must await the Secretary-General's report.

(The Chairman)

The Committee, which was clearly directed in General Assembly resolution 2574 (XXIV) to have specific recommendations to submit to the Assembly at its twenty-fifth session, should therefore now decide how it would approach those two fundamental questions and in what order. There appeared to be a consensus in the Committee, and it was also his own opinion, that priority should be given to reaching agreement on a statement of principles. However, the precise scope of the consensus was somewhat uncertain, for two reasons. On the one hand, some representatives understood by "principles" the legal principles and norms of which the General Assembly, in operative paragraph 2 (a) of resolution 2467 A (XXIII), had instructed the Committee to study the elaboration - in which case the question not only came essentially within the competence of the Legal Sub-Committee but was practically identical with the question of a régime. On the other hand, with regard to the nature and objectives of a statement of principles - which, as must be made clear, should not be an end in itself - some representatives felt that two main trends of thought had emerged in the Committee. According to the first, the principles should serve as guidelines regulating activities in the area pending agreement on an international régime - in other words, as a provisional régime - while according to the second they would merely provide guidelines for consideration of the question of the establishment of a proper régime, which alone could regulate the activities in question. He felt that that distinction was more apparent than real.

In his opinion, the real distinction to be drawn was between the adoption of a political position, which must necessarily come first, and the elaboration of the legal norms and principles deriving from it. The definition of objectives, together with the statement of political will, would constitute an essentially political decision which would provide the necessary foundation for the structure to be elaborated and would in fact be a statement of intent rather than a statement of principle. It was only at the next stage, when that political decision had been taken, that it would be possible to proceed with the drafting of international legislation creating the institutional arrangements required for the administration of the proposed régime.

That was how the Ad Hoc Committee had understood its task when it had concentrated as a matter of priority on elaborating the two sets of principles stated in paragraph 88 of its report (A/7230) and subsequently known as set A and set B.

(The Chairman)

The present Committee, on the other hand, had instructed its Legal Sub-Committee to study the elaboration of the legal principles and norms mentioned in paragraph 2 (a) of resolution 2467 A (XXIII) because of an understandable desire to clear the legal ground before taking any political decision. Unfortunately, that had led to a blurring of the distinction between the statement of general principles and the legal principles and norms. It was now necessary to re-establish that distinction clearly, to restore to the statement of principles its strictly political character and to reserve consideration of it for the plenary Committee, not in order to limit the functions of the Legal Sub-Committee but to facilitate its work.

An examination of some of the principles in question would, moreover, suffice to make quite clear the political character of the decision involved. It would constitute a political decision for States to declare that there was an area of the sea-bed and ocean floor which lay beyond the limits of national jurisdiction the precise determination of which was necessary; that the area should be reserved exclusively for peaceful purposes; that no part of the area was subject to national appropriation and that no State might exercise or claim sovereignty or sovereign rights over any part of it; that the resources of the area should be exploited for the benefit of mankind and the proceeds applied in an equitable manner with the object of reducing economic disparities and promoting balanced economic growth; and that freedom of scientific research should be allowed in the area. Some of the propositions contained in the United Kingdom working paper would also involve political decisions. On the other hand, the legal status of the area, the need to conduct activities with due regard to the interests of all States, the observance of proper operational norms, including those designed to prevent pollution and to ensure efficient and orderly exploration and exploitation, and the question of the law applicable to the area, were all matters of a strictly legal character which required precise formulation and would be dealt with in the context of legal principles and norms. The latter should be consistent with the political decisions and calculated to give effect to them.

On the question of the provisions relating to the economic and technical conditions of exploitation and the distribution of resultant benefits, the Legal

(The Chairman)

Sub-Committee would naturally need to work in close consultation with the Economic and Technical Sub-Committee.

In accordance with that approach, propositions 1, 2 and 4 of the United Kingdom working paper would be considered in conjunction with the political decisions, propositions 3 and 5 with the ways and means of promoting exploration of the resources of the area - which was the task of the Economic and Technical Sub-Committee - and propositions 7 and 8 with the items assigned to the Legal Sub-Committee.

In order to facilitate an agreement concerning the political decisions which would have to be taken, he suggested that while the Sub-Committees were considering the questions assigned to them, he should conduct informal negotiations with a view to ascertaining the area of agreement and report on it to the plenary Committee when it met in the last week of the session. He would keep the Chairmen of the two Sub-Committees informed as to how the negotiations were proceeding.

To that end, he suggested that each of the groups of countries concerned should nominate two or three of its members to constitute an informal consultative group, preferably including representatives of those countries which had made definite proposals, it being understood that the consultative group could, as the need arose or in accordance with the wishes of individual members, decide to co-opt other representatives.

Mr. DENORME (Belgium) supported the suggestion that the Chairman should hold consultations with Committee members with a view to achieving tangible results. However, in view of the importance of the Chairman's suggestions it would be hard for his delegation to make detailed observations on them immediately. In that connexion, he said that his delegation was afraid its own proposal had been misunderstood and would like to make it clear that it had never intended that higher priority should be granted to consideration of the international régime and its institutions. It had simply wished to point out that if the Committee adopted some recommendations with regard to the objectives of the régime of exploitation, it would be doing something useful and making a certain amount of progress. In any case, the formulation of a statement of principles

(Mr. Denorme, Belgium)

still had the highest priority. The Committee and its Sub-Committees should accordingly avoid duplicating each other's efforts, and thought should be given to the objectives pursued in order to ascertain whether they were the same for everyone. Since it would be impossible to achieve any tangible results unless the text of the Chairman's suggestions was available to the Committee, it was essential for that text to be circulated to all delegations so that they could study it thoroughly and comment on the suggestions at one of the next plenary meetings - on Wednesday, 11 March, for example.

Mr. ENGO (Cameroon) said that he saw no reason why the text of the Chairman's statement should not be circulated as a Committee document since in any case it would be for the Committee to decide whether the suggestions in question were acceptable. At the same time, his delegation wished to remind the Committee that at the preceding meeting it had given its reasons for considering it inadvisable to base the discussion on the United Kingdom's propositions alone. In his delegation's view, the best way for the Committee to establish a solid foundation for its work and ensure that the results of its efforts would be positive was to take into consideration the various shades of opinion expressed.

Mr. TARABANOV (Bulgaria) expressed regret that the Committee had not been able to study the Chairman's suggestions in advance and said that, considering their importance, he thought it would be impossible to take a decision on them during the present meeting. His delegation too would like the text of those proposals to be circulated as a Committee document so that the Committee could study them with the attention they warranted before taking a decision.

Mr. KOULAZHENKOV (Union of Soviet Socialist Republics) observed that the procedure to be followed had already been the subject of several documents, notably General Assembly resolution 2574 (XXIV) and the document on the organization of the Committee's work (A/AC.138/8). The question had been taken up again at the beginning of the current session and the Committee had concluded that it was not necessary to revise the established procedure. The Chairman's suggestions, however, changed the character and broadened the terms of General Assembly resolution 2574 (XXIV). His delegation had already explained its

(Mr. Koulazhenkov, USSR)

position on the question of an international régime. The General Assembly in resolution 2467 (XXIII), had given an indication as to what priority should be accorded to that question and that indication had been confirmed in resolution 2574 (XXIV). In any case, his delegation supported those delegations which had asked that the text of the Chairman's suggestions should be circulated; moreover, it should be circulated in all the working languages.

Mr. ZEGERS (Chile) associated himself with those representatives who had asked that the Chairman's statement should be circulated as a Committee document.

In the view of his delegation, the Committee's objectives had been clearly set forth in General Assembly resolutions 2340 (XXII) and 2467 (XXIII): it was to examine the question of the reservation exclusively for peaceful purposes of the sea-bed and the ocean floor, and the subsoil thereof, underlying the high seas beyond the limits of present national jurisdiction, and the use of their resources in the interests of mankind. It had accordingly been given the task of devising an international régime, the details of which were to be worked out by two sub-committees that had been asked to study the scientific, technical, economic, legal and other aspects of the question. The Committee should therefore organize its work in accordance with the agreement reached at the outset, calling for one week of general discussion in plenary meetings, two weeks during which legal and economic questions would be considered by the two Sub-Committees, and a final week of plenary meetings to co-ordinate the work that had been done. In the meantime, the Chairman of the plenary Committee should consult, when necessary, with the Chairmen of the two Sub-Committees.

The propositions put forward by the United Kingdom and any which might be submitted by other delegations should be considered either by the Economic and Technical Sub-Committee or by the Legal Sub-Committee, depending on their nature, before being discussed at a plenary meeting. With regard to the question of legal principles, his delegation wished only to state that, in its view, the legal aspects of the problem could not be dissociated from its political aspects. In any case, while the Committee could revise the work of its Sub-Committees his delegation did not see why it should change the working procedure it had adopted on 7 February 1969.

Mr. HARGROVE (United States of America) said that he thought it would be useful to have the text of the Chairman's suggestions by the Committee's next meeting so that delegations could consider them in detail before discussing them in a plenary meeting a few days later. Since those suggestions seemed to have given rise to some important differences of opinion regarding the organization of the Committee's work, it was essential for delegations to try to ascertain in what areas they could come to an agreement.

Mr. HALL (Secretary of the Committee) informed the Committee that the circulation of the Chairman's statement in all the working languages would necessarily have certain financial implications.

The CHAIRMAN said that he wished to make it clear that the suggestions he had put forward would not have the effect of changing the agreed procedure. The text of his statement would be circulated as a Committee document as soon as possible.

It was so decided.

The meeting rose at 6.20 p.m.



SUMMARY RECORD OF THE TWENTY-FIFTH MEETING  
Held on Thursday, 12 March 1970 at 11 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon

CONSIDERATION OF THE STATEMENT MADE BY THE CHAIRMAN AT THE TWENTY-FOURTH MEETING OF THE COMMITTEE (A/AC.138/L.2)

The CHAIRMAN, referring to the last sentence of the first paragraph on page 2 of his statement (A/AC.138/L.2), apologized for the fact that what had been a mere suggestion had been described in his statement as a proposal.

He had drafted the last paragraph of the statement advisedly, because he realized that the various geographical groups might not yet have developed group positions on the subject. Individual members of the Committee should feel free to discuss the matter with him informally.

He had not intended to encroach on the work of the Sub-Committees or to change the work procedures evolved at previous sessions. It should be noted, however, that according to the proposals made in document A/AC.138/8, which the Committee had approved at its fourth meeting (A/AC.138/SR.1-6, p. 41), the main Committee was to consider the political implications of operative paragraphs 2 (a) and 2 (b) of resolution 2467 A (XXIII). The purpose of his suggestion was to facilitate progress in the matter. The Committee's first task was to define political objectives. Decisions on the means of achieving those objectives - namely, the legal régime - would come later.

Mr. DENORME (Belgium) said that three points in the Chairman's statement were fully supported by his delegation. In the first place, Belgium agreed that there was a need to take decisions relevant and conducive to the attainment of the Committee's objectives and that those decisions would be essentially political. Members would remember that at the Committee's tenth meeting he had said that it would be impossible to reach agreement of the Governments of the sovereign States represented in the main Committee did not evince the required political will and that, if such a will was not displayed at the March 1970 session, the Committee would become totally impotent and might fail in its task (A/AC.138/SR.7-11, p. 34).

The second of the Chairman's points with which Belgium agreed was that there appeared to be no dispute over the need to give the highest priority to the declaration of principles. Indeed, at the 1681st meeting of the First Committee he had said that the Committee's main task was to define the main principles which would be the common denominators for the declaration and to complete the work by negotiating generally acceptable formulae concerning the areas of disagreement that still existed (A/C.1/PV.1681, pp. 74-75).

(Mr. Denorme, Belgium)

Thirdly, Belgium agreed that informal consultations were useful means of reaching agreement. The informal consultative group suggested by the Chairman should strive to bring all schools of thought together. No delegations should be excluded from it.

It would be seen from the foregoing that the Belgian position was not very far removed from that of the Chairman. The only difficulty seemed to lie in the choice of a subject for the consultations - which, obviously, must relate to a specific subject and, if possible, be based on a specific document. At the beginning of the general debate he had suggested what seemed to be a suitable topic and was surprised that his statement (A/AC.138/SR.18) had given rise to so much misunderstanding. Nevertheless, his suggestion had served a useful purpose, for in their general statements members had to a large extent concentrated on the nature, scope and objectives of the international régime for exploitation rather than dissipating their efforts on trying to solve the many problems before the Committee. However, as some delegations seemed to regard his suggestion as a manoeuvre designed to divert attention from preparation of a declaration of legal principles, he had thought it wiser to let the matter drop.

His delegation had carefully studied the Chairman's statement but did not fully understand the difference between general principles and legal principles. It wished to know, therefore, which body would be responsible, in the framework of that statement, for preparing the comprehensive and balanced statement of principles to be submitted to the General Assembly. There seemed no doubt that the General Assembly intended that task to be undertaken by the Legal Sub-Committee, the functions of which should not be limited. The Chairman's statement that there was no question of encroaching on the work of the Sub-Committees was reassuring.

Belgium would support any initiative which would help the Committee to make progress in its work. It should not be difficult to evolve a procedure which would yield fruitful results while avoiding any overlapping between the work of the main Committee and the Sub-Committees.

Mr. VALLARTA (Mexico) supported the proposals made by the Chairman in document A/AC.138/L.2. However, since all groups were represented among the officers of the Committee and the Sub-Committees, he wondered whether there was any need to appoint an informal consultative group.

Mr. CARRAL DE MELLO (Brazil) said that the Committee was a subsidiary body of the General Assembly which, in resolution 2574 B (XXIV), had given it two main tasks for 1970 - namely, to expedite preparation of a comprehensive and balanced statement of legal principles and to formulate recommendations regarding the economic and technical conditions and the rules for exploitation of the resources of the sea-bed in the context of the régime to be set up. It was questionable whether the Committee was free to change the order of business which had been determined by its parent body. The fact that there were differences of opinion concerning the purposes of the declaration of principles was a serious matter and could not be dismissed lightly. In the opinion of his delegation, a statement of principles should serve only for the orientation of the Committee and the General Assembly and as guidelines for the establishment of a régime. Indeed, the matter should have been settled by the provisions of resolution 2574 D (XXIV) which stated that pending the establishment of an international régime States and persons, physical or juridical, were bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. That implied that the sole purpose of a declaration of principles would be to lay the foundations for a régime, since exploitation activities could not be carried out until a régime had been established. The régime could not be identified with the declaration because the latter would be only part of the former. Those delegations which had voted against resolution 2574 D (XXIV) had pointed out that General Assembly resolutions were only recommendations and were not therefore binding on States. In fact, General Assembly resolutions might only be recommendations in so far as the conduct of States was concerned, but they were surely binding on the Assembly's subsidiary bodies.

In the Legal Sub-Committee a distinction had been made between an interim and a definitive régime. There was no basis for that distinction in General Assembly resolutions 2340 (XXII), 2467 (XXIII) and 2574 (XXIV) or in the work of the Ad Hoc Committee. "Interim régime" was another label for interim measures, which, in the opinion of some members of the Economic and Technical Sub-Committee, were unnecessary since no activities should be permitted prior to the establishment of an international régime (A/7022, Part Three, para. 46). Before taking political

(Mr. Cabral de Mello, Brazil)

decisions the Committee should determine quite clearly whether those decisions were intended to serve merely as guidelines or as interim measures.

Brazil supported the views expressed by Chile at a previous meeting concerning the distinction between political and legal principles. The Committee's task was to elaborate legal principles. By concentrating too much on the search for political decisions, the Committee might neglect that task and so fail in its duties to the General Assembly.

Mr. FEGERS (Chile) noted that the Chairman's statement inferred that a political decision in the main Committee should precede the discussion of legal principles in the Legal Sub-Committee. Yet no such inference could be drawn from the organization of work described in document A/AC.138/8 or from the procedural decisions recorded in the Committee's report (A/10.2). In fact, a preliminary political decision had already been taken by the General Assembly, when it had decided that the area in question should be reserved for peaceful purposes and that its resources should be used in the interests of mankind. The Assembly had decreed that there should be an international régime for the area. The régime would be a legal régime, but the creation of international law was bound to have political implications, since it required agreement among States. The establishment of the régime would have to be a single, indivisible process, in which economic, legal, political, scientific and military questions were interrelated and should be considered together; fragmentation of that process would lead to duplication and confusion. As specified in the programme of work approved by the General Assembly, which there was no reason to change, the Legal Sub-Committee should proceed with the task entrusted to it - the elaboration of legal principles and norms. It would naturally take into account the work done by the Economic and Technical Sub-Committee on the economic and technical requirements which the régime should satisfy. In the case of proposals which - like the eight United Kingdom propositions - involved various elements of different kinds, each Sub-Committee would consider the elements falling within its purview. The main Committee would then review the work done and produce a synthesis; it could examine the political consequences - but not the political antecedents - of the Sub-Committees' work.

(Mr. Eegers, Chile)

His delegation would support any suggestion designed to advance the Committee's work. It could endorse the idea of informal consultations but thought that there would be duplication if the consultations were held concurrently with the meetings of the Legal Sub-Committee.

Mr. ENGO (Cameroon) favoured the idea of informal consultations but thought that they should be held only when the discussion in the Sub-Committees revealed that there were problems which required political decisions. The delegations participating in the informal consultations should be representative of schools of thought, rather than geographical groupings.

Mr. KHANACHET (Kuwait) thought that the Sub-Committees should continue their work, while informal consultations were held on the question of the organization of work and the spheres of competence of the main Committee and the Sub-Committees. The consultations could be held among the officers of the main Committee and the Sub-Committees who represented different geographical groups and political trends; any other delegations wishing to do so would naturally be able to participate. Such consultations should produce a rational, expeditious and generally acceptable method of work, which would respect the primary responsibility entrusted to the main Committee. In fact, the Committee had always been basically a political body and the questions with which it was concerned were political questions.

Mr. EVENSEN (Norway) said that it was essential to proceed with the preparation of a comprehensive and balanced statement of principles. The Legal Sub-Committee had adopted a programme of work for that purpose, and nothing should be allowed to stand in the way of its deliberations. In his view, it was difficult to differentiate between political and legal principles. No such distinction had been drawn in General Assembly resolution 2574 B, and the Legal Sub-Committee was now engaged in a discussion of principles because it considered that they were legal as well as political. As the Chairman had pointed out in his statement (A/AC.138/L.2, p. 4), the adoption of some principles would undoubtedly involve a political decision. However, he agreed with the Chilean representative that consideration of the matter in the main Committee and in the Legal Sub-Committee would amount to duplication of effort, which would be time-consuming and perhaps

(Mr. Evensen, Norway)

self-defeating. He also agreed with the representative of Cameroon that it would be useful to set up an informal consultative group to discuss any difficulties which might arise. Accordingly, he proposed that the Sub-Committees should carry on with their work, and that there should be informal consultations when further guidance was needed on specific matters.

Mr. SULEIMAN (Libya) said that he fully supported the Chairman's view that it was indispensable to reach agreement on a set of principles. His delegation regarded the adoption of a set of principles as the first legislative step to be taken by the General Assembly with a view to establishing an international legal régime. Although he had no objection to the establishment of an informal consultative group, he felt that it would be preferable to follow the suggestion made by the representatives of Mexico and Kuwait and enlist the aid of the officers of the Committee and the Sub-Committees.

Mr. DEJAMMET (France) observed that the Chairman's statement had been designed solely to facilitate co-operation between the main Committee and its sub-committees, and had not been at variance with the understanding which had been reached in the Committee at the very outset. In the first phase, the Committee had been informed of the views of delegations concerning the establishment of an international régime. Subsequently, the elaboration of principles had been referred to the Legal Sub-Committee, and the question of economic and technical conditions and rules for exploitation had been referred to the Economic and Technical Sub-Committee. In the final phase, the main Committee would have the task of synthesizing the work of the two Sub-Committees; and at that stage the Chairman would have an important role to play in overcoming any difficulties. Those arrangements had not in fact been questioned. However, an informal consultative group could not speak for each and every delegation. He would therefore endorse the approach proposed by the representatives of Mexico and Kuwait, on the understanding that the consultations would not lead to the adoption of any final conclusions before the completion of the Legal Sub-Committee's work, or of any decisions which would be binding on the main Committee.

Mr. MIGLIUOLO (Italy) said that it would be unwise to attempt to define whether certain principles were of a political or a legal nature. However,

(Mr. Migliuolo, Italy)

the adoption of some principles would involve a political decision, or at least require the existence of political will. Hence, the proposed consultative group should on no account be a closed body. All delegations desiring to participate should feel completely free to do so at any time.

Mr. PAVICEVIC (Yugoslavia) said that the present system of work - perhaps with some useful improvements - should be retained, since its value and quality had already been confirmed by results, which were the most reliable criteria for judging the work of any committee. During the past three days, the two Sub-Committees, whose task was an integral part of the task of their parent body, had given ample proof of effective performance. Accordingly, their activities should be intensified so that, once again, the outcome of the Committee's deliberations would be successful. The main aim at the present stage was to elaborate legal principles and norms to promote international co-operation and to ensure exploitation of the resources of the area for the benefit of mankind. There were no grounds for further delay, and he saw no justification for drawing a distinction between a declaration of general principles and a declaration of legal principles. He agreed with the observation that some important problems would involve political decisions, but those decisions should now be reflected in an agreed declaration of principles. While he appreciated the personal efforts made by the Chairman to facilitate the work of the Sub-Committees, he was of the opinion, the course to be taken by the Committee as a whole, should be determined solely by the results of the Sub-Committee's deliberations. It was not necessary to entrust the Chairman with additional powers. It would be sufficient for him to continue, as in the past, to attempt to overcome difficulties through such methods as informal consultations.

Mr. DARWIN (United Kingdom) observed that the question of legal principles was now being discussed in the Legal Sub-Committee and that the Chairman's suggestions regarding informal consultations would in no way delay the work of that body or upset the order of priorities. His delegation, whose views were substantially the same as those expressed by the French representative, would be happy to participate in the consultations on the basis of any paper which was thought to be useful in that connexion.



The CHAIRMAN assured the Committee that he had not in any way intended to interfere with the work of the Sub-Committees but had rather wished to facilitate agreement on political objectives and thereby to expedite the preparation of a comprehensive and balanced statement, as requested in General Assembly resolution 2574 B (XXIV). He would take it that, if there was no objection, the Committee wished him to have discussions with the Chairmen of the Sub-Committees with a view to determining the nature and purpose of any consultations to be held and deciding on the most appropriate procedure, which would not in any event preclude consultation with the members of the main Committee.

It was so agreed.

The meeting rose at 12.40 p.m.

SUMMARY RECORD OF THE TWENTY-SIXTH MEETING

Held on Tuesday, 24 March 1970, at 3.50 p.m.

Chairman:

Mr. AMERISINGHE

Ceylon

CONSIDERATION OF THE INTERIM REPORT OF THE ECONOMIC AND TECHNICAL SUB-COMMITTEE  
(A/AC.138/SC.2/L.6)

Mr. PROHASKA (Austria), Rapporteur of the Economic and Technical Sub-Committee, introduced the Sub-Committee's interim report.

It had been felt in the Sub-Committee that, in accordance with the mandate as defined in the relevant General Assembly resolutions, particularly operative paragraph 6 of resolution 2574 B (XXIV), 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. In that regard, the Sub-Committee had had, as a background for its discussion, the Secretariat review on government measures pertaining to the development of mineral resources on the continental shelf (A/AC.138/21 and Corr.1); and although it was aware no national system was directly applicable to resource development beyond the limits of national jurisdiction, it had recognized that something could be learned from existing national rules and practices. The first annex to the interim report listed the problems and issues which certain delegations felt might be considered in the context of any international régime to be set up. Possible alternative solutions to those problems were also listed, but with no attempt to indicate, at the present stage, which of them would be most appropriate for further consideration.

With regard to its future work programme the Sub-Committee, having yet to consider specific suggestions, proposed for its next session in August 1970, keeping in mind the concurrent studies of the main Committee and the Legal Sub-Committee pursuant to General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV), and taking into account the study undertaken by the Secretary-General pursuant to General Assembly resolution 2574 C (XXIV), to study further systematically and identify the most suitable alternative solutions to the issues raised. It had been felt in that context that the 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. The Sub-Committee was also to consider later, in the light of its mandate and work programme, a number of valuable proposals made during the debates.

(Mr. Prohaska, Austria)

The Sub-Committee had requested the Secretary-General to prepare a paper on the question of 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, although some delegations had doubted whether such a paper was appropriate for the fulfilment of the Sub-Committee's mandate.

Mr. DENORME (Belgium), Chairman of the Economic and Technical Sub-Committee, referred to that Sub-Committee's mandate under operative paragraph 6 of General Assembly resolution 2574 B (XXIV), and said he hoped that the present report, although of an interim nature, would be regarded as a useful first step. The Sub-Committee had not fulfilled its mandate, but intended to continue its studies and produce results at the next session.

In a first phase, delegations had been able to express their views both on the rules to govern an appropriate régime and on its scope, principles and machinery. In a second phase certain questions which must be answered, no matter what type of régime was set up, had been identified; and ideas had been exchanged on the possible form of the rules to be adopted, although no decisions had been taken. The Sub-Committee would continue to study those questions and ideas in depth.

In a third phase, the Sub-Committee would outline the main alternative solutions judged most desirable. Although the Sub-Committee had been unable as yet to formulate rules for the exploration and exploitation of sea-bed resources under an international régime, a number of relevant proposals made by delegations might usefully be considered by the main Committee during the current session if time permitted.

At the Sub-Committee's 34th meeting, the Maltese representative had suggested that the Sub-Committee should outline its programme of work for the August session, and had made a specific proposal in that connexion. Judging from the consultations already held, it was too early to say that the Sub-Committee had reached agreement on that proposal; but, if agreement seemed to be forthcoming, he might request the Chairman to authorize the Sub-Committee to hold a further meeting before the end of the current session in order to take formal action on the proposal.

/...

(Mr. Denorme, Belgium)

Meanwhile, the interim report would provide a guide for the Sub-Committee's work at its August session, at which it was hoped to produce specific recommendations for the Committee to submit to the General Assembly.

The CHAIRMAN suggested that the Committee might take note of the interim report of the Economic and Technical Sub-Committee.

It was so decided.

#### CONSIDERATION OF THE PROGRESS OF THE LEGAL SUB-COMMITTEE (A/AC.138/SC.1/L.3)

The CHAIRMAN invited the Chairman of the Legal Sub-Committee to give a progress report on the Sub-Committee's work.

Mr. GALINDO POHL (El Salvador), Chairman of the Legal Sub-Committee, said that the Legal Sub-Committee had concentrated on the preparation of the comprehensive and balanced statement of principles called for in resolution 2574 B (XXIV). It had held both formal and informal meetings and had taken, as the point of departure for its work, the synthesis contained in its report on its 1969 sessions (A/7622, Part Two). A working group had been established to reconcile delegations' proposals and, if possible, to produce a single text. The group had not yet completed its discussions and it was still impossible to say what the outcome of its work would be. It was possible, however, that the Sub-Committee would request permission to hold another meeting before the end of the session.

Since it had not fulfilled the mandate entrusted to it by the General Assembly the Sub-Committee would, at the August session, again concentrate on the preparation of a declaration of principles. It had been suggested that it should meet for one week of informal consultations before the summer session, but no decision had yet been taken on that suggestion.

The Sub-Committee had decided not to submit a report on the work it had accomplished during the March session. An account of its activities was given in his draft letter to the Chairman of the main Committee (A/AC.138/SC.1/L.3). A detailed report on its achievements in 1970 would be submitted at the end of the August session.

PROGRAMME OF WORK FOR THE AUGUST SESSION OF THE COMMITTEE

The CHAIRMAN invited the Committee to consider the Maltese representative's proposal to which the Chairman of the Economic and Technical Sub-Committee had referred earlier in the meeting.

Mr. PARDO (Malta) said that the Economic and Technical Sub-Committee was proposing for its session in August 1970, to identify the most suitable alternative solutions to a number of issues; but it had not identified the issues themselves. His delegation would have preferred the Sub-Committee to take a more specific approach in order to save time; and it had felt that the Sub-Committee should co-ordinate its work closely with that of the main Committee and discuss in detail certain fundamental questions which had hitherto been avoided.

In his delegation's view, the Sub-Committee should discuss, at its August session, the question whether an international régime would require institutional arrangements - a matter on which there had as yet been no detailed discussion. If a consensus emerged on that question, the next task would be to decide whether or not a permanent machinery was required and, if so, to determine the extent to which responsibility for administering the provisions and rules should be assigned - in the treaty establishing the régime - to States as opposed to an international authority. The Economic and Technical Sub-Committee and the main Committee could agree forthwith that discussion should be focused on those topics, and that paragraphs I.1 and I.2 of annex A to the interim report of the Economic and Technical Sub-Committee could be taken as a suitable basis, without implying that the topics described therein should necessarily take priority over any of the others. Until such questions had been discussed in detail, little progress could be made towards a decision on principles and machinery.

Mr. PIÑERA (Chile) said that adoption of the Maltese proposal might restrict the Committee's agenda. His delegation wished the agenda to be maintained in full.

Mr. DENORME (Belgium), Chairman of the Economic and Technical Sub-Committee, reminded members that he had already explained that the broad guidelines for the Economic and Technical Sub-Committee's work during the August

(Mr. Denorme, Belgium)

session were indicated in the interim report of which the Committee had just taken note, and that it was still too early to say whether the Sub-Committee could reach agreement on the Maltese proposal. The consultations he had opened on the subject had not been completed. It might be preferable to allow the Sub-Committee more time to complete its consultations before debating the matter in the main Committee.

Mr. KHANACHET (Kuwait) said that the Committee's mandate was clearly defined in resolutions 2574 A, B and C (XXIV). That mandate must have priority over any other recommendations or suggestions concerning the organization of the work of the Committee and its Sub-Committees.

The CHAIRMAN suggested that further consideration of the matter be deferred until the Chairman of the Economic and Technical Sub-Committee had completed his consultations.

It was so decided.

The meeting rose at 4.55 p.m.

SUMMARY RECORD OF THE TWENTY-SEVENTH MEETING

Held on Thursday, 26 March 1970, at 11.10 a.m.

Chairman:

Mr. AMERASINGHE

Ceylon



PROGRAMME OF WORK FOR THE AUGUST SESSION OF THE COMMITTEE (continued)

The CHAIRMAN, after announcing that the Economic and Technical Sub-Committee's interim report (A/AC.133/SC.2/L.6) had been circulated in the various working languages, suggested that the Committee should take up the question of the programme of work for its next session, which was to be held at Geneva in August. Since the organization of the work of the two Sub-Committees had already been discussed, the programme of work of the main Committee, on whose decisions the Sub-Committees' work would depend, must now be dealt with. Reference should be made, in that connexion, to the order of priorities established by the General Assembly. Firstly, in operative paragraph 4 of its resolution 2574 B (XXIV), the Assembly had requested the Committee to expedite its work of preparing a comprehensive and balanced statement of general legal principles. Secondly, in operative paragraph 2 of resolution 2574 C (XXIV), the Assembly requested the Secretary-General to submit his report on international machinery to the Committee for consideration during one of its 1970 sessions. It therefore appeared advisable to request the Secretary-General to circulate his report in all working languages by the beginning of June at the latest, so that Governments would be able to study it, and he suggested that at its August session the Committee should begin by discussing the Secretary-General's report. If during its discussions on machinery the Committee should find that certain questions falling within the competence of the Sub-Committees called for detailed consideration by the latter, it could refer them to the Sub-Committee concerned. The Legal Sub-Committee would have to continue its study of legal principles. In the circumstances, there was no need for the main Committee to take up the Sub-Committees' programmes at the present time.

Mr. KHANACHET (Kuwait) said that he endorsed that procedure, which was in conformity with the mandate given to the Committee by the General Assembly in its resolution 2574 A, B and C (XXIV). He noted that his delegation had already suggested that priority should be given to discussion of the Secretary-General's report on the question of international machinery.

The members of the Group of Seventy-seven had decided, at an informal meeting, to propose to the Committee a programme of work more or less like that just submitted by the Chairman. It was to be hoped that the Committee would adopt that programme, which reflected a desire for logic and efficiency.

Mr. GALINDO FOHL (El Salvador) said that the informal consultations held since the last meeting of the Legal Sub-Committee had not resulted in the preparation of a single text. Soundings which had been taken had indicated that it was inadvisable to reconvene the Legal Sub-Committee at the present time. With regard to the possibility of holding informal consultations during the week immediately preceding the summer session, there were still differences of opinion as to where they should be held, but it was to be hoped that the Secretariat could be duly notified in that regard in good time.

Mr. DENORME (Belgium) said that the Economic and Technical Sub-Committee had been able to adopt an interim report (A/AC.138/SC.2/L.6), of which the main Committee had taken note. The manner in which the Sub-Committee proposed to organize its work at the August session was indicated in general terms in paragraph 11 of the report: "The Sub-Committee proposes for its next session in August 1970, keeping in mind the concurrent studies of the main Committee and of the Legal Sub-Committee pursuant to General Assembly resolutions 2467 (XXIII) and 2574 B (XXIV) and taking into account the study undertaken by the Secretary-General pursuant to General Assembly resolution 2574 C (XXIV), to study further systematically and identify the most suitable alternative solutions to the issues raised". At the Sub-Committee's last meeting, the Maltese delegation had proposed that the members of the Sub-Committee should be requested to give particular attention to two questions: firstly, to what extent should responsibility for administering provisions and rules of the exploitation régime be assigned to States as opposed to an international resource management authority? Secondly, should the right to participate in sea-bed resources development be accorded to States, State-authorized operators or international organizations? The consultations held had indicated that many delegations seemed prepared to accept a compromise formula which he, as Chairman of the Sub-Committee, had suggested. Other delegations, however, preferred to wait until the August session before taking a final decision; in that connexion, the Chairman's suggestion would be wholly satisfactory.

The CHAIRMAN said he took it that the Committee endorsed his suggestions concerning the programme of work. He saw no problem about holding informal consultations between the sessions. There was no legal or constitutional impediment to such consultations being held at whatever time and place seemed most appropriate.

Mr. PARDO (Malta) said that his delegation favoured the idea of convening an informal working group of the Legal Sub-Committee for one week before the August session. However, such consultations would be more likely to prove fruitful if they were preceded by a few days of negotiations in New York in June.

The CHAIRMAN said that participants in the informal consultations were free to organize them as they wished. The Legal Sub-Committee's informal working group could therefore meet one week before the August session either in New York or in Geneva.

Mr. GALINDO POHL (El Salvador) agreed that delegations were free to begin negotiations on whatever dates suited them best. Most of them seemed, as a compromise, to favour a one-week meeting just before the August session. However, that should not prevent the groups from meeting at another time if they wished.

Mr. McKELVEY (United States of America) said that, since informal consultations were still under way, his delegation would prefer not to make a statement until the next meeting.

The CHAIRMAN said that the consultations could be continued even though they had little chance of producing any results. At all events, any agreement that might be reached would have to be discussed at the next session.

The meeting rose at 11.30 a.m.

SUMMARY RECORD OF THE TWENTY-EIGHTH MEETING  
Held on Thursday, 26 March 1970, at 3.40 p.m.

Chairman:

Mr. AMERASINGHE

Ceylon

PROGRAMME OF WORK FOR THE AUGUST SESSION OF THE COMMITTEE (concluded)

Mr. EVIENSEN (Norway) said that, as a result of informal consultations among members of the Legal Sub-Committee representing all schools of thought, it had been possible to produce a paper which clearly reflected the points of agreement and disagreement within the Legal Sub-Committee. His delegation considered that the paper might serve as a valuable basis for future discussion, both between sessions and at Geneva in August. He therefore felt that the paper should be made available to the members of the Committee and he asked the Chairman to give a ruling as to its future status.

Mr. PINTO (Ceylon) said that there was no question that the paper represented a significant advance over what had been referred to as the "synthesis" in the report of the previous year (A/7622, Part Two). The co-operative and even accommodating attitude which had been displayed made him generally hopeful that the session at Geneva would be crowned with success and that a balanced and comprehensive declaration of principles would be adopted during the General Assembly's twenty-fifth session. His colleagues in the Group of 77 believed - as he did himself - that the paper should retain its informal character. It was the result of the efforts of a handful of States only very generally representative of opinion within the Legal Sub-Committee. Much of its value lay in the fact that it was essentially informal, and it should not therefore be tabled in any formal meeting. It should not have any formal status as a Committee document, should not be classified as such, and should not be attached to the draft letter from the Chairman of the Legal Sub-Committee to the Chairman of the Committee (A/AC.133/SC.1/L.3). However, it would be very useful to have the document reproduced and circulated informally to members of the Legal Sub-Committee, so that all representatives would have an opportunity to acquaint their Governments with a rather concise version of alternative texts and seek the instructions needed to facilitate the political decisions that would be essential as the work progressed.

Mr. YANKOV (Bulgaria) said that a considerable number of delegations had participated in the consultations concerned, and that one group had consistently endeavoured to reconcile the various proposals in a single paper.

(Mr. Yankov, Bulgaria)

He agreed that the paper was a noteworthy improvement on the synthesis prepared in 1969. While he would not insist that the paper should be given formal status, he felt that it would be of great value for future informal consultations and formal discussions. All delegations should therefore be given an opportunity to acquaint themselves with it.

Mr. ZEGERS (Chile) supported the idea of circulating the paper informally. However, in the earlier stages of the informal discussions in which all members of the Legal Sub-Committee had taken part, a number of other informal papers containing formulations for each of the elements and principles of the synthesis had also been submitted, and he proposed that they too should be made available to all delegations.

Mr. DEJAMMET (France) observed that, during the unavoidable absence of the Rapporteur of the Legal Sub-Committee, the informal discussions had apparently continued, without that Sub-Committee having taken any decision as to the composition of the drafting group or the work it was to do. It had been stated that all schools of thought had been represented in the group, but he failed to see which member of the group could have been in a position to express the views of France. Nevertheless, a document had been produced and it would be useful for it to be brought to the attention of the Committee.

Mr. ENGO (Cameroon) said that the Committee should determine which additional texts, if any, were to be circulated. If several papers were to be submitted between the present session and the August session, the work of the Legal Sub-Committee might be further complicated.

Mr. ZEGERS (Chile) replied that he had been thinking solely of the informal papers presented during the first part of the consultations, which merely summed up the positions of delegations on the various elements of the synthesis and did not contain proposals for a declaration of principles.

Mr. BADAWI (United Arab Republic) supported the Chilean representative's proposal. Speaking as the Rapporteur of the Legal Sub-Committee, he said that he would undertake to provide all the informal papers submitted in the course of the consultations.

Mr. DENORME (Belgium) said that his delegation was not opposed to the submission of three informal texts. In fact, it had itself prepared three texts - one on the peaceful uses of the area, one on utilization of its resources for the benefit of all mankind and one on scientific research. With regard to the other informal texts which had been mentioned the Chairman of the Legal Sub-Committee had stated in his draft letter (A/AC.138/SC.1/L.3) that delegations could obtain from the Secretariat the informal documents which had been used as a basis for the discussions, and had also noted that the Informal Group had asked the Rapporteur, Mr. Badawi, to try to bring the different proposals closer together and to prepare, if possible, a single text with the advice and co-operation of delegations.

The document at present under discussion, which his delegation had not yet seen, was said to have been prepared after consultations in a group representing all schools of thought, though, as the French representative had pointed out, the western European countries did not customarily formulate common opinions but expressed individual views. Nevertheless, his delegation would have no objection to the circulation of the document, either formally or informally, especially as it had been prepared with the advice and co-operation of delegations, as requested by the Informal Group. The Committee should take note of the document and consider, either at the August session or before, whether it should be used as a basis for discussion.

Mr. ENGO (Cameroon) said he failed to see why the main Committee should be discussing the informal consultations of one of its Sub-Committees. Since the Rapporteur of the Legal Sub-Committee had not yet reported to his Sub-Committee on the Informal Group's consultations, it was out of order for him to do so now to the main Committee.

The CHAIRMAN suggested that the document prepared by the Rapporteur of the Legal Sub-Committee, and also all the other informal texts submitted during the informal consultations, should be circulated informally among members of the Committee.

It was so decided.

## PROGRESS OF THE COMMITTEE'S WORK

Mr. PHILLIPS (United States of America) said it was time for the Committee to take stock of its efforts to fulfil its mandate under the relevant General Assembly resolutions, particularly, resolution 2574 B (XXIV). In the initial statement of United States views in 1967, his delegation had urged the Committee to begin immediately to develop general standards and principles to guide States and their nationals in the exploration and the use of the deep ocean floor, since all technological advances would prove of little value unless legislation anticipated rather than followed developments. His delegation was still committed to the goal of international agreement on general principles as soon as possible, to be followed by the developments of a comprehensive régime of international law with appropriate international machinery. If everyone would seriously assess the problems involved, it was still possible, in his delegation's view, to draft a declaration during the current year for endorsement by the General Assembly at its twenty-fifth session, thus greatly facilitating further progress.

He was disturbed at many delegations' apparent unwillingness to discuss key issues in the Committee and its Sub-Committees during the current session. The resultant failure to approach the problems constructively raised doubts as to whether the Committee, or even the very process it represented, was capable of dealing in time with such difficult issues.

In preparing for the August session, the Committee must find effective means to face and solve the problems involved. The difficulties were attributable to two factors. First, many Governments had not considered the issues fully enough to formulate a position on them. His own Government had intentionally avoided resolving its position until it had considered all alternative solutions and heard the views of others. Although his delegation had now indicated to the Committee some of its preliminary choices, it had difficulty in deciding on many of the complex aspects of the problem, and appreciated that others were having the same difficulty. Nevertheless, the time for decisions had come, and for that Governments must not only know what might be in their own best interests but they must also understand the problem well enough to be able to make suitable compromises. Secondly, many delegations were apparently unwilling to recognize



(Mr. Phillips, United States)

that compromise would be necessary if an equitable system was to be agreed upon. The debates had revealed a wide range of views on régime and machinery. At one extreme, some delegations advocated a régime - not necessarily international - without machinery; at the other, there were proposals for international machinery which would give the General Assembly fully ownership and authority over all activities. Neither of those extremes was likely to command wide acceptance. There was also a considerable divergence of views in regard to the limits of national jurisdiction. Although his delegation had never proposed that the Committee itself should settle such issues, it did not agree that the Committee could not even discuss them, as some delegations maintained. The Committee could make no real progress in elaborating a régime without simultaneously considering the size and outer limits of the area in question.

Unless some spirit of compromise were displayed, there would be grounds even for doubting whether all nations really wished to promote the exploitation of sea-bed resources for the benefits of mankind. Perhaps some nations did not wish to do so; but such an attitude was hardly consistent with the General Assembly's purpose in creating the Committee.

Although his own delegation had not crystallized all its views, it was willing to go on listening to those of others and to seek acceptable and equitable alternatives with a view to resolving differences. For example, it had stated during the previous year, after initial resistance, that it supported international machinery; and, whereas it had then favoured a simple registry system which many felt would be adequate, it had never committed itself to the idea and, as subsequent research and debates had revealed that many more rules and principles would be needed, it had changed its position to one quite different from the simple registry concept. Though it had never been able to accept the "common heritage" concept, it had never rejected the possibility of including the concept in a statement of principles.

His delegation remained prepared to consider the many alternatives which lay between the clearly unacceptable extremes. It urged all delegations to come to the August session prepared to negotiate responsibly on the real issues. Although Governments would have difficulty in resolving their positions on all the complex issues, it was not too much to expect them at least to have studied the issues sufficiently to provide instructions which would make for intelligent and responsible discussion.

(Mr. Phillips, United States)

Unless the Committee showed a spirit of compromise and a willingness to discuss all issues and seek alternatives where necessary in order to resolve conflicts of interest, it would fail to fulfil the mandate given to it by the General Assembly; and its failure might well cast doubt on the Organization's capacity to play a useful role in dealing with contemporary world problems.

In July 1966 the United States delegation had said that the resources of the deep seas and oceans should remain the legacy of all mankind, and that no new form of colonial competition for marine resources should be allowed. More recently President Nixon, in his Foreign Policy Report to Congress, had stated that, as man's uses of the oceans grew, international law must keep pace.

If the Committee was to play a useful role in the development of sea-bed resources for the benefit of all mankind, it must be determined to resolve the issues before it was overtaken by them.

Mr. ENGO (Cameroon) said that, while he agreed with some of the United States delegation's views, particularly on the readiness for compromise, he felt it was also important to remain Governments of the changed nature of the international community - which was not that of 1945 - and of the problems which beset it, under the United Nations Charter, Members of the Organization were committed to co-operate with one another. The sea-bed was one area in which a solution to the problems of financing world development could be sought; and the countries mainly responsible for financing development should bear that point in mind, since exploitation of sea-bed resources might relieve them of some of their burden.

If Governments - when giving instructions to delegations - were constantly guided by the provisions of the United Nations Charter, many of the existing problems might be far simpler to resolve.

#### CLOSURE OF THE SESSION

After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 5 p.m.