



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

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*Volume I*

**GENERAL ASSEMBLY**

OFFICIAL RECORDS: TWENTY-EIGHTH SESSION

SUPPLEMENT No. 21 (A/9021)

**UNITED NATIONS**



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New York, 1973

#### NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Volume II of this report contains annex I, appendices III and IV, and annex VI; volume III contains annex II, appendix V; volume IV contains annex II, appendix VI; volume V contains annex II, appendix VII; and volume VI contains annex II, appendix VIII.



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## I. INTRODUCTION

1. The present report is submitted in accordance with operative paragraph 2 of General Assembly resolution 3029 A (XXVII) of 18 December 1972.
2. Since the sessions covered in this report represent the latest phase in the work of preparation for the Third United Nations Conference on the Law of the Sea and in order to place the latest developments in perspective, the Committee considers it appropriate to include, as the first part of its report, a brief historical review of its work as well as of the work of the preceding Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

## II. HISTORICAL BACKGROUND

3. The item concerning the peaceful uses of the sea-bed beyond national jurisdiction was first included in the agenda of the General Assembly in 1967. The General Assembly examined this item at its twenty-second session and adopted resolution 2340 (XXII) establishing an Ad Hoc Committee to Study the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, composed of 35 States. In that connexion, the Ad Hoc Committee was requested to prepare a study which would include a survey of past and present activities of the United Nations and other intergovernmental bodies with regard to the sea-bed and ocean floor, and of existing international agreements concerning those areas; an account of the scientific, technical, economic, legal and other aspects of the item; and an indication as to practical means of promoting international co-operation in the exploration, conservation and use of the sea-bed and the ocean floor, and the subsoil thereof, as contemplated in the title of the item, and of their resources.
4. The Ad Hoc Committee, at its first session in March 1968, established two working groups of the whole, dealing respectively with economic and technical matters and with legal aspects. It proceeded on the basis of consensus among its members, although no formal decision was taken to that effect.
5. In its report 1/ the Ad Hoc Committee informed the Assembly that all delegations had agreed that the item as a whole required further study and that institutional arrangements should be made by the General Assembly for that purpose. The report referred in particular to the support expressed for the idea of establishing a standing committee, which should be a focal point for study of the various related aspects of the item. The Ad Hoc Committee also reported on its endeavours to secure agreement on a draft declaration of principles, which was intended for submission to the General Assembly. Final agreement on that issue could not, however, be reached by the close of the last session of the Ad Hoc Committee.

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1/ Official Records of the General Assembly, Twenty-third Session,  
document A/7230.

6. At its twenty-third session, on 21 December 1968, the General Assembly adopted four resolutions, resolutions 2467 A, B, C and D (XXIII), establishing the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction and outlining in effect its future work.

7. The Committee, as established under resolution 2467 A (XXIII), was composed of the representatives of 42 Member States. At its first session in 1969, the Committee decided to organize its work essentially on the same basis as that of the Ad Hoc Committee, with the difference that a Legal Sub-Committee and an Economic and Technical Sub-Committee were established to replace the earlier Working Groups of the Ad Hoc Committee.

8. At its three sessions that year, as reported to the twenty-fourth session of the General Assembly, 2/ the Committee dealt primarily with the questions posed in resolution 2467 A and C (XXIII): the elaboration of legal principles and norms for the exploration and exploitation of the sea-bed beyond national jurisdiction; and the establishment of an appropriate international machinery to promote such exploration and exploitation for the benefit of mankind. For the second topic the Committee received a study prepared by the Secretary-General 3/ pursuant to resolution 2467 C (XXIII).

9. A third subject considered by the Committee in 1969 was the question of the reservation exclusively for peaceful purposes of the sea-bed beyond national jurisdiction. Due account was paid to the concurrent international negotiations in the field of disarmament, as requested in resolution 2467 A (XXIII). In that connexion an addendum to the Committee report to the Assembly 4/ was submitted in November 1969, covering the meetings held on the subject.

10. The Committee continued to work in close co-operation with the specialized agencies and intergovernmental bodies dealing with problems referred to in the same resolution.

11. During 1970 the Committee worked intensively on the elaboration of a draft declaration on principles governing the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. The General Assembly, in resolution 2574 B (XXIV), had requested in particular that the Committee should expedite its preparation of a comprehensive and balanced statement of principles designed to promote international co-operation in the exploration and use of the area. The Committee was unable to reach complete agreement before the submission of its report to the twenty-fifth session of the General Assembly. 5/ The greatest possible degree of agreement on the draft was, however, achieved in the course of informal consultations during the General Assembly and at the initiative of the Chairman of the Committee the text was submitted to the Chairman of the First

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2/ Ibid., Twenty-fourth Session, Supplement No. 22 (A/7622) and corrigendum.

3/ Ibid., annex II.

4/ Ibid., Supplement No. 22A (A/7622/Add.1).

5/ Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 21 (A/8021).

Committee of the General Assembly. It was subsequently adopted by a vote of 103 in favour, with 14 abstentions, as General Assembly resolution 2749 (XXV).

12. The other matters the Committee dealt with that year included the economic and technical conditions, rules and requirements for the régime in order to meet the interests of humanity as a whole. The Committee decided to request the Secretariat to prepare an additional study on methods and criteria for the sharing of benefits to be derived from exploitation of the area beyond national jurisdiction. It also reviewed questions of exploration and research in the area, and co-operation in preventing marine pollution which might result from exploration and exploitation.

13. The Committee included in its report to the twenty-fifth session of the General Assembly an account of its consideration of the report on international machinery, 6/ submitted to it by the Secretary-General in accordance with General Assembly resolution 2574 C (XXIV). That resolution had requested the Secretary-General to prepare a study, further to that of 1969, on various types of international machinery, with details regarding their status, structure, functions and powers, including the power to regulate, co-ordinate, supervise and control all activities relating to the exploration of the resources of the area for the benefit of mankind as a whole. At its summer session in 1970, the Committee had received a number of working papers in that connexion.

14. At its twenty-fourth session, the General Assembly had adopted several resolutions in connexion with the item on the sea-bed and ocean floor. One of those resolutions, 2574 A (XXIV), requested the Secretary-General to ascertain the views of Member States on the desirability of convening at an early date a conference on the law of the sea and to report his findings to the General Assembly at its twenty-fifth session. In another resolution, resolution 2574 D (XXIV), the Assembly declared that, pending the establishment of an international régime including appropriate international machinery, States and persons, physical and juridical, were bound to refrain from all activities of exploitation of the resources of the area and that no claim to any part of the area or its resources would be recognized.

15. In the conclusion of its report to the twenty-fifth session of the General Assembly, the Committee stated that, although progress over the previous two years had been slower than it had hoped, the progress had been sufficient to maintain confidence in the emergence of a general agreement on the requirements of the international régime which would be embodied in a future treaty. It was obliged to add, however, that many questions of great importance had not been resolved and that their solution would necessarily require more time and effort.

16. At its twenty-fifth session, the General Assembly considered three additional items that were combined with the sea-bed and ocean floor item, one of which dealt with the Secretary-General's report on the views of Member States regarding the desirability of convening a conference on the law of the sea, in accordance with resolution 2574 A (XXIV). 7/

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6/ Ibid., annex III.

7/ A/7925 and Add.1-3.

17. In addition to the Declaration of Principles adopted as resolution 2749 (XXV), the Assembly adopted resolution 2750 C, under which it decided to convene in 1973, in accordance with the provisions of paragraph 3 of that resolution, cited below, a conference on the law of the sea which would deal with the establishment of an equitable international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, a precise definition of the area, and a broad range of related issues, including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States), the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research.

18. In paragraph 3 of the same resolution the Assembly decided to review at its twenty-sixth and twenty-seventh sessions, the reports which it had instructed the Committee to make on the progress of its preparatory work, with a view to determining the precise agenda of the conference on the law of the sea, its definitive date, location and duration, and related arrangements. If the Assembly, at its twenty-seventh session, determined that the progress of the preparatory work of the Committee was insufficient, it might decide to postpone the conference.

19. The General Assembly reaffirmed the mandate of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction set forth in General Assembly resolution 2467 A (XXIII), as supplemented by resolution 2750 (XXV). Furthermore, it decided to enlarge the Committee by 44 members, appointed by the Chairman of the First Committee of the General Assembly in consultation with regional groups and taking into account equitable geographical representation thereon. Under that decision the following States were members of the enlarged Committee: Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chile, Colombia, Congo (Democratic Republic of), Cyprus, Czechoslovakia, Denmark, Ecuador, El Salvador, Ethiopia, France, Gabon, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Iran, Iraq, Italy, Ivory Coast, Jamaica, Japan, Kenya, Kuwait, Lebanon, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Panama, People's Republic of the Congo, Peru, Philippines, Poland, Romania, Senegal, Sierra Leone, Singapore, Somalia, Spain, Sudan, Sweden, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen and Yugoslavia. One seat on the Committee, allocated to the group of Eastern European States, was unfilled so that the total number of members remained at 85.

20. The enlarged Committee was instructed to hold two sessions in Geneva, in March and in July-August 1971, in order to prepare for the conference on the law of the sea draft treaty articles embodying the international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing

countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, and a comprehensive list of subjects and issues relating to the law of the sea, which should be dealt with by the conference, and draft articles on such subjects and issues.

21. The Committee was authorized to establish such subsidiary organs as it deemed necessary for the efficient performance of its functions, bearing in mind the scientific, economic, legal and technical aspects of the issues involved, and was requested to prepare, as appropriate, reports to the General Assembly on the progress of its work. The Secretary-General was requested to circulate those reports to Member States and to observers to the United Nations for their comments and observations. He was also requested to render the Committee all the assistance it might require in legal, economic, technical and scientific matters, including the relevant records of the General Assembly and specialized agencies, for the efficient performance of its functions.

22. The Assembly decided to invite other Member States, which were not appointed to the Committee, to participate as observers and to be heard on specific points.

23. Finally, the Assembly invited the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Oceanographic Commission, the Food and Agriculture Organization of the United Nations and its Committee on Fisheries, the World Health Organization, the Inter-Governmental Maritime Consultative Organization, the World Meteorological Organization, the International Atomic Energy Agency and other intergovernmental bodies and specialized agencies concerned to co-operate fully with the Committee in the implementation of the present resolution, in particular by preparing such scientific and technical documentation as the Committee might request.

24. At its first session, held at Geneva in March 1971, the Committee adopted the text of the following agreement on the organization of its work:

"The Committee shall form three Sub-Committees of the whole.

"The allocation of subjects and functions to the Sub-Committees shall in the first instance be limited to those items on which there is common agreement.

"Treatment and allocation of all outstanding subjects including, inter alia, (1) the precise definition of the area of the sea-bed and the ocean floor and the subsoil thereof beyond the limits of national jurisdiction and (2) peaceful uses of that area shall be left for determination by the Committee. It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. It is clearly understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction,

proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors.

"On this understanding and in accordance with the mandate of the Committee as defined in resolution 2750 C (XXV), the following subjects and functions shall be allocated to the three Sub-Committees respectively:

"Sub-Committee I:

To prepare draft treaty articles embodying the international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, economic implications resulting from the exploitation of the resources of the area /resolution 2750 A (XXV)/ as well as the particular needs and problems of land-locked countries /resolution 2750 B (XXV)/.

"Sub-Committee II:

To prepare a comprehensive list of subjects and issues relating to the law of the sea, including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States) and to prepare draft treaty articles thereon. It is understood that the Sub-Committee may decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea.

"Sub-Committee III:

To deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research, and to prepare draft treaty articles thereon.

"The Bureaux shall consist of a total of 25 members on the principle of equitable geographical distribution, the distribution being as follows:

"Main Committee	Chairman:	Asia
	Vice-Chairmen:	Africa (2) Asia (1) Latin America (2) Western European and others (1) Eastern European (1) Yugoslavia (1)
	Rapporteur:	Western European and others



"Sub-Committee I	Chairman:	Africa
	Vice-Chairmen:	Asia Latin America Eastern European
	Rapporteur:	Western European and others
"Sub-Committee II	Chairman:	Latin America
	Vice-Chairmen:	Africa Asia Eastern European Western European and others
	Rapporteur:	Africa
"Sub-Committee III	Chairman:	Western European and others
	Vice-Chairmen:	Africa Latin America
	Rapporteur:	Asia

"It was also agreed that, at the formal meeting, the first item would be the election of the Chairman of the Main Committee, thereafter the election of the Vice-Chairmen and Rapporteur, followed by the election of the officers of the three Sub-Committees."

25. This agreement was supplemented by a further understanding reached in the closing stage of its summer session held at Geneva in July-August 1971 on certain points that had not been resolved under the terms of the above agreement. The additional text was as follows:

"The question of the international régime should receive a certain priority as explained by the co-sponsors of the original draft resolution later adopted as resolution 2750 C (XXV) and as implied in the terms of that resolution. This would mean, in the first instance, the allocation of more time to Sub-Committee I.

"While each Sub-Committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee.

"The question of peaceful uses is allocated to the main Committee, it being understood that each of the Sub-Committees is free to consider it in so far as this question is relevant to its mandate."

26. The Committee held a general debate in the course of 1971 and received a series of working papers, draft conventions and draft treaty articles relating to various

parts of its work. It also had before it the reports prepared by the Secretary-General pursuant to General Assembly resolutions 2750 A and B, 8/ which dealt respectively with the possible impact on world markets of sea-bed mineral production in the area beyond national jurisdiction, with special reference to the problems of developing countries, and with the questions of the free access to the sea of land-locked countries and of the specific problems of land-locked countries relating to the exploration and exploitation of the resources of the area.

27. The report of the Committee for 1971 9/ comprised sections dealing with the subjects and functions allocated to each of the three Sub-Committees, which for the most part dealt with the debates held in the Sub-Committees as well as with the pertinent documentation. Annexed to the report were a series of draft conventions, draft treaty articles, working papers and draft lists of subjects and issues submitted to the Committee in the course of that year, as well as a number of other documents.

28. At its twenty-sixth session the General Assembly, after considering the report of the Committee, adopted resolution 2881 (XXVI), of 21 December, in which it noted with satisfaction the encouraging progress of the preparatory work of the Committee towards a comprehensive conference on the law of the sea, in particular with regard to the elaboration of an international régime and machinery for the area beyond the limits of national jurisdiction.

29. The Assembly decided to add China to the membership of the Committee and to have four additional members appointed by the Chairman of the First Committee in consultation with regional groups and with due regard to the interests of under-represented groups. These were Fiji, Finland, Nicaragua and Zambia. 10/

30. The Committee was requested to hold two sessions, one in New York during March and April and one at Geneva during July and August 1972.

31. In 1972 the Committee continued its work in accordance with the agreements concluded in 1971 to which reference has been made above. Its report, 11/ submitted to the General Assembly at its twenty-seventh session, contained the list of subjects and issues.

### III. WORK OF THE COMMITTEE IN 1973

32. Under resolution 3029 A (XXVII), of 18 December 1972, the General Assembly reaffirmed the mandate of the Committee and requested it to hold two further sessions in 1973, one of five weeks in New York beginning in early March, and the other of eight weeks at Geneva, beginning in early July, with a view to completing

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8/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421), annex II.

9/ Ibid., Supplement No. 21 (A/8421).

10/ The membership of the Committee was thus increased to 91, one seat remaining unfilled.

11/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721) and corrigendum.

its preparatory work, and to submit a report with recommendations to the General Assembly at its twenty-eighth session and, in the light of the decision to be taken following the review of the progress of the preparatory work, to the Conference. The resolution requested the Secretary-General to convene the first session of the Third United Nations Conference on the Law of the Sea in New York for a period of approximately two weeks, in November and December 1973, for the purpose of dealing with organizational matters, including the election of officers, the adoption of the agenda and the rules of procedure of the Conference, the establishment of subsidiary organs and the allocation of work to those organs. The Assembly decided to convene a second session of the Conference, for the purpose of dealing with substantive work, at Santiago, Chile, for a period of eight weeks in April and May 1974, and such subsequent sessions, if necessary, as might be decided by the Conference and approved by the General Assembly, bearing in mind the fact that the Government of Austria had offered Vienna as a site for the Conference for the succeeding year. It further decided to review at its twenty-eighth session the progress of the preparatory work of the Committee and, if necessary, to take measures to facilitate completion of the substantive work for the Conference and any other action that might be appropriate.

33. The resolution authorized the Secretary-General, in consultation with the Chairman of the Committee, to make such arrangements as might be necessary for the efficient organization and administration of the Conference and the Committee, utilizing to the fullest extent possible the resources of staff at his disposal, to render to the Conference and the Committee all the assistance they might require in legal, economic, technical and scientific matters and to provide them with all relevant documentation of the United Nations, the specialized agencies and the International Atomic Energy Agency.

34. The Assembly decided to consider as a matter of priority at its twenty-eighth session any further matters requiring a decision in connexion with the Conference, including the participation of States in the Conference, and to include in the provisional agenda of that session the item entitled "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 use of their resources in the interests of mankind, and convening of a conference on the law of the sea".

35. The Assembly invited the specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations to co-operate fully with the Secretary-General in the preparations for the Conference and to send observers to the Conference. It requested the Secretary-General, subject to approval by the Conference, to invite interested non-governmental organizations having consultative status with the Economic and Social Council to send observers to the Conference.

36. At its twenty-seventh session, the General Assembly adopted two other resolutions (3029 B and C (XXVII)), both of which dealt with studies to be prepared by the Secretary-General. Under the operative part of resolution 3029 B (XXVII), it requested the Secretary-General to prepare, on the basis of data and information at his disposal, a comparative study of the extent and the economic significance, in terms of resources, of the international area that would result from each of the various proposals on limits of national jurisdiction submitted so far to the Committee.

37. Under resolution 3029 C (XXVII) a similar request was made to the Secretary-General, in connexion with the study to be submitted under resolution 3029 B (XXVII) for preparation of a comparative study of the potential economic significance for riparian States, in terms of resources, of each of the proposals.

38. In the case of the first study, the Assembly invited States, the United Nations Conference on Trade and Development, the specialized agencies and other competent organizations of the United Nations system to co-operate with the Secretary-General in its preparation. Under both of the resolutions, the Assembly requested the Secretary-General to submit the study no later than the opening date of the summer session of the Committee. It declared that nothing in the resolutions or in the studies would prejudice the position of any State concerning limits, the nature of the régime and machinery or any other matter to be discussed at the forthcoming Conference.

39. The Committee held two sessions in 1973, the first in New York, from 5 March to 6 April, and the second at Geneva, from 2 July to 24 August.

40. The Committee held 15 meetings during the period.

41. The officers of the Committee during 1973 were as follows:

Chairman:	Mr. Hamilton Shirley Amerasinghe (Sri Lanka)
Vice-Chairmen:	Zaire Mr. D. K. Mwene Ngabwe (first session) Mr. Kalonji-Tshilala (second session)
	Mauritius Mr. R. K. Ramphul
	Kuwait Mr. Abdullah Yaccoub Bishara (first session) Mr. S. N. Al-Sabah (second session)
	Chile Mr. D. Casanueva (first session) Mr. H. Santa Cruz (second session)
	Trinidad and Tobago Mr. K. T. Hudson-Phillips
	Norway Mr. J. Evensen
	Poland Mr. W. Natorf (first session and second session till 31 July) Mr. E. Wyzner (second session from 1 August)
	Yugoslavia Mr. L. Mojsov (first session) Mr. Z. Perisić (second session till 19 August) Mr. B. Bohte (second session from 20 August)

42. The membership of the Committee remained the same as in 1972.

43. The following Member States participated in the work of the Committee as observers: Bahrain, Barbados, Bhutan, Botswana, Burma, Central African Republic, Costa Rica, Cuba, Democratic Yemen, Dominican Republic, Equatorial Guinea, Haiti,

Honduras, Ireland, Israel, Jordan, Khmer Republic, Laos, Malawi, Mongolia, Niger, Oman, Portugal, Qatar, Saudi Arabia, South Africa, Swaziland, Syrian Arab Republic, Togo, Uganda and United Arab Emirates.

44. The meetings of the Committee were attended by representatives of the International Atomic Energy Agency and of the specialized agencies - the International Labour Organisation, the Food and Agriculture Organization of the United Nations and its Committee on Fisheries, the United Nations Educational, Scientific and Cultural Organization and its Intergovernmental Oceanographic Commission, the Inter-Governmental Maritime Consultative Organization and the World Meteorological Organization, as well as of the United Nations Conference on Trade and Development and the United Nations Environment Programme. Representatives of several of those organizations made statements to the Committee.

45. Mr. Constantin A. Stavropoulos, Under-Secretary-General and Legal Counsel, was present at the meetings of the Committee.

46. Pursuant to an invitation extended by the Committee, the representative of the International Hydrographic Organization attended meetings of the Committee and made a statement to the Committee.

47. At the 94th meeting, on 2 July 1973, the Committee heard a statement on behalf of the Secretary-General of the United Nations by Mr. Winspeare Guicciardi, Director-General of the United Nations Office at Geneva.

48. At the 98th meeting, on 30 July 1973, the Secretary-General of the Permanent Commission of the South Pacific made a statement to the Committee.

49. In accordance with requests made by the General Assembly at its twenty-seventh session, contained in resolutions 3029 B and C (XXVII), the Secretary-General submitted a report on the economic significance, in terms of sea-bed mineral resources, of the various limits proposed for national jurisdiction (A/AC.138/87 and Corr.1). Pursuant to operative paragraphs 2 and 3 of resolution 2750 A (XXV), the Secretary-General submitted a progress report on recent developments relating to sea-bed mineral resources (A/AC.138/90). A complete report on the subject-matter of that resolution was to be presented in advance of the substantive Conference to be held at Santiago.

50. In accordance with a request made at the 93rd meeting of the Committee, the Secretary-General also submitted to the Committee at its summer session a report on examples of precedents of provisional application, pending their entry into force, of multilateral treaties, especially treaties which had established international organizations and/or régimes (A/AC.138/88).

51. In accordance with a further request made at the 93rd meeting of the Committee, the Secretariat prepared a master file of documents pertaining to the Committee, together with relevant documents of the specialized agencies.

52. Also, at the request of the Committee, the following reports and studies were made available to members by the Food and Agriculture Organization of the United Nations: Review of the status of some heavily exploited fish stocks (FAO Fisheries Circular No. 313); The economic and social effects of the fishing industry - a comparative study (FAO Fisheries Circular No. 314); Sedentary, migratory and

intermingling species, their habitat and distribution (FAO Fisheries Circular No. 148-Revision 1); Limits and status of the territorial sea, exclusive fishing zones, fishery conservation zones and the continental shelf (FAO Fisheries Circular No. 127/Rev.1).

53. At the beginning of its first session in 1973, the Committee discussed certain proposals and suggestions of its Chairman regarding the organization of work. As summed up by the Chairman, the discussion produced a consensus to the effect that the existing terms of reference of the Sub-Committees should remain essentially unchanged, and that the Committee itself would exercise over-all political guidance and take the final decisions in any matter related to the co-ordination of the work of the Sub-Committees. In accordance with that decision, a revised version of the Chairman's proposals and suggestions (A/AC.138/L.13/Rev.1) provided the basis for the allocation of items on the list of subjects and issues.

54. In the course of its first session, the Committee held weekly meetings to hear progress reports on the work being carried out by the Sub-Committees and their working groups. It also heard a number of general statements, several of which appraised the development of the preparatory work and the prospects for the Conference, in addition to offering various suggestions in that regard. At the end of the session, the Committee requested its Chairman to undertake informal consultations with the various regional groups, and with individual members, on questions relating to arrangements for the Conference.

55. The Committee proceeded in similar fashion at the second session. At its 94th meeting, it decided to reproduce as a Committee document (A/AC.138/89) the "Declaration of Addis Ababa" on questions of the law of the sea, adopted by the Organization of African Unity on 24 May 1973. It heard further general statements on the subject of preparations for the Conference and on various issues involved in the preparatory work. It also heard statements on the relationship of that work, particularly as regards prevention of pollution, to developments in the Council of the Inter-Governmental Maritime Consultative Organization; on the report of the Secretary-General under resolutions 3029 B and C (XXVII) (A/AC.138/87); on nuclear tests held in the South Pacific and elsewhere; and statements introducing new texts of draft treaty articles.

56. At its 101st, 102nd and 103rd meetings, on 22, 23 and 24 August 1973, the Committee approved the reports of its three Sub-Committees and decided to annex them to the present report (annexes I, II and III below). The reports of the Sub-Committees contained, either as appendices or in the body of the report, the texts that had been submitted to or prepared in the Sub-Committees or their working groups.

#### IV. RECOMMENDATIONS

57. The Committee noted that the General Assembly, in paragraph 2 of resolution 3029 A (XXVII), had requested it to submit its report with recommendations to the twenty-eighth session of the Assembly. Various questions were considered by the Committee in that connexion, including the question of the adequacy of the preparatory work. It was evident, however, that the questions were the subject of differing views and members of the Committee considered that assessment of the preparatory work should in the circumstances be left to the General Assembly.

## ANNEX I

### REPORT OF SUB-COMMITTEE I a/

#### I. BACKGROUND

##### A. Work of the Sub-Committee in 1971

1. Sub-Committee I was one of three Sub-Committees of the whole set up in accordance with an agreement reached on the organization of work of the Committee on the Peaceful Uses of the Sea-Bed and Ocean Floor beyond the Limits of National Jurisdiction during its session in March 1971. Under the terms of the agreement read out by the Chairman of the Committee at its 45th meeting, on 12 March 1971, the following subjects and functions were allocated to Sub-Committee I:

"To prepare draft treaty articles embodying the international régime - including an international machinery - for the area and the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, taking into account the equitable sharing by all States in the benefits to be derived therefrom, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked, on the basis of the Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, beyond the Limits of National Jurisdiction, economic implications resulting from the exploitation of the resources of the area (resolution 2750 A (XXV)), as well as the particular needs and problems of land-locked countries (resolution 2750 B (XXV))."

2. The agreement of 12 March also stated:

"It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. It is clearly understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors."

3. On 27 August 1971, at the 66th meeting, the Chairman of the Committee read out the text of the following agreement on outstanding issues, which the Committee adopted:

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a/ Originally issued as document A/AC.138/94.

"The question of the international régime should receive a certain priority as explained by the co-sponsors of the original draft resolution later adopted as resolution 2750 C (XXV) and as implied in the terms of that resolution. This would mean, in the first instance, the allocation of more time to Sub-Committee I.

"While each Sub-Committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee.

"The question of peaceful uses is allocated to the main Committee, it being understood that each of the Sub-Committees is free to consider it in so far as this question is relevant to its mandate."

4. Sub-Committee I held two series of meetings at Geneva in 1971, from 12 March to 26 March and from 19 July to 27 August. In March it held four meetings; in July-August it held 27 meetings. Representatives of the States members of the Committee and of observer States, attended the meetings. Representatives of the specialized agencies, the International Atomic Energy Agency and the United Nations Conference on Trade and Development also attended the meetings.

5. The officers of Sub-Committee I in 1971 were:

Chairman:	Dr. E. E. Seaton (United Republic of Tanzania)
Vice Chairmen:	Mr. S. M. Thompson-Flores (Brazil)
	Mr. G. Fekete (Hungary)
	Mr. C. V. Ranganathan (India)
Rapporteur:	Mr. A. Prohaska (Austria)

6. The report of the Sub-Committee on its work in 1971, reproduced in the report of the Committee to the General Assembly, b/ noted that the Sub-Committee had completed during the year a general comprehensive debate on the matters referred to it. The views expressed in the Sub-Committee during the debate are summarized in paragraphs 59-83 of the Committee's report.

7. At the end of the July-August session, the Chairman submitted a note (A/AC.138/SC.I/L.6) containing suggestions for the future work of the Sub-Committee. Following a discussion of the matter, the Sub-Committee agreed that at the beginning of its first session in 1972 it would begin the next stages of its work in relation to the matters referred to it. Accordingly it would give specific consideration to particular subjects with a view to clarifying them sufficiently, so that it could proceed to the drafting of articles on the issues identified in those specific debates.

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b/ Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421).



B. Work of the Sub-Committee in 1972

8. Sub-Committee I held two series of meetings during 1972, the first in New York from 29 February to 29 March, and the second at Geneva from 19 July to 15 August. In March it held 16 meetings; in July-August it held 14 meetings. The meetings were attended by representatives of States members of the Committee and by observers. Representatives of the specialized agencies, the International Atomic Energy Agency and the United Nations Conference on Trade and Development also attended the meetings.

9. The officers of Sub-Committee I in 1972 were:

Chairman:	Mr. Paul Bamela Engo (Cameroon)
Vice-Chairmen:	Mr. S. M. Thompson-Flores (Brazil)
	Mr. G. Fekete (Hungary)
	Mr. C. V. Ranganathan (India)
Rapporteur:	Mr. H. C. Mott (Australia)

10. At its 33rd meeting, on 6 March 1972, the Sub-Committee adopted its programme of work for 1972. The programme, which was based on a working paper presented at the August 1971 session of the Sub-Committee, was formally adopted after the incorporation of certain amendments. The programme of work was:

Item 1: Status, scope and basic provisions of the régime, based on the Declaration of Principles (resolution 2749 (XXV)).

Item 2: Status, scope, functions and powers of the international machinery in relation to:

- (a) Organs of the international machinery, including composition, procedures and dispute settlement;
- (b) Rules and practices relating to activities for the exploration, exploitation and management of the resources of the area, as well as those relating to the preservation of the marine environment and scientific research, including technical assistance to developing countries;
- (c) The equitable sharing in the benefits to be derived from the area, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked;
- (d) The economic considerations and implications relating to the exploitation of the resources of the area, including their processing and marketing;
- (e) The particular needs and problems of land-locked countries; and
- (f) Relationship of the international machinery to the United Nations system.

11. The Sub-Committee held a specific discussion on both items of its programme of work, including the six sections of item 2. The report of the Sub-Committee on its

work in 1972, reproduced in the report of the Committee to the General Assembly, summarizes the substance of the discussion.

12. At the 40th meeting of the Sub-Committee, the Chairman summarized the discussion on item 1 of the programme of work, and his summary, by decision of the Sub-Committee, was circulated as document A/AC.138/SC.I/L.10. At the 55th meeting of the Sub-Committee, the presiding Vice-Chairman, on behalf of the Bureau, summarized the discussion on item 2 of the programme of work, and his summary, by decision of the Sub-Committee, was circulated as document A/AC.138/SC.I/L.17.

#### Working Group on the international régime and machinery

13. The report of the Sub-Committee for 1972 stated that the Sub-Committee agreed to a proposal by the Chairman to set up a Working Group on the international régime. It was agreed that the Working Group would have 33 members but would be open-ended to enable non-members to present proposals or those who had already done so to join in examining them. The following States were designated as members of the Working Group: Afghanistan, Algeria, Australia, Canada, Czechoslovakia, Ethiopia, Finland, France, Indonesia, Iraq, Iran, Japan, Kenya, Kuwait, Madagascar, Mali, Malta, Mexico, Morocco, Nigeria, Peru, Poland, Romania, Senegal, Sri Lanka, Trinidad and Tobago, Union of Soviet Socialist Republics, United States of America, Uruguay, Venezuela, Zaire, Zambia.

14. During the March session of the Committee, the Working Group held two meetings, on 28 and 29 March 1972, at the first of which it elected Mr. C. W. Pinto (Sri Lanka) as Chairman. It held 20 meetings in July-August, in pursuance of the mandate conferred upon it by the Sub-Committee.

15. At the start of its meetings during the July-August session, the Working Group had before it an informal working paper, which had been prepared as a preliminary attempt to reflect within a single paper, through the use of square brackets and alternative texts, areas of agreement and disagreement on matters relating to the status, scope and basic provisions of the régime, as they had been indicated in the debates in the Committee and in Sub-Committee I. The paper contained 21 texts on the following aspects of the status, scope and basic provisions of the régime based on the Declaration of Principles: limits of the Area; common heritage of mankind; activities regarding exploration and exploitation of the resources of the Area; non-appropriation and no claim or exercise of sovereignty or sovereign rights; no claim or acquisition of rights incompatible with the régime; non-recognition of claims inconsistent with the convention; use of the Area by all States without discrimination; applicability of principles and rules of international law; benefit of mankind as a whole; preservation of the Area exclusively for peaceful purposes; who may exploit the Area; general norms regarding exploitation; scientific research; transfer of technology; protection of the marine environment; due regard to the rights and interests of coastal States; the legal status of superjacent waters; non-interference with other activities in the Area; responsibility to ensure observance of the régime; and settlement of disputes.

16. The Working Group on 28 July completed a first reading of the texts, designed to ensure that the opinions of members were fully and accurately reflected. As a result of that first reading, the working paper was revised to take account of the opinions expressed. During a second reading of the revised texts, an attempt was

made to narrow the areas of disagreement as far as possible and to merge alternative texts where there was no fundamental difference of approach. The result of the Group's work was annexed to the Sub-Committee's report for 1972. At the conclusion of its meetings for the year, the Working Group had completed its second reading of the following texts: the common heritage of mankind; activities regarding exploration and exploitation; non-appropriation and no claim or exercise of sovereignty or sovereign rights, or of rights incompatible with the treaty articles, and the non-recognition of any such claims or exercise of rights; and use of the Area by all States without discrimination.

17. The Sub-Committee agreed at its 61st meeting to a proposal by the presiding Vice-Chairman concerning the course of future work in regard to item 2 of the programme of work.

18. The Vice-Chairman said that in view, among other consideration, of the close links that existed between the two items on the Sub-Committee's programme of work - the régime and the machinery - representatives of the different regional groups had agreed to entrust to the Working Group on the international régime the task of dealing with the matters included in item 2 of the programme of work, on the international machinery, in accordance with the Group's procedures.

19. The Chairman said that it would be understood that the Working Group could decide at the appropriate time that the completion of the task relating to the régime would not be necessary before beginning work on the international machinery. The understanding concerning the distribution of membership among regional groups would remain the same, it being agreed that regional groups would be free to maintain or modify their membership, and the Working Group would be open to all members of the Committee who wished to participate.

## II. WORK OF THE SUB-COMMITTEE IN 1973

20. The Sub-Committee held two series of meetings in 1973, the first in New York from 7 March to 5 April and the second at Geneva from 3 July to 17 August. In March-April it held seven meetings and in July-August it held seven meetings. Representatives of the States members of the Committee and observers attended the meetings. Representatives of the specialized agencies, the International Atomic Energy Agency and the United Nations Conference on Trade and Development also attended the meetings.

21. The officers of the Sub-Committee in 1973 were:

Chairman:	Mr. Paul Bamela Engo (Cameroon)
Vice-Chairmen:	Mr. S. M. Thompson-Flores (Brazil)
	At the March session:
	Mr. R. Banyasz (Hungary, replacing Mr. Fekete)
	Mr. P. C. Rao (India, replacing Mr. Ranganathan)
	At the July-August session:
	Mr. Endre Zador (Hungary)
	Mr. C. V. Ranganathan (India)
Rapporteur:	Mr. H. C. Mott (Australia)

22. In addition to various background documents, the Sub-Committee had before it three reports prepared by the Secretary-General for the Committee in response to

General Assembly resolutions 3029 B and C (XXVII) and in accordance with requests made in the Sub-Committee during the March-April session:

- (a) Economic significance, in terms of sea-bed mineral resources, of the various limits proposed for national jurisdiction (A/AC.138/87);
- (b) Examples of precedents of provisional application, pending their entry into force, of multilateral treaties, especially treaties which have established international organizations and/or régimes (A/AC.138/88);
- (c) Sea-bed mineral resources: recent developments (A/AC.138/90).

23. The following papers were introduced in 1973:

- (a) Draft article submitted by Turkey under item 23 of the list of subjects and issues relating to the law of the sea, c/ "Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction" (A/AC.138/SC.I/L.21);
- (b) Draft articles presented by Italy concerning the composition of the Council (A/AC.138/SC.I/L.24);
- (c) Draft article submitted by Greece under item 23 of the list of subjects and issues, "Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction" (A/AC.138/SC.I/L.25);
- (d) Preliminary draft articles concerning the basic principles of the régime of the international area of the sea-bed and the subsoil thereof and regulations for the granting and administration of licences for the exploration and exploitation of minerals, submitted by Italy (A/AC.138/SC.I/L.26);
- (e) Preamble to a treaty on the use of the sea-bed for peaceful purposes, presented by the USSR (A/AC.138/SC.I/L.28).

24. A list of the documents submitted to the Sub-Committee for the years 1971-1973 is contained in appendix I.

25. An index of statements in the Sub-Committee for the years 1971-1973 is contained in appendix II.

26. At its 75th meeting, on 17 August, the Sub-Committee adopted its report to the Committee (A/AC.138/94).

#### Discussions in the Sub-Committee

27. During its two sessions in 1973, the Sub-Committee devoted a number of meetings to discussions of individual subjects related to its mandate. The discussions are described in the following paragraphs.

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c/ Ibid., Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23.

28. A number of delegations commented on the subject of archaeological and historical treasures, which was an item added to the mandate of the Sub-Committee following the acceptance of the list of subjects and issues. One representative recalled that his delegation had submitted a working paper on the subject at the previous session of the Sub-Committee (A/AC.138/SC.I/L.16) and described the provisions of that paper. A brief discussion ensued, in which a number of delegations commented on the subject. Another delegation submitted a draft article (A/AC.138/SC.I/L.21) which was also the subject of comments. Subsequently, during the July-August session, a further draft article was submitted (A/AC.138/SC.I/L.25).

29. At the 64th meeting of the Sub-Committee, on 17 March, a delegation requested that the Secretary-General should prepare a study of the potential applicability to the Committee's present work of the various ways in which the question of the provisional entry into force of multilateral treaties had been dealt with in the past. He asked that the study should be completed before the July-August session of the Committee and that it should be referred to Sub-Committee I and possibly to the Working Group for discussion. Following consultations and discussion in the Sub-Committee, the proposal was subsequently issued in writing (A/AC.138/SC.I/L.19). At its 66th meeting the Sub-Committee adopted the following recommendation to the Committee:

"Sub-Committee I recommends to the main Committee that the Secretary-General be requested to describe factually, for the Sub-Committee's use at its summer session in 1973, examples of precedents of provisional application, pending their entry into force, of all or part of multilateral treaties, especially treaties which have established international organizations and/or régimes.

"This recommendation is not a pronouncement on, nor does it prejudice in any way, the nature, characteristics, forms or structure of the régime and machinery for the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction which are to be established, in the general context of the law of the sea to be considered at the forthcoming Conference. It does not constitute a recommendation on the advisability of the concept of provisional application of the régime and machinery, or on the relevance of past precedents. Nor does it prejudice the question whether only that part of a treaty relating to the régime and machinery concerning the sea-bed area beyond the limits of national jurisdiction and its resources would apply provisionally or whether provisions relating to other questions of the law of the sea would also apply provisionally. These questions have not been discussed by the Sub-Committee."

30. Another delegation recalled resolution 2750 A (XXV) and asked the Secretary-General to provide for the July-August session a brief report on new economic and technological developments relating to sea-bed exploitation and subsequently to prepare a more comprehensive study for the Conference. The Sub-Committee endorsed that request.

31. During the March-April session, the Chairman of the Working Group reported to the Sub-Committee on the progress made in the Group. By decision of the Sub-Committee his statements were reproduced in extenso in the records of the 64th and 67th meetings. His reports contained personal views and were not binding on

any delegation. A number of delegations also commented on developments in the Working Group.

32. On 5 April, at the 68th meeting of the Sub-Committee, the Chairman made a statement summarizing the work done by the Sub-Committee and its Working Group during the session in March-April, which by decision of the Sub-Committee was circulated as document A/AC.138/SC.I/L.23. In his statement the Chairman suggested that the Working Group's texts on the status, scope and basic provisions of the régime should be circulated as a document of the Sub-Committee. The Sub-Committee agreed to the proposal and the texts were circulated as document A/AC.138/SC.I/L.22.

33. At the session in July-August, and pursuant to decisions of the General Assembly and of the Committee at its session in March-April (see paragraphs 29 and 30 above), the Sub-Committee had before it the three reports mentioned in paragraph 22 above.

34. A number of delegations commented on the report on the economic significance, in terms of sea-bed mineral resources, of the various limits proposed for national jurisdiction (A/AC.138/87). Speakers generally appeared to agree that the report contained material of importance for the work of the Sub-Committee in relation to the international régime and machinery, because of the information it provided as to the likely extent and location of sea-bed resources.

35. Some speakers commented on the report on examples of precedents of provisional application, pending their entry into force, of multilateral treaties (A/AC.138/88). Speakers generally appeared to agree that it was a useful report, which could be taken into account at a further stage of the work of formulating the new law of the sea.

36. Several speakers referred to the report concerning recent developments in regard to sea-bed mineral resources (A/AC.138/90). d/ The view was expressed that the report contained some incorrect information, deriving from published sources, about the part played by one Government regarding activities related to sea-bed mineral resources. A number of delegations referred to a newspaper report about plans for mining on the deep ocean floor. The view was expressed that activities of that kind led to the conclusion that it was urgently necessary to negotiate the differences between States and to hold the Conference; that, stemming from principles 4 and 14 of the Declaration of Principles contained in General Assembly resolution 2749 (XXV), all activities in the area should be subject to the régime to be established and States were obliged to ensure that their nationals would comply with the aforesaid régime; that further study of the provisional application of the convention emerging from the Conference would be necessary; and that the Secretary-General should submit well in advance of the Conference a final report dealing with the economic consequences of future exploitation for the economies of developing land-based producers of minerals. It was also stated in that regard that the position of another delegation on interim mining legislation and sea-bed nodule exploitation remained as outlined in the March-April session. According to that view, as well, it was necessary to proceed urgently with the work of the Committee so that when exploitation took place it would do so under agreed international arrangements.

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d/ Following a report made in the Sub-Committee, a note by the UNCTAD secretariat on "Exploitation of the mineral resources of the sea-bed beyond national jurisdiction: issues of international commodity policy" (document TD/B/449 of 25 June 1973) was also circulated.

37. The Chairman of the Working Group, in accordance with the practice originated at the March-April session, made periodic reports to the Sub-Committee on the progress made in the Working Group during the July-August session. Those reports, which contained useful material in regard to the activities of the Working Group, but which represented the personal views of its Chairman and were not binding on any delegation, were by decision of the Sub-Committee reproduced in extenso in the records for the 70th and 73rd meetings. The Chairman's final report is in the records of the 75th meeting of the Sub-Committee.

#### Working Group on the international régime and machinery

38. During the March-April session the Working Group held 30 meetings and during the July-August session 37 meetings.

39. As noted in paragraph 16 above, at the conclusion of its meetings in 1972 the Working Group had carried out its first reading of a number of texts relating to the international régime, some of which also received a second reading. e/ In the March-April session in 1973 the Working Group completed its second reading of texts relating to the international régime. In addition it began its consideration of a working paper relating to the international machinery (Doc. 3). Consideration of the texts relating to the international machinery was continued during the July-August session. Texts forwarded by the Working Group will be published in volume II.

40. As regards the international régime, the Working Group carried out a first reading of texts relating to the limits of the Area, and completed a second reading of texts concerning the following 20 subjects: the common heritage of mankind; activities regarding exploration and exploitation; non-appropriation or claim or exercise of sovereignty or sovereign rights, or of rights incompatible with the treaty rights, and the non-recognition of any such claims or exercise of rights; use of the Area by all States without discrimination; general conduct in the Area and in relation to the Area; benefit of mankind as a whole; preservation of the Area exclusively for peaceful purposes; who may exploit the Area; general norms regarding exploitation; scientific research; transfer of technology; protection of the marine environment; protection of human life; due regard to the rights of coastal States; legal status of waters superjacent to the Area; accommodation of activities in the marine environment and in the Area; responsibility to ensure observance of the international régime and liability for damages; access to and from the Area; archaeological and historical objects; and settlement of disputes.

41. With regard to the international machinery, the Working Group carried out a first reading of texts concerning the following subjects: establishment of international machinery; nature of the Authority; status of the Authority; operation of vessels and emplacement of installations by the Authority; installations and other facilities for the exploration of the Area and the exploitation of its resources; privileges and immunities; relationships with other organizations; fundamental principles of the functioning of the Authority; purposes of the Authority; powers and functions of the Authority; principal organs of the

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e/ Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), annex II, sect. 1.

Authority; the Assembly; powers and functions of the Assembly; the Council; powers and functions of the Council; the system of settlement of disputes (including the Tribunal); the Enterprise; the Operations Commission; the Permanent Board; the Management and Development Commission; the International Sea-Bed Operations Organization; the Exploration and Production Agency; the Exploitation Commission; the Secretariat; the Rules and Recommended Practices Commission; the Planning/Price Stabilization Commission; the Scientific and Technological Commission; the Legal Commission; the International Sea-bed Boundary Review Commission; the Inspection and Conservation Commission; and miscellaneous provisions.

42. The Working Group completed its second reading of texts concerning the following subjects: the Assembly; powers and functions of the Assembly; the Council; powers and functions of the Council; the system of settlement of disputes (including the Tribunal); the Enterprise; the Operations Commission; the Permanent Board; the Management and Development Commission; the International Sea-bed Operations Organization; the Exploration and Production Agency; and the Exploitation Commission.

43. Some delegations objected to the consideration of certain texts and to their inclusion in the report, on the ground of the non-competence of the Working Group. In every such case an appropriate foot-note has been inserted.

44. A proposed preamble was submitted for a first reading in the Working Group. The view was expressed that consideration of the preamble was outside the mandate of the Working Group, while other delegations took a contrary view. Owing to lack of time the Working Group was not able to complete its discussion of the issue and no alternative texts were presented. The inclusion of the preamble is therefore without prejudice to the position of any delegation.

45. The Working Group has, in discharging its mandate, attempted to reflect areas of agreement and disagreement concerning all those items in the series of texts appended to the present report. Square brackets are used and alternative texts prepared in order to indicate areas where it did not prove possible to accommodate views in a single text.

46. It should be noted (a) that the Working Group did not take a decision concerning headings or margin notes, or the question of the eventual position of texts; (b) that some members expressed reservations as to whether certain of the subjects dealt with in the texts fell within the terms of reference of the Working Group; and (c) that some members did not consider the matters covered by the texts as necessarily exhaustive.

47. In the Working Group it was considered that there were a number of additional matters which might need to be dealt with. They could include general rules and regulations regarding exploration of the Area and exploitation of its resources, which, according to the type of administration adopted as regards exploration and exploitation, might cover such subjects as notice to mariners and other safety procedures, areas to be allotted, work requirements, work plans, inspection, service contracts, licensing, joint ventures, fees payable, revocation of service contracts, revocation of licences; integrity of investments; regional arrangements; the participation of disadvantaged countries; the Statute of the Tribunal; criteria for the sharing of benefits; the parties to the treaty and other final clauses; and transitional provisions. The list was not accepted in its entirety by all delegations.



## Appendix I

### List of documents submitted to Sub-Committee I

Provisional agenda <u>/dated 16 March 1971/</u>	A/AC.138/SC.I/L.1
Note by the Chairman <u>/dated 16 March 1971/</u>	A/AC.138/SC.I/L.2
Letter dated 25 March 1971 from the Chairman of Sub-Committee I to the Chairman of the Committee <u>/dated 26 March 1971/</u>	A/AC.138/SC.I/L.3
Note by the Chairman <u>/dated 19 July 1971/</u>	A/AC.138/SC.I/L.4
Statement by the representative of the Secretary-General of the United Nations Conference on Trade and Development made at the 20th meeting of Sub-Committee I, held on 13 August 1971 <u>/dated 13 August 1971/</u>	A/AC.138/SC.I/L.5
Note by the Chairman <u>/dated 16 August 1971/</u>	A/AC.138/SC.I/L.6
Draft report of the Sub-Committee <u>/dated 19 August 1971/</u>	A/AC.138/SC.I/L.7
Working paper submitted by Australia and Jamaica: tentative programme of work for 1972 <u>/dated 27 August 1971/</u>	A/AC.138/SC.I/L.8
Working paper submitted by the Netherlands concerning the concept of an intermediate zone <u>/dated 20 March 1972/</u>	A/AC.138/SC.I/L.9
Programme of work: status, scope and basic provisions of the régime based on the Declaration of Principles: statement made by the Chairman of Sub-Committee I at the 40th meeting on 20 March 1972 <u>/dated 20 March 1972/</u>	A/AC.138/SC.I/L.10
Letter dated 29 March 1972 from the Chairman of Sub-Committee I to the Chairman of the Committee <u>/dated 30 March 1972/</u>	A/AC.138/SC.I/L.11
Statement by Mr. Philippe de Seynes, Under-Secretary-General for Economic and Social Affairs, to Sub-Committee I at its 48th meeting on 19 July 1972 <u>/dated 20 July 1972/</u>	A/AC.138/SC.I/L.12
Statement made by Mr. Manuel Pérez Guerrero, Secretary-General of the United Nations Conference on Trade and Development, at the 48th meeting of Sub-Committee I, held on 19 July 1972 <u>/dated 20 July 1972/</u>	A/AC.138/SC.I/L.13

List of UNCTAD III documents on matters related to the exploitation of sea-bed mineral resources /dated 21 July 1972/	A/AC.138/SC.I/L.14
Institutional problems concerning the sea-bed authority; the Council: working paper submitted by Italy /dated 1 August 1972/	A/AC.138/SC.I/L.15
Archaeological and historical treasures of the sea-bed and the ocean floor beyond the limits of national jurisdiction: working paper submitted by Greece /dated 2 August 1972/	A/AC.138/SC.I/L.16
Statement by the Vice-Chairman of Sub-Committee I on item 2 of the programme of work, made at the 55th meeting on 4 August 1972 /dated 4 August 1972/	A/AC.138/SC.I/L.17
Draft report of Sub-Committee I /dated 7 August 1972/	A/AC.138/SC.I/L.18 and Add.1-4
Draft recommendation submitted by the United States /dated 26 March 1973/	A/AC.138/SC.I/L.19
Recommendation of Sub-Committee I adopted at its 66th meeting on 27 March 1973 /dated 27 March 1973/	A/AC.138/SC.I/L.20
Turkey: draft article submitted under item 23 of the list of subjects and issues, "Archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction /dated 28 March 1973/	A/AC.138/SC.I/L.21
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Preliminary draft articles submitted by Italy concerning the basic principles of the régime of the international area of the sea-bed and the subsoil thereof and regulations for the granting and administration of licences for the exploration and exploitation of minerals /dated 14 August 1973/

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74th meeting - 9 August 1973

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75th meeting - 17 August 1973

Adoption of the draft report of the Sub-Committee

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## ANNEX II

### REPORT OF SUB-COMMITTEE II<sup>a/</sup>

#### I. Background to the work of Sub-Committee II in 1971 and 1972

1. During its session in March 1971 the Committee on the Peaceful Uses of the Sea-bed and Ocean Floor beyond the Limits of National Jurisdiction adopted an agreement on the organization of work of the Committee. b/ The Committee, on the basis of the agreement, allocated the following subjects and functions to Sub-Committee II:

"To prepare a comprehensive list of subjects and issues relating to the law of the sea, including those concerning the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States) and to prepare draft treaty articles thereon. It is understood that the Sub-Committee may decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea."

2. Subjects and functions were allocated to the three Sub-Committees on the following understanding:

"Treatment and allocation of all outstanding subjects, including, inter alia, (1) the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and (2) peaceful uses of that area shall be left for determination by the Committee. It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. It is clearly understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors."

3. With regard to the outstanding issues that, under the above-mentioned agreement, were left to be determined later, the Chairman of the Committee, at its 66th meeting, on 27 August 1971, read out the following agreement:

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a/ Originally issued as document A/AC.138/95.

b/ See A/AC.138/SR.45.



"The question of the international régime should receive a certain priority as explained by the co-sponsors of the original draft resolution later adopted as resolution 2750 C (XXV) and as implied in the terms of that resolution. This would mean, in the first instance, the allocation of more time to Sub-Committee I.

"While each Sub-Committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee.

"The question of peaceful uses is allocated to the main Committee, it being understood that each of the Sub-Committees is free to consider it in so far as this question is relevant to its mandate." c/

4. Being a Sub-Committee of the whole, Sub-Committee II was composed of all the States members of the Committee. Also present at its meetings were observers of the States Members of the United Nations which accepted the invitation to participate as such in the Committee's proceedings. The Food and Agriculture Organization of the United Nations, the International Atomic Energy Agency, the Inter-Governmental Maritime Consultative Organization, the United Nations Educational, Scientific and Cultural Organization and its International Oceanographic Commission, the World Meteorological Organization, the United Nations Conference on Trade and Development and the International Hydrographic Organization were also represented at the Sub-Committee's meetings.

5. The officers of Sub-Committee II, as elected in March 1971, were:

Chairman: Mr. Reynaldo Galindo Pohl (El Salvador)

Vice-Chairmen: Mr. M. Burleigh Holder (Liberia)  
Mr. Mohammed Ali Massoud-Ansari (Iran)  
Mr. Alexander Yankov (Bulgaria)  
Mr. Necmettin Tuncel (Turkey)

Rapporteur: Mr. Shaffie Abdel-Hamid (Egypt)

A. Work of the Sub-Committee in 1971

6. The Sub-Committee held two series of meetings at Geneva, in March and in July-August 1971. In March it held three meetings; in July-August, 20 meetings.

7. At its 3rd and 5th to 20th meetings, held on 19 March and from 27 July to 23 August 1971 respectively, the Sub-Committee considered the questions referred to it and started the preparation of a comprehensive list of subjects and issues relating to the law of the sea.

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c/ Official Records of the General Assembly, Twenty-sixth session, Supplement No. 21 (A/8421), para. 22.

8. As indicated in the report of the Sub-Committee on its work in 1971:

"It was generally agreed that the preparation, at the present stage, of a comprehensive list of subjects and issues on the law of the sea should be undertaken with a certain flexibility in order to be able to adjust the list in the light of the progress of work, it being understood that whether or not a particular subject or issue was included in the list would not prejudice the position of any delegation regarding the intrinsic value or substance of the subject or issue concerned or regarding whether or not such a subject or issue would eventually be included in the agenda of the future conference on the law of the sea. It was also understood that the list would not prejudice the order of priority for consideration of the subjects and issues." d/

9. The following proposals were submitted concerning the preparation of a comprehensive list of subjects and issues relating to the law of the sea: a letter dated 23 April 1971 from the representative of Belgium addressed to the Secretary-General (A/AC.138/35); a working paper submitted by the delegations of Bulgaria and Poland concerning the list of subjects and issues relating to the law of the sea (A/AC.138/45 and Add.1); a proposal by Turkey to include a question in the list of subjects (A/AC.138/48); a working paper submitted by the delegation of Iceland concerning the list of subjects and issues relating to the law of the sea (A/AC.138/51); a working paper submitted by Canada and Norway on the list of subjects and issues relating to the law of the sea referred to in operative paragraph 6 of resolution 2750 C (XXV) (A/AC.138/52 and Add.1); a working paper submitted by the delegation of Greece concerning the list of subjects and issues relating to the law of the sea (A/AC.138/54); a working paper on the comprehensive list of subjects and issues relating to the law of the sea submitted by Argentina, Brazil, Colombia, Chile, Ecuador, El Salvador, Guatemala, Guyana, Jamaica, Panama, Peru, Spain, Trinidad and Tobago, Uruguay and Venezuela (A/AC.138/56); a suggested explanatory statement to accompany the adoption of the comprehensive list of subjects and issues submitted by the United Kingdom of Great Britain and Northern Ireland (A/AC.138/57); a working paper on the list of subjects and issues relating to the law of the sea submitted by Afghanistan, Algeria, Cameroon, Ceylon, Democratic Republic of the Congo, Ethiopia, Gabon, Ghana, India, Indonesia, Iran, Iraq, Ivory Coast, Kenya, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mauritania, Mauritius, Morocco, Nigeria, Philippines, Singapore, Somalia, Sudan, Tunisia, United Arab Republic, United Republic of Tanzania, Yemen and Yugoslavia (A/AC.138/58). In addition, oral suggestions were made concerning subjects or issues which should be included in the list.

10. In order to facilitate agreement on a comprehensive list of subjects and issues, the Sub-Committee, at its 20th meeting, on 23 August 1971, decided to establish a Working Group, composed of the following members: Bulgaria, Canada, Ethiopia, Indonesia, Iran, Kenya, Norway, Peru, Poland, Trinidad and Tobago and Yugoslavia. The Rapporteur of the Sub-Committee also participated in the Working Group. The Working Group held two meetings. Lack of time prevented the Group from discharging its task fully.

11. On some aspects of the subjects allocated to the Sub-Committee draft treaty articles were submitted, namely: draft articles on the breadth of the territorial sea, straits, and fisheries submitted by the United States of America (A/AC.138/SC.II/L.4) (Corr.1, F only); a working paper submitted by the Government of Malta containing a draft ocean space treaty (A/AC.138/53), some parts of which dealt with subjects allocated to Sub-Committee II. Comments on those proposals were made in the course of the general debate.

12. The debate covered topics referred to in General Assembly resolution 2750 (XXV), namely, "the régimes of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States)", and other related matters. e/

13. As stated in the report of the Sub-Committee on its work in 1971:

"The work accomplished by the Sub-Committee in 1971 constituted an indispensable step forward to the completion ... of the tasks entrusted to it. Delegations were mindful of the complexity and interrelation of the subjects and functions allocated to the Sub-Committee. They were also mindful that consultations and negotiations among delegations were important to achieve positive results and to find workable, viable and equitable solutions that would promote the general international interests, friendly relations among States, the economic and social progress of all States, in particular of the developing countries, and enhance international peace and security." f/

#### B. Work of the Sub-Committee in 1972

14. Sub-Committee II continued its work during 1972 and held two series of meetings: the first in New York from 1 to 30 March (nine meetings were held), and the second in Geneva from 17 July to 17 August (15 meetings were held).

15. The officers elected in 1971 continued to serve in 1972. However, Mr. Ezedine Kazemi (Iran) replaced Mr. Mohammed Ali Massoud-Ansari (Iran) as Vice-Chairman.

16. In view of the fact that some officers would be temporarily absent, the Sub-Committee at its 24th meeting, on 1 March 1972, decided that such officers would be replaced, pending their return, by members of their respective delegations. Accordingly, Mr. Diggs (Liberia) and Mr. Kostov (Bulgaria) acted as Vice-Chairman during the temporary absence of Mr. Holder and Mr. Yankov respectively and Mr. Kassen (Egypt) acted as Rapporteur during the temporary absence of Mr. Abdel-Hamid. In the absence of Mr. Galindo Pohl, the Sub-Committee at its 33rd meeting, on 17 July 1972, elected Mr. Martínez Moreno (El Salvador) as Chairman.

17. The Sub-Committee considered the questions referred to it at its 25th, 27th to 32nd, and 34th to 45th meetings, held on 15 and 22 to 30 March and 18 July to 16 August 1972. A series of informal meetings was also held in connexion with the elaboration of a comprehensive list of subjects and issues on the law of the sea under the chairmanship either of the Chairman of the main Committee (see A/AC.138/SR.76 and 77) or of the Chairman of Sub-Committee II, or jointly. Consultations and negotiations among delegations concentrated on the elaboration of the comprehensive list requested by General Assembly resolution 2750 C (XXV).

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e/ Ibid., paras. 104-110.

f/ Ibid., para. 111.

18. During its 1972 session, the Sub-Committee had before it additional proposals concerning the preparation of a comprehensive list of subjects and issues relating to the law of the sea: a list to be submitted to the conference on the law of the sea proposed by Algeria, Argentina, Brazil, Cameroon, Chile, China, Colombia, Congo, Cyprus, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guyana, Iceland, India, Indonesia, Iran, Iraq, the Ivory Coast, Jamaica, Kenya, Kuwait, Liberia, Libyan Arab Republic, Madagascar, Malaysia, Mauritania, Mauritius, Mexico, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Romania, Senegal, Sierra Leone, Somalia, Spain, Sri Lanka, Sudan, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia and Zaire (A/AC.138/66 and Corr.2). Amendments to the list of subjects and issues sponsored by the 56 Powers were subsequently submitted by Malta (A/AC.138/67); United States of America (A/AC.138/68); Greece and Italy (A/AC.138/69); Japan (A/AC.138/70 and A/AC.138/78); Union of Soviet Socialist Republics (A/AC.138/71); Afghanistan, Austria, Belgium, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia (A/AC.138/72 and Corr.1); Turkey (A/AC.138/74 and Corr.1); France, Netherlands and United Kingdom of Great Britain and Northern Ireland (A/AC.138/76); and Poland (A/AC.138/77). A list of subjects and issues relating to the law of the sea was also submitted by Malta (A/AC.138/75 and Corr.1). These documents were the subject of consultations and negotiations.

19. At its 45th meeting, on 16 August 1972, the Sub-Committee approved the list of subjects and issues relating to the law of the sea and submitted it to the main Committee. g/ The introductory paragraphs to that list stated the following:

"The present list of subjects and issues relating to the law of the sea has been prepared in accordance with General Assembly resolution 2750 C (XXV).

"The list is not necessarily complete nor does it establish the order of priority for consideration of the various subjects and issues.

"Since the list has been prepared following a comprehensive approach and attempts to embrace a wide range of possibilities, sponsorship or acceptance of the list does not prejudice the position of any State or commit any State with respect to the items on it or to the order, form or classification according to which they are presented.

"Consequently the list should serve as a framework for discussion and drafting of necessary articles."

20. In adopting the list of subjects and issues, it was agreed that items 6 and 7 might be treated simultaneously. Certain delegations, in expressing and explaining their acceptance of the list, reiterated the importance they attached to the understanding referred to in the explanatory note. In particular, they emphasized their understanding that the list could in no way circumscribe the right of delegations to advance their ideas or points of view, or prejudice their substantive positions on any item. Some delegations reserved their position on certain items of the list. The relevant statements made thereon by such delegations are recorded

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g/ For the list of subjects and issues relating to the law of the sea, as formally approved by the Committee on 18 August 1972, see Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), para. 23.

in the summary records of Sub-Committee II (A/AC.138/SC.II/SR.44 and 45). Other delegations pointed out that the reservations in no way affected the provisions contained in paragraph 3 of the explanatory note.

21. During the discussions on the various aspects of the subjects and issues allocated to the Sub-Committee, the following additional documents h/ were before the Sub-Committee at its 1972 session: a draft article on fishing together with an explanatory note (A/AC.138/SC.II/L.6) and draft articles on straits used for international navigation (A/AC.138/SC.II/L.7) submitted by the Union of Soviet Socialist Republics; a working paper on management of the living resources of the sea (A/AC.138/SC.II/L.8) submitted by Canada; a revised draft fisheries article (A/AC.138/SC.II/L.9) submitted by the United States of America; draft articles on the exclusive economic zone concept (A/AC.138/SC.II/L.10) submitted by Kenya; a working paper on principles for a fisheries régime (A/AC.138/SC.II/L.11) submitted by Australia and New Zealand; and proposals for a régime of fisheries on the high seas (A/AC.138/SC.II/L.12) submitted by Japan. While a preliminary exchange of views took place on some aspects of these documents, the Sub-Committee did not, however, proceed to a detailed examination of them. During the debate, reference was made to the topics enumerated in General Assembly resolution 2750 C (XXV) and to other related matters i/ either contained in working papers or in statements made in the Sub-Committee.

22. On 16 August, following agreement in the Sub-Committee on the list of subjects and issues, the delegations of Australia and Canada tabled a paper containing proposals for the future organization of work of Sub-Committee II. These are contained in document A/AC.138/SC.II/L.14.

## II. Work of Sub-Committee II in 1973

### A. Organization of work

23. During the Committee's sessions in 1973, Sub-Committee II held two series of meetings: in New York from 6 March to 5 April 1973 and at Geneva from 3 July to 23 August 1973. In March and April it held 15 meetings; in July and August 17 meetings.

24. The following officers served in 1973:

Chairman:	Mr. Reynaldo Galindo Pohl (El Salvador)
Vice-Chairmen:	Mr. M. Burleigh Holder (Liberia)
	Mr. Ezedine Kazemi (Iran)
	Mr. Alexander Yankov (Bulgaria)
	Mr. Necmettin Tuncel (Turkey)
Rapporteur:	Mr. Shaffie Abdel-Hamid (Egypt)

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h/ The relevant documents before the Sub-Committee at its 1971 session are listed in paragraphs 9 and 11 above.

i/ See Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 21 (A/8721), paras. 164-192.

25. In the absence of Mr. Galindo Pohl, Mr. Necmettin Tuncel (Turkey), Vice-Chairman, acted as Chairman at the 52nd, 53rd, 54th, 56th, 61st and 62nd meetings; Mr. Gheorghii Ghelev (Bulgaria), replacing Mr. Alexander Yankov (Bulgaria), Vice-Chairman, acted as Chairman at the 55th and 62nd meetings; Mr. Ezedine Kazemi (Iran) acted as Chairman at the 73rd and 75th meetings; Mr. Winston A. Tubman (Liberia) acted as Chairman at the 74th meeting, and Mr. Alexander Yankov (Bulgaria) acted as Chairman at the 79th meeting.

26. In accordance with the decision taken in 1972 (see para. 16 above), Mr. Ghelev (Bulgaria) acted as Vice-Chairman during the temporary absence of Mr. Yankov. Mr. Winston A. Tubman (Liberia) replaced Mr. M. Burleigh Holder (Liberia) as Vice-Chairman.

27. The precise mandate of Sub-Committee II in relation to the work of the other Sub-Committees and of the Committee itself was referred to in proposals regarding the organization of the Committee's work presented to the Committee by its Chairman at the 90th meeting, held on 5 March 1973 (A/AC.138/L.13 and Corr.1 and Add.1, A/AC.138/L.13/Rev.1). These proposals read, in part, as follows:

"11. A distinction has to be drawn between the preparation of the list of subjects and issues and the competence of any particular Sub-Committee to discuss, and draft treaty articles on, those subjects and issues. As many of the subjects and issues are closely interrelated and in such cases each of them does not lend itself to treatment in isolation from the rest, the Chairman would like to suggest the grouping of the subjects and issues in appropriate categories. The Committee will note that there is an inconsistency between, on the one hand, the terms of reference of Sub-Committee II, which, on a literal interpretation, empower it to draft treaty articles on all items included in the list of subjects and issues and, on the other hand, the terms of reference of the other two Sub-Committees which empower them to draft articles on those aspects of the law of the sea which fall within their purview and which appear in the list of subjects and issues as items or sub-items.

"The Committee must, therefore, decide that Sub-Committee II has to confine itself to matters other than those assigned to Sub-Committee I and Sub-Committee III or retained by the Committee itself."

28. At the 91st meeting of the Committee, on 12 March 1973, the Chairman stated that a consensus had been reached in respect of the organization of the Committee's work. The statement specified that Sub-Committee II would deal with all subjects and issues not allocated to the two other Sub-Committees, with the exception of the items that, under the terms of agreement of August 1971, were to be considered by the plenary, which would also consider item 25. Any Sub-Committee would be entitled to consider items allocated to the others in so far as the items were relevant to its mandate.

29. The revised version of the proposals of the Chairman of the Committee, as approved by the Committee (A/AC.138/L.13/Rev.1), determined that the following items and sub-items would be the responsibility of Sub-Committee II:

## 2. Territorial sea

2.1 Nature and characteristics, including the question of the unity or plurality of régimes in the territorial sea

- 2.2 Historic waters
- 2.3 Limits
  - 2.3.1 Question of the delimitation of the territorial sea; various aspects involved
  - 2.3.2 Breadth of the territorial sea. Global or regional criteria. Open seas and oceans, semi-enclosed seas and enclosed seas
- 2.4 Innocent passage in the territorial sea
- 2.5 Freedom of navigation and overflight resulting from the question of plurality of régimes in the territorial sea

### 3. Contiguous zone

- 3.1 Nature and characteristics
- 3.2 Limits
- 3.3 Rights of coastal States with regard to national security, customs and fiscal control, sanitation and immigration regulations

### 4. Straits used for international navigation

- 4.1 Innocent passage
- 4.2 Other related matters including the question of the right of transit

### 5. Continental shelf

- 5.1 Nature and scope of the sovereign rights of coastal States over the continental shelf. Duties of States
- 5.2 Outer limit of the continental shelf: applicable criteria
- 5.3 Question of the delimitation between States; various aspects involved
- 5.4 Natural resources of the continental shelf
- 5.5 Régime for waters superjacent to the continental shelf
- 5.6 Scientific research

### 6. Exclusive economic zone beyond the territorial sea

- 6.1 Nature and characteristics, including rights and jurisdiction of coastal States in relation to resources, pollution control and scientific research in the zone. Duties of States
- 6.2 Resources of the zone
- 6.3 Freedom of navigation and overflight

- 6.4 Regional arrangements
- 6.5 Limits: applicable criteria
- 6.6 Fisheries
  - 6.6.1 Exclusive fishery zone
  - 6.6.2 Preferential rights of coastal States
  - 6.6.3 Management and conservation
  - 6.6.4 Protection of coastal State's fisheries in enclosed and semi-enclosed seas
  - 6.6.5 Régime of islands under foreign domination and control in relation to zones of exclusive fishing jurisdiction
- 6.7 Sea-bed within national jurisdiction
  - 6.7.1 Nature and characteristics
  - 6.7.2 Delineation between adjacent and opposite States
  - 6.7.3 Sovereign rights over natural resources
  - 6.7.4 Limits: applicable criteria (to be dealt with in accordance with the agreement of 27 August 1971)
- 6.8 Prevention and control of pollution and other hazards to the marine environment
  - 6.8.1 Rights and responsibilities of coastal States
- 6.9 Scientific research
- 7. Coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea
  - 7.1 Nature, scope and characteristics
  - 7.2 Sea-bed resources
  - 7.3 Fisheries
  - 7.4 Prevention and control of pollution and other hazards to the marine environment
  - 7.5 International co-operation in the study and rational exploitation of marine resources
  - 7.6 Settlement of disputes
  - 7.7 Other rights and obligations



8. High seas

- 8.1 Nature and characteristics
- 8.2 Rights and duties of States
- 8.3 Question of the freedoms of the high seas and their regulation
- 8.4 Management and conservation of living resources
- 8.5 Slavery, piracy and drugs
- 8.6 Hot pursuit

9. Land-locked countries

- 9.1 General principles of the law of the sea concerning the land-locked countries
- 9.2 Rights and interests of land-locked countries
  - 9.2.1 Free access to and from the sea: freedom of transit, means and facilities for transport and communications
  - 9.2.2 Equality of treatment in the ports of transit States
  - 9.2.3 Free access to the international sea-bed area beyond national jurisdiction
  - 9.2.4 Participation in the international régime, including the machinery and the equitable sharing in the benefits of the area
- 9.3 Particular interests and needs of developing land-locked countries in the international régime
- 9.4 Rights and interests of land-locked countries in regard to living resources of the sea

10. Rights and interests of shelf-locked States and States with narrow shelves or short coastlines

- 10.1 International régime
- 10.2 Fisheries
- 10.3 Special interests and needs of developing shelf-locked States and States with narrow shelves or short coastlines
- 10.4 Free access to and from the high seas

11. Rights and interests of States with broad shelves
- (14. Development and transfer of technology - to be assigned to Sub-Committee III. Sub-Committee II would also have to consider the sub-items in so far as they are relevant to its mandate.)
15. Regional arrangements - to be dealt with by each Sub-Committee, in so far as the item is relevant to its mandate.
16. Archipelagos
17. Enclosed and semi-enclosed seas
18. Artificial islands and installations
19. Régime of islands (a) Islands under colonial dependence or foreign domination or control;  
(b) Other related matters
20. Responsibility and liability for damage resulting from the use of the marine environment - to be dealt with by each Sub-Committee, in so far as the item is relevant to its mandate.
21. Settlement of disputes - to be dealt with by each Sub-Committee, in so far as the item is relevant to its mandate.
22. Peaceful uses of the ocean space: zones of peace and security (to be dealt with in accordance with the agreement of 21 August 1971)
24. Transmission from the high seas
30. The Sub-Committee, at its 48th to 51st meetings, discussed the manner in which its work could best be organized. At the 51st meeting, on 9 March 1971, a consensus was reached on the establishment of a single working group. That consensus was summarized by the Chairman as follows:

" ... the Sub-Committee would set up an open-ended working group, on the understanding that other working groups could be established if that proved to be necessary; other bodies, such as drafting groups or working sub-groups, could also be established. The working group would be empowered to decide on its internal organization, i.e. to elect its officers, to prepare its programme of work and to determine the order in which it would consider the various items. Moreover, it would report to the Sub-Committee from time to time."
31. Accordingly, the Sub-Committee, at its 51st meeting, established a Working Group of the whole. Following consultations between regional groups, Mr. Moncef Kedadi (Tunisia) was elected as Chairman of the Working Group.
32. Between 12 March and 4 April 1973, the Working Group held 11 meetings; between 3 July and 23 August 1973, it held 31 meetings.

33. At the 57th, 62nd, 65th and 74th meetings of the Sub-Committee, the Chairman of the Working Group reported orally to the Sub-Committee on the work accomplished by the Working Group.

B. Consideration of questions referred to the Sub-Committee under the terms of agreement reached on the organization of work read by the Chairman at the 45th meeting of the Committee on 12 March 1971

34. The Sub-Committee considered the questions referred to it under the terms of agreement of March 1971, as further specified in the revised version of the proposals by the Chairman of the Committee (see paragraphs 28 and 29 above) at its 51st to 62nd meetings, held from 9 March to 5 April 1973, and at its 64th to 80th meetings held from 20 July to 23 August 1973. A series of meetings of the Working Group of the whole of Sub-Committee II were held (see paragraph 32 above) for the purpose of preparing draft articles.

35. Statements were made on various aspects of the subjects and issues allocated to the Sub-Committee. At the same time, in addition to the documents submitted in 1971 and 1972, further documents were submitted in 1973 (see appendix III).

36. Statements were made on the relevance of the Geneva Convention on the law of the sea of 1958 to the work of the Sub-Committee. In that connexion, it was stated that the juridical concepts embodied in those Conventions were outmoded and should be replaced by new concepts that would take account of the political, social, economic and legal realities of the present day, and of the recent advances in science and technology. It was also stated that existing concepts and rules of international law, embodied in the Geneva Conventions of 1958, were the product of centuries of gradual development and should not be discarded but, adjusted to new requirements, should provide a basis for the new convention on the law of the sea.

37. Concerning the territorial sea, the close relationship between that concept, similar concepts of national sovereignty and jurisdiction and other issues, such as an exclusive economic zone, patrimonial sea, fishery zone or rights, intermediate zone, preferential rights, passage through straits used for international navigation, and navigation and overflight, was referred to, as well as the need to consider those issues together in formulating new legal rules. It was stated that the fundamental defect of the Geneva Convention on the Territorial Sea and the Contiguous Zone j/ of 1958 was its failure to define the breadth of the territorial sea. The view was also expressed that another defect of the Convention was the vagueness of its provisions with regard to the baselines for measuring the breadth of the territorial sea. In that connexion, it was stated that there should be a uniform breadth for the territorial sea. It was also stated that geographical realities or the needs of national security called for varying breadths, to be established by the coastal State itself or by agreement of the States of the area concerned. It was also stated that the question of the uniform breadth of the territorial sea should not be connected with the recognition of zones or other kinds of coastal State jurisdiction in the adjacent sea areas. It was further stated that the determination of the breadth of the territorial sea was the concern not only of the coastal State or States, but also involved the interests of the entire international community. It was observed that the determination of the breadth of the territorial sea should depend on the legal régime of the zone adjacent to the territorial sea and, in particular, on the nature and contents of the rights of the coastal State and its jurisdiction in such a zone.

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j/ United Nations, Treaty Series, vol. 516 (1964), No. 7477.

38. Further points referred to in connexion with the territorial sea were its nature and characteristics, including the question of the unity or plurality of régimes; some aspects of delimitation in areas such as closed and semi-closed seas or in areas where the coasts of States were adjacent or opposite to each other; and the circumstances under which the median line principle would be applicable.

39. As to historic rights, it was stated that such rights or title acquired by a State in a part of the sea adjacent to its coasts, or in its historic bay, should be recognized and safeguarded.

40. It was also pointed out that, while the criterion of continuity and uninterrupted acceptance was essential for the definition of historic rights, no State could claim historic rights in the contiguous waters of another State on the basis, in particular, of a former or recent colonial presence or occupation by force.

41. It was also stated that those rights should not be the result of a colonial situation.

42. With respect to the régime of passage through the territorial sea, reference was made to the right of innocent passage and to the need to elaborate that concept further. In that connexion, it was stated that coastal States had the right to establish regulations relating to navigation and, in particular, to the establishment of sea lanes and compulsory traffic separation schemes. Reference was also made to the right of States to establish rules applicable to the passage of certain types of ships, including ships with special characteristics, as well as regulations for the protection of the marine environment and for marine pollution. In that connexion the view was expressed that such coastal regulatory powers were not compatible with the principle of innocent passage. It was stated that the regulations established by the coastal State should take into account both the interests of coastal States in their own security and the interests of the international community in trade and communication. It was also stated that there was no need to revise the concept of innocent passage as it applied in territorial sea areas other than straits used for international navigation. Reference was made to the establishment of an appropriate and binding machinery for the settlement of disputes.

43. Concerning straits, reference was made to their different degree of importance for international navigation, to straits situated within territorial waters and in archipelagic waters, to the customary and treaty régimes of straits and to the establishment of an internationally agreed régime of transit through straits.

44. It was stated that navigation through the territorial sea and through straits used for international navigation should be dealt with as an entity since the straits in question were, or formed part of, territorial seas. It was further stated that regulation of navigation should establish a satisfactory balance between the particular interests of coastal States and the general interests of international maritime navigation and that it was best achieved by the principle of innocent passage.

45. It was stated that a régime of navigation should be established through the territorial sea and through straits used for international navigation which would involve passage under treaty-defined conditions supplemented by a binding dispute settlement machinery forming part of international institutions for the oceans.

46. It was stated that the only problem under discussion with reference to the list of subjects and issues was that of straits used for international navigation as they were defined by international law.

47. It was stated that in straits used for international navigation all ships and aircraft should enjoy the same freedom of navigation and overflight for the purpose of transit as they had in the high seas.

48. It was further stated that different régimes of transit should apply to different kinds of straits.

49. Reference was made to the right of coastal States to take measures regulating passage, such as the designation of corridors for use by ships, and measures concerning national security, such as prior notice and authorization in the case of certain types of ships. In that connexion, it was also stated that there was no need for prior notice and authorization. It was further stated that existing international agreements regarding the legal régime of specific straits should not be impaired by any rules that would be established under a future convention.

50. It was stated in connexion with straits used for international navigation that the coastal State concerned should be considered to be in an unfavourable geographical position and, consequently, could claim special rights with regard to its national security and interests.

51. With respect to the continental shelf, reference was made to customary international law and to the 1958 Geneva Convention on the Continental Shelf k/ and to the rights existing thereunder. Reference was made in that connexion to the Judgment of the International Court of Justice in the North Sea Continental Shelf case. 1/ It was stated that that case was concerned only with the delimitation of the continental shelf between States and not with the outer limits of the continental shelf. It was further stated that since national jurisdiction existed over the continental shelf prior to the proposal to establish an international sea-bed area, the acquired rights of coastal States to the continental shelf should be recognized. Reference was also made to the need to modify the Geneva Convention so that it would reflect current thinking and technological advances in the exploration of resources of the sea-bed. Evaluations were made of the suitability of various criteria for determining the limit of the continental shelf. In that connexion various limits were mentioned, including those based on criteria of depth and of distance from the coast or from appropriate baselines, as well as limits determined on the basis of geomorphological, geological, economic or other factors. Reference was also made to the question of delimitation between adjacent opposite States and of the resources of the continental shelf.

52. With regard to the concept of an exclusive economic zone or patrimonial sea, views were expressed concerning the régime that should be applicable to such an area. Reference was made to the nature of the jurisdiction and rights which a coastal State was entitled to exercise over the natural resources of the exclusive economic zone or patrimonial sea and to what limitations such jurisdiction and

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k/ Ibid., vol. 499 (1964), No. 7302.

1/ North Sea Continental Shelf, Judgment, ICJ Report, 1969, p. 3.

rights should be subject. In that connexion, statements were made regarding the question whether or not different régimes should regulate different resources, i.e. living resources on the one hand and non-living resources on the other, and different species of living resources, and regarding the rights and interests of geographically disadvantaged States. Reference was also made to the interests of the international community in efficient resource management within the exclusive economic zone.

53. Statements were made regarding the establishment of regional or sub-regional exclusive economic zones adjacent to the territorial sea for the benefit of all the States of a region or subregion. Such economic zones would be managed by regional or subregional authorities and would comprise both the mineral and the living resources of the zones. In that connexion, the view was expressed that such zones would not be practicable and would be premature and unlikely to achieve the purpose for which they were intended, unless arrangements were first adopted.

54. Statements were made concerning the freedom of navigation and overflight in waters within an exclusive economic zone or patrimonial sea, with the sole limitations imposed by the exercise of the rights of the coastal State in such zone. It was further stated that navigation and overflight should be regulated by means of rules adopted through international institutions and enforced through binding procedures for the settlement of disputes.

55. It was stated that, under the concept of national sovereignty and jurisdiction, a plurality of régimes could be accepted for international navigation.

56. It was stated that coastal State economic jurisdiction should not affect freedom of navigation and overflight and other rights to carry on non-resource activities. It was further stated that such activities should be subject to coastal State regulations in the exercise of the coastal State's economic jurisdiction.

57. Statements were made regarding the determination of the outer limit of an exclusive economic zone according to either distance criteria or depth criteria, or both. Views were expressed on the importance, in connexion with the delimitation of a zone, of such factors as geographical, geological, geomorphological, economic, biological and ecological circumstances, the available resources of the zone and the rights and interests of developing, land-locked, near-land-locked and shelf-locked States, as well as States adjacent or opposite to each other.

58. It was stated that the establishment of exclusive economic zones might be prejudicial to the rights and interests of other States. In that connexion it was also stated that there appeared to be inadequate safeguards being made for the rights and interests of developing, land-locked and other disadvantaged States.

59. Reference was made to the need to consolidate the concepts of territorial sea and continental shelf with that of the exclusive economic zone into a new concept of national ocean space within a precise over-all limit based on a distance criterion.

60. Concerning fisheries, statements were made on the right of coastal States to establish an exclusive fishery zone beyond their territorial sea. According to

those statements, the coastal State would exercise sovereign rights for the purpose of exploration, exploitation, conservation and management of the living resources, including fisheries, in that zone, and could adopt, from time to time, such measures as they might deem appropriate. Reference was also made to the role of the appropriate institutions of the coastal State in the settlement of disputes pertaining to the delimitation of the exclusive fishery zone and the formulation and application of the régime therein. Views were expressed on the breadth of such an exclusive fishery zone. It was also stated that fishing operations in such a zone should be conducted with due regard to the interests of other States in the other legitimate uses of the sea.

61. As for the management and conservation of living resources, references were made to the international responsibilities of coastal States in that respect, to the need for co-operation between coastal States and the appropriate regional and global organizations, to the right of coastal States to establish regulations regarding fishing activities and conservation programmes and to the need for such regulations and programmes to be of a non-discriminatory character.

62. It was also stated that all fisheries coming within the area of sovereignty and national jurisdiction should be regulated exclusively by the coastal State without prejudice to international co-operation which might be agreed to with other States, particularly with regard to conservation.

63. Views were expressed on the rights of developing coastal States and other States whose economies depended essentially on fisheries. In that respect, reference was made to exclusive sovereign fishing rights, preferential rights and the reservation of an appropriate share of the allowable annual catch in the area of sea adjacent to territorial waters. It was stated that any such rights should imply responsibilities for fisheries management and conservation. It was also stated that when a developing country was unable to benefit wholly from such rights it could enter into agreements with other States. Such agreements could relate to fishing rights, fees for fishing, technical assistance in the development of the fisheries of the coastal State and participation in fisheries management, conservation and research. Reference was made to joint arrangements regulating the fisheries of States exploiting the same living resources. In that connexion, the efforts of regional fisheries commissions and the Food and Agriculture Organization of the United Nations were referred to.

64. Statements were made on the exclusive right of coastal States to explore and exploit the mineral and other non-living resources of an economic area, to enact laws and regulations applicable in such an area, and to enter into licence and lease agreements with other States or nationals of other States.

65. Reference was made, in connexion with the exercise of such exclusive rights, to the rights and duties of coastal States with regard to the prevention of pollution, the prevention of unreasonable interference with navigation, overflight and other uses, the protection of such foreign investment as was permitted, and the sharing of some revenues for international community purposes, particularly the economic advancement of developing countries. In that regard reference was made to the need for compulsory settlement of disputes.

66. Statements and draft articles on the patrimonial sea or exclusive economic zone referred to 12 and 200 nautical miles respectively in connexion with the maximum limits of the territorial sea and the patrimonial sea or economic zone.



67. Maximum limits proposed regarding the territorial sea, a zone of national sovereignty and jurisdiction, exclusive economic zone or patrimonial sea, preferential zone beyond the territorial sea, economic sea-bed area, national ocean space and fisheries zone ranged from 12 to 200 nautical miles.

68. Statements were also made regarding coastal State jurisdiction over sea-bed resources or fisheries based on geological, geomorphological, economic or biological criteria, either alone or in combination with distance limits.

69. On the other hand it was stated that extension of the exclusive rights of the coastal States over the water column and its resources beyond 12 nautical miles was unjustified.

70. Reference was made to the rights and duties of coastal States to prevent and control pollution of the marine environment and other hazards in the exclusive economic zone. Reference was also made to the rights and duties of coastal States with respect to scientific research in the zone.

71. It was stated that States exercising foreign domination and control over a territory should not be entitled to establish there an economic zone or to enjoy rights or privileges in such an area and with respect to such a territory.

72. Statements were made regarding the establishment of coastal State jurisdiction over coastal species to whatever distance they extended offshore, and over anadromous species throughout their migratory range, with international regulation of highly migratory species. The need for treaty provisions ensuring conservation, maximum utilization, and compulsory settlement of disputes in connexion with coastal State jurisdiction was discussed. Reference was made to the duty of coastal States to permit other States to fish for that part of the allowable catch exceeding its harvesting capacity at any given time, taking into account traditional fishing and the interests of other States in the region.

73. Concerning anadromous species, the view was expressed that the regulation of that species should be left to existing regulatory bodies.

74. With regard to coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea, statements were made concerning the scope and characteristics of such rights or jurisdiction, the rights of other States and in particular the sharing in the coastal State's rights by land-locked and other disadvantaged States. Reference was also made to a contribution to be made by the coastal State to an international authority out of the revenues derived from exploitation of natural resources within its jurisdiction. Reference was made to fisheries in the preferential zone and, in that context, to the authority of the coastal State to regulate certain species. Statements were also made regarding the right of the coastal States, in particular developing States and States and regions of States whose economies depended heavily on fishing, to reserve annually for themselves that part of the allowable catch corresponding to their harvesting capacity and regarding the right of other States to take the allowable catch not so reserved. Finally, reference was made to the settlement of disputes by arbitration, or a special commission or maritime court.



75. Concerning fisheries, statements were made regarding the right of participation of third States and the need to protect the rights of States whose nationals had habitually fished in a particular area.

76. Reference was made to the creation of an intermediate zone or zone of mixed jurisdiction as a means of accommodating the interests of the international community with those of coastal and of disadvantaged States.

77. On the subject of the high seas, reference was made to the concept of an international sea area and the measures that should be taken in order to safeguard the interests of the international community. Statements were made to the effect that fisheries should be regulated, as well as regarding the necessity for the rational exploitation of the living resources of the sea in the common interests of the international community as a whole, with due regard to conservation and management. It was also stated that States would be obliged to comply with international regulations designed to prevent damage arising from pollution and other hazards to the marine environment. It was further stated that, in addition to marine pollution, navigation, overflight, the laying and maintenance of submarine cables and pipelines as well as scientific research and other activities should be subject to non-discriminatory international regulations through appropriate international institutions. Reference was made to freedom of navigation, freedom of overflight, freedom of fishing, and the freedom to lay submarine cables and pipelines, and to other freedoms of the high seas, recognized by the general principles of international law. Reference was also made to the special interest of a coastal State in the management and conservation of living resources in the area of the high seas contiguous to the area subject to its jurisdiction. The role of international or regional fishery organizations in connexion with the regulation of fisheries in general and in particular with regard to highly migratory resources, was also stressed.

78. Reference was made to the need to promote marine scientific research, particularly in the developing countries, and also to the need to transfer marine technology from developed to developing States directly or through appropriate international organizations.

79. Concerning archipelagos, reference was made to the question of a special position of archipelagic States in international law and to the various criteria which should determine whether or not groups of islands constituted an archipelago. It was stated that the preservation of the political and economic unity of an archipelagic State and the protection of its security, the preservation of its marine environment and the exploitation of its marine resources justified the inclusion of the waters inside an archipelago under the sovereignty of the archipelagic State or the granting of a special status to such waters. Statements were made regarding passage through archipelagic waters and straits and regarding the nature of such passage. It was also stated that the special status of archipelagic waters was an emerging concept and might be settled as part of an over-all solution of problems relating to the law of the sea.

80. It was also stated that the concept of the archipelagic State was not accepted under existing international law and that if the concept were to be included in a new convention on the law of the sea a precise definition would be needed as well as safeguards for international navigation and a satisfactory procedure for the settlement of disputes. In that connexion it was also stated that

the concept of archipelagic waters had grave implications and was unnecessary in that the interests of archipelagic States could be fully covered by the concept of exclusive economic zone or by that of national ocean space. On the other hand, the view was also expressed that the special status of the waters of an archipelago was an existing and accepted concept currently seeking recognition in a positive and explicit manner as being indispensable to the preservation of the security, integrity and unity of the archipelago.

81. It was stated that some of the rules of the special régime of archipelagic States might be equally applied to the archipelagos that formed integral parts of a State. On the other hand it was noted that such a régime must not be extended to archipelagos which were not archipelagic States.

82. In that connexion it was stated that the régime applicable to the waters contained within a fringe of islands along the coast was clearly established under international law.

83. Reference was made to the rights of land-locked and other disadvantaged States, developing or developed, to the exploration and exploitation of the natural resources, living and non-living, of sea and sea-bed areas comprised by an exclusive economic zone or a patrimonial sea, or other forms of resource jurisdiction which the coastal State would exercise. Statements were made regarding the rights of land-locked and other disadvantaged States, neighbouring such areas, to exploit the living resources therein on an equal and non-discriminatory basis and to their responsibilities for conservation and management. Reference was made to the rights of developing geographically disadvantaged coastal States to exploit the living resources of the maritime zone in a region or subregion. The view was expressed that such rights should be enshrined in the general multilateral treaty and that the guarantee of those rights was intimately linked with the acceptance of limits of such zones. Reference was also made to the right of free access by such States to the areas in question and, as regards land-locked States, to facilities for transport and communications and non-discriminatory treatment in the ports of the respective coastal State under appropriate bilateral, regional or other arrangements specified in the new convention. Reference was further made to the need for adequate procedures for the settlement of disputes.

84. Reference was made to the right or privilege of nationals of neighbouring developing disadvantaged States to participate in the exploitation of the living resources of the sea within the exclusive economic zone or patrimonial sea on a basis of equality with the nationals of the coastal State under such modalities to be worked out between the coastal States and disadvantaged States concerned. The view was expressed that, instead of treatment on an equal basis, preferential treatment should be accorded to nationals of developing land-locked or other disadvantaged States vis-à-vis third States.

85. Regarding islands, reference was made to various principles for determining the maritime space of islands. It was stated that the principle for determining the territorial sea of islands and their continental shelf and zones of national jurisdiction should be the same as the principle for determining the territorial sea, continental shelf and zones of national jurisdiction of the continental or other part of the State of which the islands formed an integral part. In that connexion reference was made to the applicability of the principles of median line of equidistance as well as to the principle of sovereign equality of States, of the indivisibility of sovereign integrity and its implications under international law and the Charter of the United Nations.

86. It was also stated that no distinction whatsoever should be made between islands, irrespective of their size and population, and the continental land masses; and that the criteria relating to the delimitation of the territorial sea, the continental shelf, the exclusive economic zone or patrimonial sea and the matrimonial sea must apply to islands in the same way as they applied to continental land masses.

87. It was also stated that the maritime spaces of certain types of islands, other than those island States and archipelagic States, should be determined by equitable principles taking into account special factors and circumstances such as their size, population, and contiguity to the principal territory, whether or not they were situated on the continental shelf of another State, the physical, geological and geomorphological structure of the marine area involved, the general configuration of the respective coasts and the existence of islands or islets of another State.

88. It was further stated that the existence of special circumstances and the consideration to be given to such circumstances did not prejudice the principle of the indivisibility of sovereignty of States but related merely to the determination of the maritime spaces of the islands concerned.

89. Reference was also made to individual national interests, which had led to the idea of discriminating between islands and continental land masses, and it was stated that such interests could be satisfied without necessarily infringing in any way the fundamental principles of the equality of States and the indivisibility of their sovereignty.

90. Mention was also made of the problems raised by the existence of islands, and particularly islets, in the maritime spaces to be delimited. It was argued in that connexion that to treat islands, and particularly islets, on an equal footing with the actual coasts of States would have a distorting effect on the delimitation of maritime spaces.

91. Reference was made to the question of artificial islands and installations and that of the jurisdiction to which they were subject.

#### C. Report on the work of the Working Group of Sub-Committee II

92. By a letter dated 16 August 1973, the Chairman of the Working Group of the whole of Sub-Committee II informed the Chairman of Sub-Committee II of the progress of the work of the Working Group (A/AC.138/SC.II/L.57). By a letter of 18 August 1973, the Chairman of the Working Group of the whole submitted to the Chairman of Sub-Committee II a report on the work of the Working Group (A/AC.138/SC.II/L.61). The report was discussed at the 76th meeting of the Sub-Committee, held on 20 August 1973. The final text of the Chairman's report (A/AC.138/SC.II/L.61/Rev.1) read as follows.

93. In the course of 1973 the Working Group of the whole held 42 meetings, including 11 in New York in March and April and 31 at Geneva in July and August.

94. At the third meeting, held on 22 March, the Chairman of the Working Group of the whole made a statement on the consultations which had been held between the chairmen of regional groups under the chairmanship of the Chairman of the Working

Group of the whole and the Chairman of Sub-Committee II the previous day, with a view to determining the positions of the various groups concerning the organization of the Working Group's work. The Chairman read out the text of the consensus which had emerged from the regional groups' consultations on the subject (see SC.11/WG/Paper No. 1).

95. In that connexion it was recognized that all items on the list of subjects and issues (see paragraph 29 above) were closely interrelated but that the Working Group could begin its work by examining items 2, 3, 4, 5, 6 and 7. It was also recognized that some other items, although in a different part of the list, were also bound up with the items just cited; that applied to items 16, 9, 10 and 11 and to certain questions relating to item 8. In addition it was decided that, in proceeding to examine those items, delegations were free to refer to other items connected with those subjects and issues. It was further decided that the subjects and issues would not be examined one by one or in groups, but should be regarded as forming part of one whole. Furthermore, on several occasions the Working Group of the whole opted for a flexible and pragmatic approach to its work. Lastly, the Group decided not to have summary records of its meetings.

96. As to the Group's specific functions, its terms of reference were to make a thorough examination of all draft articles introduced in Sub-Committee II or of all documents submitted to it, and to study and prepare draft articles for transmission to Sub-Committee II in order to help in preparing for the Conference on the Law of the Sea.

97. The Working Group of the whole held intensive discussions on a host of problems closely connected with even more complex and more delicate questions of national sovereignty, peace and security, progress and development, and international co-operation and solidarity.

98. The discussions in the Working Group were marked by frankness and were conducted in a spirit of goodwill and compromise. All delegations were able to express their Governments' views freely and drew attention to the importance, sometimes the vital importance, which a particular subject or subjects under examination possessed for their countries.

99. The discussions dealt with several subjects and issues, and in particular with the following: question of the nature and characteristics of the territorial sea; unity or plurality of régimes in that area; question of sovereignty in that area; straits used for international navigation; continental shelf; exclusive economic zone beyond the territorial sea; coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea; management and conservation of living resources; rights and interests of land-locked countries; those of shelf-locked States and States with narrow shelves or short coastlines; those of States with broad shelves; situation of geographically disadvantaged countries; States bordering on straits; archipelagos; and the régime of islands.

100. In the course of discussion, stress was laid on the need to reconcile all interests, including those of coastal countries, those of shipping, regional interests, the interests of a group of countries, those of land-locked countries, geographically disadvantaged countries and archipelagic States, the interests of developing countries, those of the international community and so on. It was stated



that the solution to many problems confronting the Working Group of the whole lay in harmonizing all those interests and groups of interests, and several methods of reconciling them all were suggested.

101. At the 12th meeting, held on 3 July, the Chairman of the Working Group summed up the discussions that had been held in New York in March and April on the questions under examination by the Group. The Chairman's statement was published as SC.II/WG/Paper No. 2. At the same meeting the Chairman also supplied explanations on certain points of procedure, published at the request of the members of the Working Group as SC.II/WG/Paper No. 3.

102. At the end of the discussions at the March-April session it was suggested, and the Working Group decided, that in order to advance the work of the Working Group of the whole it was necessary to set a time-limit - albeit a flexible one - for the submission of specific proposals. The date of 15 July was chosen for that purpose. This date was later changed to 16 July. Delegations submitted their proposals by that date, and a comparative table was prepared on that basis, which will be published in volume III of the present report. On item 2 (Territorial sea) and related items, namely item 4 (Straits used for international navigation) item 5 (Continental shelf), item 8.4 (High seas: management and conservation of living resources) and item 16 (Archipelagos), consolidated texts were prepared, which will be published in volume IV of this report. In the course of discussion on item 2.3.2 (Breadth of the territorial sea), the Working Group of the whole decided to study that item in close conjunction with item 6.5 (Limits of the exclusive economic zone) and closely related items, namely items 5, 6, 7, 8.4, 9, 9.4, 10 and 11.

103. The Working Group of the whole decided, using the comparative table and consolidated texts as a tool, to present variants which might, where appropriate, form the basis of draft articles. At the last few meetings of the current session, delegations presented a great many variants in that way.

104. By the time of publication of the Working Group's report, a series of documents had been circulated dealing with the alternatives presented by delegations on such questions and issues as the nature and characteristics of the territorial sea; the delimitation of the territorial sea; the breadth of the territorial sea; innocent passage; straits; archipelagos; the exclusive economic zone; the continental shelf; preferential rights and duties of coastal States; rights and interests of land-locked and geographically disadvantaged countries; regional arrangements; and certain aspects of fishing on the high seas. These documents will be presented in the order of the list of subjects and issues and will be published in volume IV of the present report. It was also recognized in the Working Group of the whole that the presentation or non-presentation of variants by delegations could not commit them to a particular position or signify support for one or other of the variants presented, inasmuch as Governments' official proposals were lodged with Sub-Committee II. The exercise of presenting variants formed part of the preparatory work for the Conference, with a view to beginning the preparation of draft articles on the subjects and issues on the list.

105. The Working Group of the whole examined the variants over the past few days and it was decided that the Chairman of Sub-Committee II and the Chairman of the

Working Group of the whole would hold informal consultations with the sponsors of the variants in an endeavour to reduce the variants to a reasonable number. This was done, and the effort proved fruitful.

106. The consultations made it possible to effect some reduction in the number of variants. It was not possible for the Working Group to consider all the variants presented to it in the time available.

D. Adoption of the report of the Sub-Committee

107. At its 80th meeting, on 23 August, 1973, the Sub-Committee adopted the present report and decided to transmit it to the Committee.

Appendix I

List of documents submitted to Sub-Committee II in 1971

Provisional agenda / <u>dated 18 March 1971</u> /	A/AC.138/SC.II/L.1 and Corr.1 (F. only)
Note by the Chairman / <u>dated 18 March 1971</u> /	A/AC.138/SC.II/L.2 and Corr.1 (S. only) Corr.2 (F. only)
Letter from the Chairman of Sub-Committee II to the Chairman of the Committee / <u>dated 25 March 1971</u> /	A/AC.138/SC.II/L.3
Draft articles on the breadth of the territorial sea, straits and fisheries: submitted by the United States of America / <u>dated 30 July 1971</u> /	A/AC.138/SC.II/L.4 and Corr.1 (F. only) and Rev.1 (R. only)
Draft report of the Sub-Committee / <u>dated 20 August 1971</u> /	A/AC.138/SC.II/L.5

Appendix II

List of documents submitted to Sub-Committee II in 1972

Union of Soviet Socialist Republics: draft article on fishing / <u>dated 18 July 1972</u> /	A/AC.138/SC.II/L.6 and Corr.1 (C. only)
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Union of Soviet Socialist Republics: draft articles on straits used for international navigation / <u>dated 25 July 1972</u> /	A/AC.138/SC.II/L.7
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### Appendix III

#### List of documents submitted to Sub-Committee II in 1973

Union of Soviet Socialist Republics: draft article on the breadth of the territorial sea /dated 13 March 1973/	A/AC.138/SC.II/L.7/Add.1
Fiji, Indonesia, Mauritius and Philippines: Archipelagic principles /dated 14 March 1973/	A/AC.138/SC.II/L.15
Turkey: draft article under item 2.3.2, "Breadth of the territorial sea: global or regional criteria; open seas and oceans, semi-enclosed seas and enclosed seas" /dated 22 March 1973/	A/AC.138/SC.II/L.16 and Corr.1 (F. only) and Rev.1
Greece: amendment to the draft article contained in document A/AC.138/SC.II/L.16 /dated 27 March 1973/	A/AC.138/SC.II/L.17
Cyprus, Greece, Indonesia, Malaysia, Morocco, Philippines, Spain and Yemen: draft articles on navigation through the territorial sea, including straits used for international navigation /dated 27 March 1973/	A/AC.138/SC.II/L.18 and Corr.1 (C. only) and Rev.1 (R. only)
Cyprus: draft article under item 2.3.2, "Breadth of the territorial sea ..." /dated 28 March 1973/	A/AC.138/SC.II/L.19
United States of America: working paper entitled "Special considerations regarding the management of anadromous fishes and highly migratory oceanic fishes" /dated 2 April 1973/	A/AC.138/SC.II/L.20
Colombia, Mexico and Venezuela: draft articles of a treaty on the territorial sea /dated 2 April 1973/	A/AC.138/SC.II/L.21
Turkey: draft article related to items 2.3.1, 5.3 and 6.7.2 /dated 4 April 1973/	A/AC.138/SC.II/L.22 and Rev.1
Iceland: working paper entitled "Jurisdiction of coastal States over natural resources of the area adjacent to their territorial sea" /dated 5 April 1973/	A/AC.138/SC.II/L.23
Uruguay: draft articles or a treaty on the territorial sea /dated 3 July 1973/	A/AC.138/SC.II/L.24 and Corr.1 (S. only) and Corr.2 (F. only)

Brazil: draft articles containing basic provisions on the question of the maximum breadth of the territorial sea and other modalities or combinations of legal régimes of coastal State sovereignty, jurisdiction or specialized competences /dated 13 July 1973/	A/AC.138/SC.II/L.25
Union of Soviet Socialist Republics: rough draft of basic provisions on the question of the outer limit of the continental shelf /dated 13 July 1973/	A/AC.138/SC.II/L.26
Ecuador, Panama and Peru: working paper containing draft articles for inclusion in a convention on the law of the sea /dated 13 July 1973/	A/AC.138/SC.II/L.27 and Corr.1 and Corr.2 (E. only) and Corr.3 (C. only)
Malta: preliminary draft articles on the delimitation of coastal State jurisdiction in ocean space and on the rights and obligations of coastal States in the area under their jurisdiction /dated 13 July 1973/	A/AC.138/SC.II/L.28
Greece: draft article under item 19, régime of islands /dated 16 July 1973/	A/AC.138/SC.II/L.29 and Corr.1 (E,F,C only) and Corr.2 (F. only)
Italy: draft article on straits /dated 16 July 1973/	A/AC.138/SC.II/L.30 and Corr.1
Tunisia and Turkey: amendment to the draft article contained in document A/AC.138/SC.II/L.19 /dated 16 July 1973/	A/AC.138/SC.II/L.31
Tunisia and Turkey: subamendment to the amendment (A/AC.138/SC.II/L.17) to the draft article contained in document A/AC.138/SC.II/L.16 /dated 16 July 1973/	A/AC.138/SC.II/L.32
Tunisia and Turkey: amendment to the draft articles contained in document A/AC.138/SC.II/L.21 /dated 16 July 1973/	A/AC.138/SC.II/L.33
China: working paper on the sea area within the limits of national jurisdiction /dated 16 July 1973/	A/AC.138/SC.II/L.34
United States of America: draft articles for a chapter on the rights and duties of States in coastal sea-bed economic area /dated 16 July 1973/	A/AC.138/SC.II/L.35 and Corr.1
Australia and Norway: working paper containing certain basic principles on an economic zone and on delimitation /dated 16 July 1973/	A/AC.138/SC.II/L.36

Argentina: draft articles /dated 16 July 1973/	A/AC.138/SC.II/L.37 and Corr.1 (E. only) and Corr.2 (F. only)
Canada, India, Kenya, Madagascar, Senegal and Sri Lanka: draft articles on fisheries /dated 16 July 1973/	A/AC.138/SC.II/L.38 and Corr.1 (E. and R. only)
Afghanistan, Austria, Belgium, Bolivia, Nepal and Singapore: draft articles on resource jurisdiction of coastal States beyond the territorial sea /dated 16 July 1973/	A/AC.138/SC.II/L.39
Algeria, Cameroon, Ghana, Ivory Coast, Kenya, Liberia, Madagascar, Mauritius, Senegal, Sierra Leone, Somalia, Sudan, Tunisia and United Republic of Tanzania: draft articles on an exclusive economic zone /dated 16 July 1973/	A/AC.138/SC.II/L.40 and Corr.1 and Corr.2 and 3 (E. only)
Uganda and Zambia: draft articles on the proposed economic zone /dated 16 July 1973/	A/AC.138/SC.II/L.41 and Corr.1
Fiji: draft articles relating to passage through the territorial sea /dated 19 July 1973/	A/AC.138/SC.II/L.42 and Corr.1
Cameroon, Kenya, Madagascar, Tunisia and Turkey: draft article under item 19, "Régime of islands" /dated 19 July 1973/	A/AC.138/SC.II/L.43
United Kingdom of Great Britain and Northern Ireland: draft article on the rights and duties of archipelagic States /dated 2 August 1973/	A/AC.138/SC.II/L.44
China: working paper on general principles for the international sea area /dated 6 August 1973/	A/AC.138/SC.II/L.45
Philippines: draft article under item 2.2, "Historic waters" /dated 6 August 1973/	A/AC.138/SC.II/L.46
Philippines: draft article under item 2.3.2, "Breadth of the territorial sea ..." /dated 6 August 1973/	A/AC.138/SC.II/L.47
Philippines: draft article under 2.3.2 on breadth of territorial sea /dated 10 August 1973/	A/AC.138/SC.II/L.47/ Rev.1
Fiji, Indonesia, Mauritius and Philippines: draft articles on archipelagos /dated 6 August 1973/	A/AC.138/SC.II/L.48
Poland: proposal concerning aspects of navigation through straits /dated 8 August 1973/	A/AC.138/SC.II/L.49

Turkey: proposal for a study on islands <u>/dated 3 August 1973/</u>	A/AC.138/SC.II/L.50
Bulgaria: draft articles on the nature and characteristics of the territorial sea and its breadth	A/AC.138/SC.II/L.51
Pakistan: proposal on breadth of territorial sea and boundaries of the exclusive economic zone	A/AC.138/SC.II/L.52
Romania: working paper on certain specific aspects of the régime of islands in the context of delimitation of the marine space between neighbouring States <u>/dated 10 August 1973/</u>	A/AC.138/SC.II/L.53
Ecuador, Panama and Peru: draft articles on fisheries in national and international zones in ocean space <u>/dated 10 August 1973/</u>	A/AC.138/SC.II/L.54
Jamaica: draft articles on regional facilities for developing geographically disadvantaged coastal States <u>/dated 13 August 1973/</u>	A/AC.138/SC.II/L.55
Japan: principles on the delimitation of the coastal sea-bed area <u>/dated 15 August 1973/</u>	A/AC.138/SC.II/L.56
Netherlands: proposal concerning an intermediate zone <u>/dated 17 August 1973/</u>	A/AC.138/SC.II/L.59 and Corr.1.
Zaire: draft articles on fishing <u>/dated 17 August 1973/</u>	A/AC.138/SC.II/L.60
Iran: draft article on regional arrangements <u>/dated 16 August 1973/</u>	A/AC.138/SC.II/L.62
Yugoslavia: draft article on regional arrangements <u>/dated 16 August 1973/</u>	A/AC.138/SC.II/L.63

Appendix IV

Index to the summary records of Sub-Committee II

48th meeting:

Organization of work

Statements by the Chairman, the United Kingdom, Mexico, Turkey, Canada, Peru, the Ivory Coast, Cameroon, the Union of Soviet Socialist Republics, Thailand, Chile, Brazil, Tunisia, Australia, Malta, France, Kenya, Japan, Poland, India, the United States of America, Ecuador, the Union of Soviet Socialist Republics, Chile and the Chairman

49th meeting:

Organization of work

Statements by the Chairman, Malta, Norway, Greece, Bulgaria, Australia, Turkey, the Philippines, Brazil, Egypt, Chile, Iceland, Senegal, the Union of Soviet Socialist Republics, Yugoslavia, Singapore, Peru, Turkey, Egypt and Peru

50th meeting:

Organization of work

Statements by Trinidad and Tobago, Tunisia, Japan, Spain, the United Kingdom, the United States of America, Malta, Turkey, Austria, Italy, Senegal, the Philippines, Hungary, Canada, Venezuela, Czechoslovakia, Australia, France, Cameroon, the Chairman, Kenya, Iceland, the Byelorussian Soviet Socialist Republic, Egypt and the Chairman

51st meeting:

Organization of work

Statements by the Byelorussian Soviet Socialist Republic and the Chairman

General debate

Statements by Peru, Senegal, Australia, Kuwait and the observer for Ireland

52nd meeting:

General debate (continued)

Statements by the Union of Soviet Socialist Republics and Peru

53rd meeting:

Tribute to the memory of Mr. Alcívar

General debate (continued)

Statements by the Philippines, Fiji, Mauritius, Chile, New Zealand, Australia, Indonesia, Canada, France, Greece, Peru, Malta, Japan, Nigeria, El Salvador and India

54th meeting:

General debate (continued)  
Statements by Norway, Ecuador and Japan

55th meeting:

General debate (continued)  
Statements by Pakistan, China and the Union of Soviet Socialist Republics

56th meeting

General debate (continued)  
Statements by Turkey, Finland and Czechoslovakia

57th meeting:

Organization of work  
Statement by the Chairman

Report by the Chairman of the Working Group of the whole

General debate (continued)  
Statements by Greece, China, Canada, Bulgaria, Brazil and Singapore

58th meeting:

Organization of work  
Statement by the Chairman

General debate (continued)  
Statements by the Philippines, Cyprus, Venezuela, the Union of Soviet Socialist Republics, Tunisia, the United States of America, the United Republic of Tanzania, Fiji, Madagascar, Sri Lanka

Procedure  
Statements by Chile, Canada, Norway and France

Comments by Argentina and Egypt

59th meeting:

General debate (continued)  
Statements by the Chairman, Romania, Mexico, Egypt, Italy, Peru, the Netherlands, France, the United Kingdom, Ghana and Turkey

60th meeting:

General debate (continued)  
Statements by the United States of America, Yugoslavia, the observer for Ireland, Spain, Indonesia, Poland, Japan, Zaire and Morocco

61st meeting:

General debate (continued)

Statements by Iceland, Uruguay, Afghanistan, Algeria, Greece and Peru

62nd meeting:

Report by the Chairman of the Working Group of the whole

General debate (concluded)

Statements by Turkey, Chile, Colombia, Norway, Malaysia, Zambia, Argentina, China, Denmark, Turkey and the Union of Soviet Socialist Republics

Statements by the United Republic of Tanzania and Tunisia

Completion of the Sub-Committee's work

Statement by the Chairman

Meetings held from 3 July to 23 August 1973 (A/AC.138/SC.II/SR.63-80)

63rd meeting:

Organization of work

Statement by the Chairman

64th meeting:

Consideration of questions referred to the Sub-Committee by the Committee under the terms of the agreement reached on the organization of work as read out by the Chairman at the 45th meeting of the Committee on 12 March 1971 (continued from the 45th meeting of 12 March 1971)

Statements by Ecuador, Peru, Brazil, Turkey and Greece

65th meeting:

Preliminary report of the Working Group of the whole of Sub-Committee II

"Consideration of questions ..." (continued)

Statements by Cyprus, the United States of America, Tunisia, the Union of Soviet Socialist Republics, the Ivory Coast and Kenya

66th meeting:

"Consideration of questions ..." (continued)

Statements by Italy, Uruguay, Argentina, Turkey, China, Kenya, the Union of Soviet Socialist Republics and Venezuela

67th meeting:

"Consideration of questions ..." (continued)

Statements by India, Sri Lanka, Canada, Greece, Cameroon, the United Republic of Tanzania, Singapore, Nepal, Indonesia, Spain and Uruguay

68th meeting:

"Consideration of questions ..." (continued)

Statements by Fiji, Austria, Liberia, Malaysia and Australia

69th meeting:

"Consideration of questions ..." (continued)

Statements by the Union of Soviet Socialist Republics, Singapore, Sri Lanka, Trinidad and Tobago, Sweden, Turkey, Colombia, Canada, the United Kingdom, Peru, Spain, Austria and Iceland

70th meeting:

"Consideration of questions ..." (continued)

Statements by New Zealand, India, Norway, Zambia, the Observer for Uganda, Iceland, Kenya, the United States of America, Greece, Cameroon, Spain and the Union of Soviet Socialist Republics

71st meeting:

"Consideration of questions ..." (continued)

Statements by Tunisia, Malta, Peru, Uruguay, Indonesia, the Ukrainian Soviet Socialist Republic, Kenya, Greece and the representative of the Food and Agriculture Organization of the United Nations

72nd meeting:

"Consideration of questions ..." (continued)

Statements by Italy, the Netherlands, Turkey, Bulgaria, the Philippines, Morocco, Malta, Peru, the United States of America and Indonesia

73rd meeting:

"Consideration of questions ..." (continued)

Statements by Poland, Mauritius, Fiji, Romania, New Zealand, Madagascar, Indonesia, Spain, the United Kingdom, Turkey, the Ukrainian Soviet Socialist Republic, Bulgaria and Greece

74th meeting:

"Consideration of questions ..." (continued)

Statements by Chile, Sri Lanka, Venezuela, Jamaica, Cyprus, Japan and Colombia



75th meeting:

"Consideration of questions ..." (continued)

Statements by Greece, China, Australia, the Union of Soviet Socialist Republics, Singapore, Ecuador, Peru, Uruguay, Cameroon and France

76th meeting:

Report of the Chairman of the Working Group of the whole  
(A/AC.138/SC.II/L.61/Rev.1)

Consideration and adoption of the draft report (first part) of Sub-Committee II  
(A/AC.138/SC.II/L.58)

77th meeting:

Consideration of the draft report (second part) (A/AC.138/SC.II/L.58/Add.1)

78th meeting:

Consideration of the draft report (second part) (continued)

79th meeting:

Consideration of the draft report (second part) (continued)

80th meeting:

Consideration and adoption of the draft report (second part) (concluded)

## ANNEX III

### REPORT OF SUB-COMMITTEE III

#### I. Historical background

##### A. Work of the Sub-Committee in 1971

1. On 12 March 1971, at its 45th meeting, the Committee on the Peaceful Uses of the Sea-bed and the Ocean Floor beyond the Limits of National Jurisdiction decided to set up three Sub-Committees of the whole. At that meeting, the Chairman of the Committee read the agreement on the organization of work which provided for the establishment of the three Sub-Committees and allocated to them subjects and functions in accordance with the mandate of the Committee as defined in General Assembly resolution 2750 C (XXV) of 17 December 1970.

2. Under the terms of the agreement, the following subjects and functions were allocated to Sub-Committee III:

"To deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research and to prepare draft treaty articles thereon."

3. The allocation of subjects and functions to the Sub-Committee, as provided for in the agreement on the organization of work, was based on the following understanding:

"Treatment and allocation of all outstanding subjects including inter alia, (1) the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and (2) peaceful uses of that area shall be left for determination by the Committee. It is understood that the Sub-Committees, in connexion with the matters allocated to them, may consider the precise definition of the area of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction. It is clearly understood that the matter of recommendations concerning the precise definition of the area is to be regarded as a controversial issue on which the Committee would pronounce. The Committee shall also decide on the question of priority of particular subjects, including the international régime, the international machinery and the economic implications of exploitation of the resources of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction, proceeding from resolution 2750 (XXV) and the relevant explanations made on behalf of its co-sponsors."

4. Being a sub-committee of the whole, Sub-Committee III was composed of States members of the Committee. Other States Members of the United Nations which accepted the invitation to participate as observers in the Committee's proceedings, as well as representatives of certain international organizations, also attended the meetings.

5. During 1971, Sub-Committee III held 14 meetings at Geneva. The 1st and 2nd meetings were held in March and the 3rd to 14th in July and August.

6. At the 1st meeting, on 12 March, the Sub-Committee elected the Chairman, the two Vice-Chairmen and the Rapporteur, as follows:

<u>Chairman:</u>	Mr. M. Alfred VAN DER ESSEN (Belgium)
<u>Vice-Chairmen:</u>	Mr. Mebratu GEBRE KIDAN (Ethiopia) Mr. Augusto ESPINOSA VALDERRAMA (Colombia)
<u>Rapporteur:</u>	Mr. Takeo IGUCHI (Japan)

#### B. Work of the Sub-Committee in 1972

7. Sub-Committee III continued in 1972 the work which the Committee had entrusted to it under the terms of the agreement reached on the organization of work, of 12 March 1971.

8. During 1972, Sub-Committee III held two sessions. The first took place in New York from 28 February to 31 March and consisted of 5 meetings (15th through 19th). The second session was held at Geneva from 17 July to 18 August 1972 and consisted of 13 meetings (20th through 32nd).

9. Being a sub-committee of the whole, Sub-Committee III was composed of the States members of the Committee. The five States (China, Fiji, Finland, Nicaragua and Zambia) which had joined the Committee pursuant to General Assembly resolution 2881 (XXVI) of 21 December 1971 also participated in the work of the Sub-Committee from the beginning of the March session.

10. Part of the March session was devoted to the consideration of the programme of work on the basis of a proposal by Canada, which, as revised and amended in the course of the Sub-Committee's work, was finally adopted as document A/AC.138/SC.III/L.14 at the 19th meeting on 29 March 1972. The programme of work contained five main headings as follows:

- A. Preservation of the marine environment (including the sea-bed)
- B. Elimination and prevention of pollution of the marine environment (including the sea-bed)
- C. Scientific research concerning the marine environment (including the sea-bed)
- D. Development and transfer of technology
- E. Other matters.

The programme made provision for general debate as well as for the formulation of legal principles and draft treaty articles. It also envisaged co-ordination with related efforts in other forums within which Sub-Committee III would be able to receive appropriate support from and make contributions to the Food and Agriculture Organization of the United Nations, the United Nations Conference on the Human

Environment, the Inter-governmental Maritime Consultative Organization and the Inter-Governmental Oceanographic Commission of UNESCO, as well as with other specialized agencies or intergovernmental bodies or conferences also concerned with matters within the purview of the Sub-Committee. Also, it was understood that the programme was subject to change and the order of the items in the programme did not establish the order of priority for consideration in the Sub-Committee.

11. As part of the process of co-ordination and communication, the Sub-Committee agreed to a suggestion by Australia that the Chairman should communicate the results of discussions at the March session of 1972 to the United Nations Conference on the Human Environment to be held at Stockholm in June 1972. Accordingly, the Chairman, Mr. van der Essen, addressed a letter, outlining the discussions in Sub-Committee III as reflected in the summary records, to the Chairman of the Committee, Mr. H. S. Amerasinghe, who in turn transmitted it with the Committee's consent, together with the summary record of the March session, which contained a number of valuable suggestions on principles, for adoption by the Conference.

12. The discussions in the Sub-Committee covered the preservation of the marine environment, including the prevention of pollution, scientific research and transfer of technology. The general discussion on marine pollution was concluded and the Sub-Committee decided at its 23rd meeting, on 28 July 1972, to set up a working group on marine pollution based on the same formula as the Working Group on the régime in Sub-Committee I, the membership of which would for the most part be designated by the various regional groups, on the understanding that any member of Sub-Committee III could participate in the group's discussions.

13. The Working Group, which was named Working Group 2, a/ held two meetings during the summer session of 1972, at which it elected its Chairman, Mr. J. L. Vallarta of Mexico. Its terms of reference were to draft texts leading to the formulation of draft treaty articles on the preservation of the marine environment and the prevention of marine pollution. The Working Group invited the members of the Sub-Committee to submit at their discretion for the use of the Working Group written observations, including in particular draft treaty articles, on the question of the preservation of the marine environment and the prevention of pollution.

#### C. Work of the Sub-Committee in 1973

14. During 1973 Sub-Committee III held two sessions, one during March-April in New York and the second during July-August at Geneva. A total of 17 meetings were held.

15. The Bureau remained the same for the spring session in 1973, but during the summer session Mr. Espinosa Valderrama was replaced by Mr. Zuleta Torres of Colombia.

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a/ The membership of Working Group 2, which was open-ended, was as follows: Algeria, Brazil, Bulgaria, Canada, Ecuador, India, Indonesia, Iran, Ivory Coast, Japan, Kenya, Liberia, Madagascar, Mauritius, Mexico, Morocco, New Zealand, Nigeria, Peru, Philippines, Romania, Spain, Somalia, Sudan, Sweden, Thailand, Trinidad and Tobago, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela. There was one vacancy in the Asian group.

16. During the March--April session the Sub-Committee continued the general debate on the subject of scientific research. The general debate was concluded towards the end of the session and the Sub-Committee decided to establish Working Group 3, under the chairmanship of Mr. A. Olszowka of Poland, to prepare draft treaty articles on scientific research and the transfer of technology. b/ During the July--August session the Sub-Committee had a general debate on the last subject within its terms of reference, namely, transfer of technology.

17. During 1973, Sub-Committee III heard statements by observers for the Inter-governmental Maritime Consultative Organization, the United Nations Environment Programme, the International Atomic Energy Agency and the Inter-Governmental Oceanographic Commission of UNESCO.

18. A list of proposals submitted to the Sub-Committee for the years 1971 to 1973 is contained in appendix 1.

19. A list of statements made in the Sub-Committee for the years 1971-1973 is given in appendix 2.

## II. Summary of the general debates

### A. General debate on scientific research

20. It was suggested that marine scientific research should be described as a systematic study, investigation or experimental work to acquire knowledge of the natural processes and phenomena occurring in ocean space. It was said to embrace a multitude of related scientific activities or disciplines and to cover inter alia the study of marine space and its changes, of matter and its circulation in marine space, the amount and flow of energy, of marine life and phenomena at the boundaries of marine space. It could be conducted from land, from the atmosphere or outer space or in ocean space itself. The view was expressed, however, that the Sub-Committee was concerned only with scientific research conducted in the marine environment. It was pointed out that scientific research meant any fundamental or applied research and related experimental works which did not aim directly at the industrial exploitation and which was necessary for the peaceful activities of States.

21. It was stated that the central preoccupation of the international community was the orderly development and rational exploitation of marine resources as well as the preservation of the marine environment and that the achievement of those general purposes, on a global scale, was dependent on the progress of marine scientific research. It was considered impossible to visualize either effective control of ocean pollution or effective management of fisheries, either national or international, without intensive and co-operative scientific research. In short, scientific research was viewed as the prerequisite for the rational and intensive utilization of ocean space.

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b/ The membership of Working Group 3, which was open-ended, was as follows: Algeria, Argentina, Brazil, Cameroon, Canada, Colombia, Egypt, Finland, France, Hungary, India, Indonesia, Italy, Japan, Kenya, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Poland, Senegal, Sierra Leone, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America and Venezuela. There were two vacancies in the Asian group.



22. Doubts were expressed as to the usefulness in that context of the distinction between "fundamental"/"pure" scientific research and "applied research" or "research aimed at commercial exploitation". It was argued that what might appear basic and fundamental research in the eyes of one scientist would be research aimed at the exploitation of marine resources to another. It was pointed out that certain national interests relating to security and commercial matters were involved in scientific research. There was a view that the concept of "pure science" was theoretical and a fallacy in the light of international political and socio-economic realities. On the other hand, an opinion was expressed that it was possible to identify pure scientific research and investigation with non-commercial and non-industrial aims. The soundness of another distinction often made, between research for peaceful purposes and military research, was also the subject of doubt among some members of the Sub-Committee. It was asserted that in 90 per cent of the cases no meaningful distinction could be made.

23. It was said that scientific research should not hamper the normal utilization of the sea, such as freedom of navigation and of fishing, nor should it have repercussions which would contravene the principle of the preservation of the marine environment.

24. It was stated that some countries recognized the need to formulate rules as well as general conditions and guidelines to govern the conduct of marine scientific research. It was pointed out that such rules were necessary to reconcile the conflicting views of those who wanted marine scientific research to be free and unburdened by restrictive measures and the views of those who wished to have the marine environment protected from possible abuse.

25. The attention of the Sub-Committee was directed to the basic drafting question of whether those rules should be formulated as elements of a separate treaty on marine scientific research or whether articles on the subject should be included as parts in a more general treaty or treaties that would result from the third United Nations Conference on the Law of the Sea. The suggestion was made that it might be easier to start with a set of articles that could be included in a treaty or treaties of a general character.

26. In accordance with these views, it was not compatible with existing international realities that scientific research should proceed without fully protecting the legitimate rights and interests in the oceans both of mankind as a whole and of individual States. The protection of these legitimate rights and interests through the formulation of adequate international rules and regulations was the task confronting the Sub-Committee and the Working Group on Scientific Research and Transfer of Technology.

27. In accordance with one school of thought, the expression "freedom of scientific research" was not to be interpreted as one of the freedoms of the high seas and should preferably be replaced by the term "promotion and development of scientific research". It was pointed out that it was untenable under this approach to consider such freedom as "a recognized principle of international law" or as "one of the freedoms of the seas and oceans generally accepted by international law".

28. Another view held that freedom to conduct scientific research was one of the universally recognized freedoms of the high seas and represents the common principle of customary international law.

29. Another view held that while there was freedom of scientific research, and while that freedom should be protected, it should also be subject to appropriate regulations so that it took into account the rights and interests of other States and conformed with the basic provisions established to protect the marine environment.

30. A further view was that it was essential for the new rules to make allowance for the differences in the various rights and interests requiring different régimes in the areas or zones within and beyond national jurisdiction. In areas within the jurisdiction of another State, the latter's consent must be obtained; in areas beyond the limits of national jurisdiction, research should comply with the regulations laid down under the international régime to be established. However, the view was also expressed that the term "zones of national jurisdiction" was not yet adopted and defined.

31. Still another opinion envisaged the principles of respect for the sovereignty and equality of all States as forming the basis for a reasonable solution of the question of international scientific research on the seas, and it was held that in the territorial sea of a coastal State, and on the continental shelf and subsoil thereof, foreign marine scientific research was subject not only to the coastal State's approval, but also to its appropriate control.

32. According to one view, the coastal State had the right to regulate and control marine scientific research in areas under its jurisdiction and to ensure the protection of its vital interests in that regard, as well as the duty to promote such research and act as the custodian of the international community's interest in the development of scientific knowledge concerning the marine environment as a whole. With regard to areas beyond the limits of national jurisdiction, the same view emphasized that freedom of marine scientific research was entitled to some form or degree of recognition and protection only to the extent that the results, data or information so obtained were made genuinely available to all States and contributed to the growth of scientific knowledge in the interests of the international community as a whole.

33. According to another view, every State would have the right to undertake both "fundamental marine scientific research" and "marine scientific research aimed at the exploitation of resources" on the high seas, while general marine scientific research, within the limits of the territorial sea, would be conducted only with the consent of the coastal State concerned. The principles established in article 5, paragraph 8, of the 1958 Convention on the Continental Shelf c/ should be maintained in any future convention regarding general non-commercial research into the characteristics of the continental shelf or economic zone. The same view held that the coastal State should be required in the general interest to cut bureaucratic red tape to a minimum in matters concerning requests by foreign States wishing to undertake research in the jurisdictional zones of the coastal State. Thus, time-limits should be established for the submission of requests to undertake research as well as for the reply of the coastal State.

34. The view was also expressed that the Sub-Committee could consider a comprehensive legal approach which would be capable of resolving any possible conflict between unfettered sovereignty of the coastal State within its national

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c/ United Nations, Treaty Series, vol. 499 (1964), No. 7320.

jurisdiction and laissez faire freedom beyond national jurisdiction. It was advocated that scientific research in the ocean should be considered as a public interest of the international community. As such, it was pointed out that it would be endowed with special protection throughout ocean space, subject only to essential safeguards to protect the truly vital interests of coastal States, as well as to non-discriminatory international regulations to minimize the possibility of abuses and to ensure equitable benefits to all members of the international community. That outlook called for the establishment of comprehensive international institutions for ocean space to regulate scientific research in a non-discriminatory manner and assist less scientifically advanced countries. According to that opinion, an international register would be maintained within the framework of the institutions to indicate who was entitled to undertake scientific research, even in some areas under national jurisdiction. States, institutions or persons in the register would assume legal responsibility for damages caused by them to the environment or to the legitimate rights and interests of States and their names could be removed from the register if they abused the privileges which they enjoyed.

35. As to the régime that should prevail in the zone under the sovereignty and jurisdiction of the coastal State, views were expressed to the effect that scientific research could be carried out by the coastal State itself or by other States with the former's consent. That requirement would apply to such areas as internal waters, territorial sea, continental shelf and the subsoil thereof and zones of specific economic jurisdiction, like fishing zones or the patrimonial sea, adjacent to the territorial sea. According to those views, States, international organizations and physical or juridical persons wishing to carry out marine scientific research within such areas must obtain the prior consent of the coastal State and strictly observe its relevant laws and regulations. It was suggested that those States, international organizations and physical or juridical persons should specify, inter alia, the objectives and tasks of their research, the means to be used, the scientific staff to be employed, the zones in which the activities were to be conducted and the dates proposed; and they should undertake to transmit to the coastal State the primary data and results of investigation and any samples obtained. The additional view was expressed that, with regard to research in areas beyond the territorial sea, consent should be based on certain fundamental principles as embodied in the future convention. Prior consent of the coastal State was considered of crucial importance in view of the difficulties in making a precise distinction between pure scientific research and exploration for economic and even military purposes.

36. According to that opinion, the coastal State should also be entitled to take part on an equal footing or be represented if it so decides in the scientific research carried out by other countries within areas under its sovereignty and jurisdiction. The coastal State had the right to ensure for itself an equal share in the knowledge of areas under its sovereignty and jurisdiction. Thus it should be entitled to receive and use data and samples and the results should be reported to it with a minimum of delay. It was held that publication of such results should in no way be prejudicial to the interests of the coastal State and should be subject to its prior consent. It was further suggested that research activities in those areas should be conducted in conformity with the conditions laid down in the relevant authorization of the coastal State and that those conditions should not be altered by the persons conducting the investigation, except with the express consent of the coastal State. Scientific research activities should be so conducted



that they did not harm the marine resources and did not interfere with or obstruct their exploitation, navigation or existing services and installations. It was also held that the results of such research were the property of the coastal State and that publication of the results should in no way be prejudicial to the interests of the coastal State and should be subject to its prior consent.

37. Another view was that the participation of coastal States should be facilitated and encouraged in the areas adjacent to the areas within national jurisdiction because of the relationships between the two areas. In such cases, advance information of research plans should be given to the nearest coastal States.

38. It was pointed out that in practice some coastal States permitted the conduct of marine scientific research within their jurisdiction when they received applications from other States for their prior consent. That practice, it was also pointed out, had worked well in the past and could therefore continue in the future.

39. It was suggested that it should be possible to establish a workable system of safeguards governing scientific research projects in areas within national jurisdiction, in a manner consistent with the basic principle of full international co-operation and the need to accommodate national rights and interests, particularly the scientific priorities of the coastal State.

40. It was pointed out that the variety of area and jurisdictions, the conflicting claims related thereto and the separate administrative practices of coastal States on the conduct of research in areas within their jurisdiction created uncertainties, increased the costs and had an inhibiting effect on the planning and conduct of marine scientific research, which was highly detrimental to the advance of knowledge concerning the marine environment and hence might delay the national development of marine space for the benefit of mankind.

41. Views were expressed that, in order to create a régime that permitted the maximum accumulation of knowledge for the benefit of mankind, while also protecting the legitimate economic interests of coastal jurisdictional areas beyond the territorial sea of a State, coastal State rights could be protected through a series of obligations rather than following the consent régime of the Convention on the Continental Shelf. The obligation would include such requirements as: advance notification to the coastal State; meaningful participation by the coastal State in the research, directly or through an international organization of its choosing; sharing of all data and samples with the coastal State; assistance, directly or through an international organization, to the coastal State in interpreting the data and samples; flag State certification that the research was being conducted by a qualified scientific research institution; publication of significant research results in an open, readily available, scientific publication; and required compliance with all applicable international environmental standards. In the territorial sea, coastal States should have the right to approve or reject the conduct of scientific research.

42. With regard to the sea-bed beyond national jurisdiction, it was stated that scientific research should be conducted exclusively for peaceful purposes pursuant to the terms of General Assembly resolution 2749 (XXV) of 17 December 1970. Thus, it should be subject to international regulations with a view to benefiting mankind

as a whole. Concerted programmes of international marine scientific research should be worked out jointly provided that they guaranteed the equality of all States, large and small.

43. More particularly, the view was held that scientific research carried out in the international sea area should be subject to regulation and protection by the international machinery to be established.

44. Another view was that to promote co-operative programmes it would be necessary to carry out scientific research in areas beyond the limits of sovereignty and national jurisdiction, provided such research met certain requirements, such as advance notification to the international authority, prompt dissemination of results and training of experts from the developing countries. It was added that the international regulations governing scientific research in areas beyond the limits of sovereignty and national jurisdiction should be such that the developing countries did not become dependent on the developed countries for their marine research technology.

45. In reference to the status of the international sea area, there were views to the effect that the results of scientific research should be regarded as part of the common heritage of mankind and should therefore be of benefit to all States whatever their level of development. For that purpose, developing States should be able to undertake or participate in scientific research projects as well as to have access to the results thereof. The results ought to be globally disseminated and such dissemination should be institutionalized by requiring, for example, that data be reported to an appropriate international organization. Marine scientific research efforts should be co-ordinated, duplication avoided and available sources used in the most effective manner.

46. A view was expressed that there was a régime of freedom of research in the area beyond national jurisdiction and that that régime had produced results of great benefit and had caused no harm to mankind as a whole. According to that view there was no need for the control or regulation of scientific research in that area, subject only to the need to protect the marine environment by, for example, regulating research drilling.

47. It was generally agreed that marine scientific research should not form the legal basis for any claims of exploitation rights or any other rights in areas beyond the limits of national jurisdiction.

48. It was pointed out that, if the goals and benefits of marine scientific research were to be realized, the participation of all States, particularly developing countries, in such research must be encouraged and ensured. Scientific research was the key to the development of the riches in the oceans and had disclosed resources lying beyond the limits of national jurisdiction. It was also suggested that the principal goals of scientific research should include provision of basic data for the prevention of marine pollution. Efficient scientific research would indicate how the marine environment could be protected against pollution, what environmental changes were occurring and where the mineral and living resources of the oceans could be found. In order to eliminate, reduce or limit marine pollution, coastal States must be able to regulate the areas within their jurisdiction without being hampered by technological inexperience. On the other hand, doubts were raised as to the meaning of the term "areas within their jurisdiction" since these areas are not yet universally accepted.

49. Attention was called to limitations in the capacity of developing countries either to partake in the development and fruits of the common heritage of mankind or to meet fully their international responsibilities concerning the preservation of the marine environment.

50. As to the manner of enhancing the capacity of developing countries in scientific research, the idea was expressed that, for international co-operation to be really meaningful, national or regional efforts would have to be supplemented by assistance from technologically advanced countries and appropriate international organizations. According to that view, assistance to developing countries at their request should relate to items such as financial resources, personnel training, establishment of research centres and dissemination of scientific data. It was pointed out that such assistance to developing countries could be organized on the basis of bilateral agreements.

51. In support of the need for the dissemination of scientific research data, it was argued that marine scientific research was, or should be, essentially an international co-operative activity, the results of which should be part of the common heritage of mankind and consequently available to all of the international scientific community. On the other hand, the view was expressed that, even if the concept of the common heritage of mankind was not supported by all, scientific knowledge belonged to all mankind. The interdependence of nations having been increased by advancing technology, all States had the responsibility to develop and institutionalize international co-operation in all fields, including scientific research and the exchange and dissemination of information.

52. It was suggested, therefore, that the sea-bed Committee might ask the General Assembly to request the specialized agencies to organize and promote with increasing effectiveness the training of personnel from developing countries in marine technology. A further suggestion was made for the formation of an agency under the supervision of the sea-bed authority, which could pool the necessary finance and facilities (e.g. research ships, equipment and highly trained personnel) required and co-ordinate the research programme and adequate dissemination of results. It was also suggested that the creation of a comprehensive institution for ocean space might prove particularly effective in that connexion. Nevertheless, another view was expressed that it was not necessary to establish a new agency to deal with oceanographic research, since such activities had been carried out by existing international institutions.

53. It was also suggested that competent international organizations and technically advanced countries should help the developing countries to improve the capability of technical personnel to participate in scientific expeditions and to utilize the results of research by such means as the provision of special training programmes for specialists and the establishment of research centres in the countries concerned. Under that approach, scientific research and development and transfer of technology were complementary and such approach would greatly contribute towards the utilization of scientific research data by the recipient developing countries and the closing of the gap between scientifically advanced and developing countries.

54. It was added that international co-operation must be based on the principles of mutual respect for sovereignty, equality and mutual benefit and on the right to conduct scientific research, and must be agreed through bilateral or multilateral consultations. The co-operative effort should be so organized as to enable the developing countries to train their own scientists and technicians with a view to

the best utilization of available resources through effective co-ordination and the avoidance of duplication in marine scientific research.

55. The view was also expressed that assistance to developing countries as well as gathering, processing and disseminating scientific data should be part of any draft treaty articles relating to scientific research in the ocean.

#### B. General debate on transfer of technology

56. It was pointed out that, with reference to the subject of transfer of technology, three main points had to be considered. Firstly, a study should be undertaken with a view to devising an international set of rules governing technical assistance and transfer of technology. Secondly, States and other bodies involved in scientific research should support parallel programmes of technical assistance, including the transfer of technology, aimed at the countries of the zone or region in which the research programmes were to be carried out. And thirdly, all programmes of scientific research, technical assistance and transfer of technology should be co-ordinated and guided by a technical and scientific body, functioning under the international Authority.

57. The view was expressed that only a few of the most developed countries benefited from the application of technology to the exploration and exploitation of the sea-bed, and that did not improve the conditions in developing countries. It was stated, therefore, that there was a need to provide for the establishment of international centres to give information on technological markets, and such centres could help reduce the total cost of transferring technology, which, it was stated, represented one of the major obstacles to development programmes. It was important that transfer of technology should be carried out more efficiently and be put to better use if institutions were to be set up in developing countries so as to analyse the various aspects regarding the process of transfer of technology. The view was also expressed that the international community had a responsibility to ensure that benefits derived from the exploitation of marine resources contributed effectively towards the narrowing of the gap that separated some States from others.

58. It was said that just and equitable rules should be applied to a broad programme for the transfer of technology, as already agreed upon by the United Nations General Assembly in 1970, when it adopted its International Development Strategy for the Second United Nations Development Decade (resolution 2626 (XXV)). Another suggestion was that the forthcoming Law of the Sea Conference could be provided with a study which would enable it to establish the main objectives of the transfer of technology.

59. It was further said that experience had shown that the transfer of technology on a commercial basis was not in keeping either with the principles on which marine scientific research could be based or with the general principles of international development policy. Therefore efforts had to be made to establish new relations among States with regard to the market for technology in general and with particular regard to the sea and its resources, and that could only be achieved with the setting up of a new legal régime and machinery which could provide opportunities to achieve that aim.

60. Another view expressed was that many States supported the proposal that assistance should be given to developing countries to acquire the knowledge of



technology regarding the oceans, but modern oceanographic research was extremely costly and complicated and frequently required funds and resources which were beyond the means of moderately developed States, and it was therefore desirable that a considerable number of States should participate in such programmes to help provide such technology to the less developed States. It was further stated that participation in scientific expeditions was only one of the measures that could help to strengthen the capabilities of developing countries in the area of scientific research and therefore there was need for much work to be done on such matters as the implementation of joint programmes, the transfer of scientific and technical information, joint action to assist the developing countries in establishing scientific research centres, and the setting up of machinery for transferring patented know-how.

61. It was stated that it was essential that the subject of transfer of technology should not be neglected in the preparatory work for the Conference on the Law of the Sea, and that was because developing States (which were virtually dependent on the ocean) were aware of the fact that scientific and technological know-how was the basis of economic prosperity and that if deprived of it, such States were doomed to dependence and under-development with all the resultant economic and social consequences.

62. It was suggested that, owing to lack of such technological and financial help from developed States, developing countries might not be able to maintain strict international standards for the prevention of marine pollution unless they stopped development activities. However, such an alternative was not feasible because of the need of such countries to better the living standards of their populations.

63. It was pointed out that the sea, with the immense potential resources to be found in its waters, its bed and its subsoil, offered the under-developed States a genuine opportunity of improving their condition, but they had to acquire the necessary technology, especially through transfers. Three major aspects of such transfers to developing countries were pointed out, and they were: (i) utilization of coastal resources; (ii) exploitation of fishing resources of the adjacent areas; and (iii) exploration and exploitation of mineral resources.

64. The view was expressed that the transfer of technology and scientific knowledge to the developing countries would include participation of scientists from developing countries in scientific expeditions; implementation of joint programmes; transfer of scientific and technical information; joint action to assist in establishing scientific research centres; and the transfer of patented technology. It was further stated that the question was directly related to the principle of freedom of scientific research on the high seas, for unless that principle was upheld there could be no real international co-operation in the study of the oceans.

65. Another view expressed was that the transfer of technical knowledge necessary to profit from scientific research was a two-stage process. In the first stage, developing countries should receive assistance in interpreting data about marine areas of concern to them in a manner favourable to their interests. In the second stage, means would be devised to enable countries not only to interpret the data for themselves but also to engage in scientific research in the marine environment. To achieve that, it was pointed out, a mechanism should be established within appropriate international organizations whereby coastal States could seek assistance in interpreting data and samples obtained from scientific research

conducted in the areas off the States which exercise jurisdiction over the area's sea-bed resources and fisheries. In such a case the State would have the right to participate or be represented in the research and to have access to the data and samples obtained. It was also stated that with respect to the interpretation of data the coastal State should be in a position to receive assistance from an international or regional organization participating in scientific research on its behalf and the coastal State could thus determine its priorities for the benefit of the scientists taking part in the project on its behalf and could then obtain assistance from the organization to analyse the data.

66. On the other hand, it was pointed out that not all scientific research projects generated data with immediate relevance to the coastal State and that data might emerge in a form which could not be used for more than one purpose, and as such the assistance of the proposed international or regional organization would be helpful in determining the immediate relevance of the data for the coastal State.

67. Another view expressed was that the development of training and education was the main means of achieving the transfer of technology and it was also important to provide equipment for such training. Furthermore, the transfer of technology should be viewed in the context of a global strategy and medium-term and long-term plans should be worked out providing in particular for the necessary technical assistance and the services of experts. It was stated that Sub-Committee III, to be able to do useful work, should only deal with the technology of scientific research and should not involve itself in industrial and commercial technology, which raised very sensitive problems regarding patents because in most cases those patents were the property of private companies over which Governments had no or little control and for the time being there were few instruments of oceanographic research protected by patents. Another problem, it was pointed out, was how treaty articles on the transfer of technology would be worked out in a comprehensive convention. The only solution possible was to formulate general provisions on the need to foster the transfer of scientific research technology.

68. A view was expressed to the effect that guidance from the Sub-Committee was required, since the term "technology" had not yet been defined nor had it yet been agreed what type of technology was to be transferred and in particular whether the transfer of technology which was being discussed by the Sub-Committee concerned exclusively scientific research or also included industrial processes. Until that question was resolved it would be difficult to discuss meaningfully the problem of the transfer of technology.

### III. Reports of Working Groups

#### A. Report of Working Group 2

69. Reproduced below are two notes with annexes from the Chairman of Working Group 2, reflecting the work achieved in the Working Group. The first note deals with work done during the March-April session, and the second note concerns the period covered by the July-August session.

(1) Note by the Chairman of Working Group 2, addressed to the  
Chairman of Sub-Committee III d/

"I have the honour to inform you that at the current session the Working Group on Marine Pollution (Working Group 2 of Sub-Committee III) held 15 meetings, from 14 March to 5 April 1973.

"In accordance with its terms of reference, the Working Group began discussion of the four proposals on preservation of the marine environment, including the prevention of marine pollution, formally submitted to Sub-Committee III at the current session (documents A/AC.138/SC.III/L.27, 28, 32 and 33). The discussion covered the following subjects contained in those proposals:

General obligation to preserve and protect the marine environment;

General obligation of States to adopt measures to prevent pollution of the marine environment, irrespective of the source of pollution;

Obligation of States to prevent damage from marine pollution;

Particular obligations of States to adopt specific measures in connexion with certain sources of marine pollution, and the relation between such measures and generally accepted international standards;

International co-operation and technical assistance.

"The Working Group also considered the right of States to exploit their own resources in conformity with the obligation to preserve and protect the marine environment, and other relevant subjects contained in the proposals under discussion.

"In the light of the discussion of the above-mentioned subjects, the Working Group authorized me, as Chairman, to convene informal consultations between the sponsors of the proposals and other delegations, with a view to the drafting of joint working papers for subsequent consideration by the Working Group. These consultations were open to participation by all delegations.

"In the course of 12 meetings, from 19 March to 3 April 1973, the informal consultations produced a number of working papers, the texts of which are annexed to this note for information. These texts were drafted on the basis of the above-mentioned proposals and of comments and suggestions by delegations in the Working Group.

"At the meeting of 4 April 1973, the Working Group took note of the texts drafted in the course of the informal consultations and decided to consider and discuss them at the next session of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor. Towards the end of the current session, the

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d/ Originally circulated on 6 April 1973 as document A/AC.138/SC.III/L.39

Working Group began a preliminary discussion of some working papers on standards for the control of pollution from ships (A/AC.138/SC.III/L.36 and 37).

"The Working Group authorized me to inform you and Sub-Committee III, by means of a note, of the progress achieved by Working Group 2 in carrying out its mandate.

#### Annex

"Texts contained in the informal working papers prepared for Working Group 2 through informal consultations among authors of proposals submitted to Sub-Committee III and other delegations"

#### I

"WG.2/Paper No. 3 (Text of a draft article on basic obligations)"

"States have the obligation to protect and preserve the marine environment, in accordance with the provisions of these articles. \*

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\* The reference to the provisions of these articles is intended to reflect the fact that the Working Group will wish to specify in subsequent articles the scope, qualifications and limitations of this general obligation. For example, the Working Group may wish to specify that nothing in these articles shall be deemed to impose a duty on a State to prevent pollution that only affects areas or resources under its jurisdiction.

#### II

"WG.2/Paper No. 8/Add.2 (Result of discussion on particular obligations)"

"Text of a draft article"

"1. States shall take all necessary measures to prevent pollution of the marine environment from any source, 1/ using for this purpose the best practicable means in accordance with their capabilities, 2/ individually or jointly, as appropriate. In particular, States shall take measures to ensure

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"1/ It was understood that an elaboration of the meaning of marine pollution could be inserted in the above text after "from any source", if there was to be no special section or article on definitions, containing such an elaboration.

"2/ A query was raised as to the meaning of "capabilities" in the above context and the suggestion made that further clarification was needed.



that activities under their jurisdiction or control 3/ do not cause damage 4/ to other States, 5/ including their environment, by pollution of the marine environment. 6/

"2. The measures taken pursuant to these articles shall deal with all sources of pollution of the marine environment, whether land, marine, or any other sources, including rivers, estuaries, the atmosphere, pipelines, outfall structures, vessels, aircraft and sea-bed installations or devices. They shall include inter alia: 7/

"(a) In respect of land-based sources of pollution of the marine environment, measures designed to minimize the release of toxic and harmful substances, especially persistent substances, into the marine environment, to the fullest possible extent;

"(b) In respect of pollution from vessels, measures relating to the prevention of accidents, the safety of operations at sea, and intentional or other discharges, including measures relating to the design, equipment, operation and maintenance of vessels, especially of those vessels engaged in the carriage of hazardous substances whose release into the marine environment, either accidentally or through normal operation of the vessel, would cause pollution of the marine environment; 8/ and

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"3/ Some delegations considered that 'or control' should be retained while others felt it should be deleted. Some delegations thought that the meaning of 'control' in this context should be clarified. It was stressed that the above sentence relates to a State's control over activities and not to areas of control.

"4/ Use of the word is not intended to prejudice the question of liability.

"5/ Some delegations were of the opinion that 'other States' did not sufficiently indicate the aspect of damage to the international community e.g. to areas of the marine environment not under the jurisdiction of any States, and suggested that a more direct reference would be appropriate.

"6/ The view was expressed that this last phrase might be unnecessary.

"7/ Certain delegations noted that they would consult environmental experts regarding the balance and content of the specific enumerations in this paragraph.

"8/ Some delegations considered that 'pollution from aircraft' should be expressly mentioned in this subparagraph.

"(c) In respect of installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil and other installations or devices operating in the marine environment, measures for the prevention of accidents and the safety of operations at sea, and especially measures related to the design, equipment, operation and maintenance of such installations and devices.

"3. The measures taken pursuant to these articles shall: 9/

"(a) In respect of land-based sources of pollution of the marine environment, take into account such international standards as may be elaborated;

"(b) In respect of marine-based sources of pollution of the marine environment, conform to generally accepted international standards. 10/

"4. In taking measures to prevent pollution of the marine environment, States shall have due regard to the legitimate uses of the marine environment and shall refrain from unjustifiable interference with such uses."

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9/ The acceptance of this paragraph by some delegations was conditional upon satisfactory provision being made in subsequent articles concerning the rights of coastal States, the functions of international organizations - including the Authority - , or both.

"10/ Some delegations reserved their position on the application of the international standards in respect of sources of pollution relating to the development and exploitation of the continental shelf and sea-bed, since international standards in this case are not yet in existence and a regional arrangement to cover such a case with due consideration to geographical and regional conditions might be more directly relevant. Other delegations noted that the establishment of international standards is fundamental but does not preclude the establishment of higher standards on individual or regional basis.

### III

#### "WG.2/Paper No. 9 (Result of discussion on particular obligations)

"In taking measures to prevent marine pollution States shall guard against the effect of merely transferring damage or hazard from one area to another.\*"

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"\* It was understood that the order of this text in relation to the draft articles on the prevention and control of marine pollution was to be decided later.

WG.2/Paper No. 7 (Result of discussion on first sentence, principle (a), A/AC.138/SC.III/L.27; and fourth preambular paragraph, A/AC.138/SC.III/L.28)

"In the event that a provision dealing with States' rights to exploit their own resources pursuant to their environmental policies were to be included in the draft articles, the following wording is offered as a possible text:

"Nothing in this ... shall derogate from the sovereign right of a State to exploit its own resources pursuant to its environmental policies and in accordance with its duty to protect and preserve the marine environment both in its own interests and in the interests of mankind as a whole.' 1/

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1/ In discussing proposed measures for the prevention of marine pollution, it was thought necessary to include a provision reserving the rights of States to exploit their own resources pursuant to their environmental policies. Some delegations felt that such a provision should either be a draft article or part of an article, while others felt it would belong, more appropriately, in a preamble. Yet others reserved their position on this matter, some expressing the view that it was irrelevant to the concrete obligation of States to take measures to prevent marine pollution. It was also suggested by some delegations that such a provision should only relate to the exploitation of land-based resources."

(2) Note by the Chairman of Working Group 2 addressed to the Chairman of Sub-Committee III e/

"Further to my note of 6 April (A/AC.138/SC.III/L.39) on the progress of the Working Group on marine pollution (Working Group 2 of Sub-Committee III) at the March-April session, I have the honour to inform you that at the current session the Working Group held 13 meetings, from 4 July to 15 August 1973.

"In accordance with its terms of reference, the Working Group continued to use as a basis for its work the proposals on preservation of the marine environment, including the prevention of marine pollution, submitted to Sub-Committee III. 1/ The discussion during the current session covered the following subjects contained in those proposals:

Global and regional co-operation.  
Technical assistance;  
Monitoring;  
Standards;  
Enforcement.

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1/ A/AC.138/SC.III/L.27, 28, 32, 33, 36, 37 and 37/Add.1, 40, 41, 43, 46, 47, 48, 49 and 50. The Working Group also referred to the relevant proposals in A/AC.138/SC.II/L.28.

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e/ Originally circulated on 15 August 1973 as document A/AC.138/SC.III/L.52.

The Working Group began consideration of the last subject but, owing to the lack of time and to a procedural disagreement which arose as to how to reflect the different views expressed on this topic, it was not possible to draft texts for inclusion in annex 1 to this note.

"In addition to the above subjects, the Working Group began its consideration of the duty of States responsible to terminate activities violating the future convention and of the determination of discharge of obligations under the convention.

"The informal consultations established by the Working Group at the March-April session were reconvened on 6 July and 21 meetings were held during this session. They were able to produce a number of texts on the above subjects, excluding the matter of enforcement as I have already indicated, and these texts are attached to this note as annex I. As before, the informal consultations were open to participation by all delegations.

"It will be evident that the Working Group and its informal consultations were unable, due to lack of time, to consider in their entirety all the proposals submitted. Nor was it possible to review the texts prepared in informal consultations during the March-April session and the current session. Therefore, the Working Group took note of these texts and authorized me to inform you and Sub-Committee III of the results of its work. The Working Group wishes to submit the texts attached as annex I, as well as those contained in my earlier note to the Sub-Committee for its information and action, as appropriate.

"A proposal, which was submitted at the last meeting of the Working Group, is attached to this note as annex 2. This proposal contains texts which are intended by the delegation of Brazil, which presented them, to provide alternatives to some of the texts contained in annex 1 /as well as in the annex to A/AC.138/SC.III/L.39 as reproduced above/. However, it was not possible for the Working Group or its informal consultations to consider these texts.

"Annex 1

"WG.2/Papers No. 10 and No. 10/Add.1

"Global and Regional Co-operation

"(a) States 1/ shall co-operate on a global basis and as appropriate on a regional basis, directly or through competent international organizations, global or regional, to formulate and elaborate treaties, rules, standards and procedures consistent with this Convention, for the prevention of marine pollution, taking into account characteristic regional features.

OR

(a) States 2/ shall co-operate on a global basis and as appropriate on a regional basis, directly or through competent international organizations, global or regional, to formulate and elaborate treaties, rules, standards and procedures consistent with this Convention, for the prevention of marine pollution, taking into account characteristic regional features and economic factors.

"(b) A State which becomes aware of cases in which the marine environment is in imminent danger of being damaged or has been damaged by pollution shall immediately notify other States likely to be affected by such damage, as well as the competent international organizations.

"(c) In the cases referred to in paragraph (b) above, States in the area affected, in accordance with their capabilities, and the competent international organizations, shall co-operate, to the extent possible, in eliminating the effects of pollution and preventing or minimizing damage.

"(d) States shall co-operate directly or through competent international organizations for the purpose of promoting studies undertaking programmes of scientific research and encouraging the exchange of information and data acquired about pollution of the marine environment. They shall actively support and contribute to international programmes to acquire knowledge for the assessment of pollutant sources, pathways, exposures, risks and remedies.

"(e) In the light of the information and data so acquired, States shall co-operate directly or through competent international organizations in working out appropriate scientific criteria for the formulation and elaboration of rules and standards for the prevention of marine pollution.

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"1/ 2/ The view was expressed that the word 'States' should be followed by 'whether Parties to this Convention or not.' In this respect, some other delegations were of the opinion that only those States which are Parties to the Convention are bound by the obligations of this article and shall enjoy its rights.

"Technical Assistance

"1. States shall, directly or through competent international organizations:

"(a) Promote programmes of scientific, educational, technical and other assistance to developing countries for the preservation of the marine environment and the prevention of marine pollution. Such assistance shall include, inter alia, the training of scientific and technical personnel and the facilitation of their participation in the international programmes referred to in paragraph [(d) of WG.2/Paper No. 10/Add.1], the supply of necessary equipment, advice and facilities for research, education and other programmes for the prevention of marine pollution or the minimization of its effects.

"(b) Provide appropriate assistance, in particular to developing countries, for the minimization of the effects of major incidents which may cause serious pollution in the marine environment.

"(c) For the purposes of paragraph (b), promote and develop contingency plans for responding to such major incidents and to requests for assistance in dealing with them.

"2. Developing States shall, for purposes of the prevention of marine pollution or the minimization of its effects, be granted preference in:

"(a) The allocation of appropriate funds and technical assistance facilities of international organizations, and

"(b) The utilization of their specialized services.

"Monitoring

"1. States shall employ suitable systems of observation, measurement, evaluation and analysis to determine the risk or effect of pollution on the marine environment, especially pollution likely to arise from activities which they permit or in which they engage.

"2. States shall disseminate, as soon as possible, the data and information obtained on the risks and effects of pollution on the marine environment to States likely to be affected and to the international organizations concerned, with a request to disseminate such data and information.

"A text dealing with the consideration of economic factors in determining whether States have discharged their obligations under this Convention in



respect of land-based sources of marine pollution was considered essential by some delegations but inappropriate by others. The following is offered as a possible text:

"'In determining whether a State has discharged its obligations under this Convention in respect to land-based sources of marine pollution, due regard must be paid to all relevant factors including in particular the economic and financial ability of a State to provide the resources necessary for the discharge of such obligations and the stage of economic development of the State.'

"WG.2/Paper No. 14

"The following text was drafted with the intention that it would be given further consideration at a later date:

"'In case of violations of the obligations under the present Convention resulting in pollution of the marine environment, the State responsible for these violations shall immediately take steps, to the extent practicable, to put an end to them and to the effects thereof.'

"WG.2/Paper No. 15

"Standards

"The following alternative texts have been grouped in sections under provisional headings for purposes of identification and comparison:

"Section I. Standards for land-based sources of marine pollution 1/

"A. 'States shall individually establish national standards and, acting through the appropriate international and regional organizations 2/, endeavour to establish and adopt international standards for prevention of pollution of the marine environment from land-based sources, taking into account available scientific evidence, other relevant factors and the work of competent international bodies.'

OR

"B. 'States shall take appropriate measures to prevent land-based marine pollution.'

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"1/ The view was expressed by some delegations that the issues dealt with by the texts in Sections I and II are already covered by paragraph (2) contained in WG.2/Paper No. 10 and in article 2, paragraph 3 (a) of A/AC.138/L.39.

"2/ The view was expressed that States may individually adopt international standards without acting through the appropriate international and regional organizations.

"Section II. Standards for sea-bed sources of marine pollution 1/

"A. 'States, acting through the competent international organizations, shall establish, as soon as possible, international standards for the prevention of pollution of the marine environment arising from the exploration and exploitation of the international sea-bed area.'

OR

"B. '1. States, acting through the competent international organizations, shall establish, as soon as possible, international standards for the prevention of pollution of the marine environment arising from the exploration and exploitation of the international sea-bed area.'

'2. States shall establish national standards for the prevention of pollution of the marine environment arising from the exploration and exploitation of the sea-bed area over which they exercise sovereign rights 3/ for the purpose of exploring and exploiting the natural resources, and, acting through the appropriate international organizations, shall endeavour to establish minimum international standards for that area.'

OR

"C. 'International standards for the prevention of pollution of the marine environment from the exploration and exploitation of sea-bed resources, and from the other activities referred to in chapter ..., article ... (e.g. offshore installations), shall be established by the Authority or IMCO, 4/ 5/ as appropriate. The Authority shall have primary responsibility for establishing, as soon as possible and to the extent they are not already in existence, such international standards with respect to sea-bed activities, in accordance with the procedures specified in chapter ..., article ... Coastal States may apply higher standards with respect to the activities referred to in chapter ... article ... (e.g. exploration and exploitation of sea-bed resources and offshore installations).'

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"1/ The view was expressed by some delegations that the issues dealt with by the texts in Sections I and II are already covered by paragraph (2) contained in WG.2/Paper No. 10 and in article 2, paragraph 3 (a) of A/AC.138/L.39.

"3/ It was considered by some delegations that the words 'sea-bed area over which they exercise sovereign rights' should be changed to 'the continental shelf'.

"4/ Some delegations were of the opinion that the reference to IMCO in this text was inappropriate and unnecessary.

"5/ The delegation sponsoring this article noted that while IMCO could not have competence to establish standards for sea-bed exploration and exploitation, it could usefully consider other issues, e.g., those affecting navigation in the vicinity of offshore economic installations.



OR

- "D. 'The Authority established by Chapter ... of this Convention shall establish, as soon as possible, international standards for the prevention of pollution arising from activities in the marine environment. States shall ensure that activities in the marine environment under their jurisdiction comply with any such standards. States may also, acting directly or through appropriate international organizations, elaborate supplementary standards for the prevention of such pollutions.' 6/

OR

- "E. 'States acting through /the international Authority to be established under this Convention/ shall establish, as soon as possible, international standards for the prevention of pollution of the marine environment arising from the exploration and exploitation of the sea-bed. States shall apply these standards as provided for in /article 2, paragraph 3 (b) of A/AC.138/SC.III/L.39/. States may also act, directly or through appropriate regional organizations, to elaborate supplementary standards with respect to the prevention of such pollution.'

OR

- "F. 'States acting, individually or through the competent international or regional organizations, shall establish and adopt, as soon as possible, standards with respect to pollution arising from the exploration and exploitation of the sea-bed area over which they exercise sovereign rights for the exploration and exploitation of sea-bed resources. Such standards shall in no case be lower than those agreed internationally.'

"Section III. Standards for vessel-source pollution 7/

- "A. 'The Inter-governmental Maritime Consultative Organization shall have primary responsibility for establishing, as soon as possible and to the

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"6/ The view was expressed that since section II dealt specifically with pollution from sea-bed exploration and exploitation, this more general text might properly belong elsewhere in the draft articles.

"7/ The view was expressed by some delegations that the texts in this section were not necessary in the light of the contents of article 5.4 (a) (WG.2/Paper No.10) but that if it should be decided to include a draft article along these lines, alternative text C was preferable. It was the additional view of some of these delegations that, if it should be agreed that these texts were unnecessary, the inclusion of the following article would be appropriate so as to give clearer expression to the reference in article 5.4 (A) to the competent international organization or organizations: 'The competent international organization or organizations referred to in article 5.4 (a) should be ... in respect of vessel-source pollution.'

extent they are not in existence, international standards with respect to vessels.' 8/ 9/ 10/

OR

"B. 'States, acting through the competent international organization /primarily IMCO/ shall establish, as soon as possible and to the extent that they are not already in existence, international standards for the prevention of pollution from vessels. States shall ensure that vessels under their registration comply with such internationally-agreed standards relating to ship design, construction, equipment, operation, maintenance and other relevant factors.' 11/ 12/ 13/ 14/

OR

"C. 'States acting individually or through the competent international

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"8/ Delegations supporting this alternative expressed the view that the international standards should include special standards for special areas and problems, taking into account particular ecological circumstances. These delegations noted in addition that States may also, acting through regional agreements, establish supplementary or special standards applicable to the parties to such agreements.

"9/ Some delegations reminded the Working Group that reference should be made to more than one international organization since IMCO was not the only authority dealing with vessel-source pollution. These delegations considered that the text was unnecessary, but if a draft article along these lines were to be included, it should be stated that the standards established internationally should be without prejudice to the coastal States' rights to establish their own standards.

"10/ The view was expressed that the mention of any existing international organization in those draft articles was prejudicial to consideration of the question of the establishment of an international Authority taking place in another organ of the Committee.

"11/ See foot-note 8.

"12/ See foot-note 9.

"13/ Some delegations preferred the inclusion of the phrase 'or under their jurisdiction' in the second sentence, following the word 'registration'.

"14/ See foot-note 10.

or regional organizations shall establish standards for the prevention of pollution from vessels.' 15/

OR

"D. 'States shall, acting through the competent international organizations, endeavour to negotiate conventions for the adoption of recommendatory international standards for the prevention of pollution from vessels. For the purpose of navigation through international waters or through waters under the jurisdiction of States, standards established by competent international organizations or by coastal States in the area under their sovereignty or jurisdiction shall not supersede those established by developing States for vessels under their flag. These standards shall take into consideration the special ecological, geographical and economic characteristics of those States.' 16/ 17/

OR

"E. 'Navigation shall conform to such general and non-discriminatory rules and standards with regard to the prevention of pollution as may be adopted by the Authority established under chapter ... of this Convention or as are contained in widely ratified multilateral conventions. States shall ensure that vessels under their flag comply with such standards and rules. In the absence of relevant standards and rules adopted by the Authority or contained in widely ratified international conventions, the coastal State may enact reasonable, non-discriminatory regulations with regard to the abatement of pollution from vessels in the maritime area under its jurisdiction. In addition the coastal State may enact non-discriminatory regulations and rules supplementary to those adopted by the Authority or to those contained in widely ratified international conventions.' 18/

OR

"F. 'The United Nations Environment Programme shall centralize and co-ordinate all information regarding all aspects of the protection and control of pollution to the marine environment. This body, with the assistance of competent organizations such as IMCO, Joint Group of Experts on the Scientific Aspects of Marine Pollution, etc., shall:

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"15/ 16/ Some delegations expressed the view that national or regional standards, not established through the competent international organization, are binding only on the State or States which established them.

"17/ Some delegations proposed that the phrase 'in the area under their sovereignty or jurisdiction' be replaced by 'for their territorial waters', and the words 'through international waters' be replaced by 'on the high seas'.

"18/ Some delegations proposed that the phrase 'in the maritime area under its jurisdiction' be replaced by 'in its territorial waters'.

- "'(a) Establish a system of monitoring, observation, measurement and evaluation of various aspects of marine pollution;
- "'(b) Recommend international or regional measures to be adopted to protect the marine environment;
- "'(c) Collect and disseminate marine pollution data, reports and other relevant information;
- "'(d) Distribute marine pollution funds and other scientific and technical aid facilities to needy countries;
- "'(e) ... 19/

"Section IV. Competence of individual States to establish and adopt standards 20/ 21/

"A. '1. Nothing in this Convention may be interpreted as preventing a coastal State from taking such measures as may be necessary to meet the obligation under article 1 within the limits of its national jurisdiction, including environmental protection zones (maximum limits to be determined) (a) pending the establishment and implementation of internationally agreed measures contemplated by this Convention, or (b) following the establishment or implementation of any internationally agreed measures if such measures fail to meet the objectives of this Convention or if other measures are necessary in the light of local geographical, economic and ecological characteristics.

"'2. Measures taken in accordance with this article must remain within the strict limits of the objectives of this Convention and must not be discriminatory in their application, and must not unnecessarily or unreasonably restrict legitimate uses of the marine environment, including navigation.

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"19/ See foot-note 10.

"20/ The view was expressed by a number of delegations that while the proposals in this section were put forward above as alternative draft articles, they were not parallel in substance.

"21/ The view was expressed that questions relating to the establishment of new jurisdictional areas or economic zones had not been resolved and that they were, moreover, part of the mandate of Sub-Committee II and not of Sub-Committee III. It was considered, therefore, that these questions should not be raised in the present draft articles.

"'3. In determining whether special measures taken in accordance with this article are reasonable, States shall take into account international rules, standards and procedures in force as a primary, though not necessarily conclusive, source of evidence.' 22/ 23/ 24/ 25/ 26/

OR

"B. 'States shall adopt laws and regulations implementing international standards in respect of marine based sources of pollution of the marine environment or may adopt and implement higher standards:

"'(a) In the exercise of their rights in the /Coastal Sea-Bed Economic Area/ with respect to the activities set forth in chapter ..., article ... of this Convention; 27/

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"22/ The view was expressed that in respect of third flag-vessels a contracting State shall not impose measures, standards and regulations for vessel-source pollution regarding ship design, construction, equipment, manning and maintenance which are not in accordance with the measures, standards and regulations established by the competent international body.

"23/ Some delegations considered that, if there were to be such an article, it should apply to territorial waters only and should provide that any rules and standards relating to the prevention of pollution of the marine environment adopted at national and international levels take account of the need to provide for and ensure on the high seas freedom of navigation and of fisheries, and the freedom to conduct research and other normal activities of States. Those delegations further considered that the references to 'environmental protection zones' should be deleted since they could not support such a form of jurisdiction.

"24/ In order to provide a clearer expression of the nature of coastal States' rights, some delegations considered that it might be appropriate to develop guidelines indicating the circumstances in which such rights could be exercised.

"25/ The view was expressed that this draft article should have been completed by a provision containing a general principle to the effect that rules and regulations enacted by a coastal State should be subject to international judicial review in accordance with the provisions of this Convention.

"26/ The view was expressed that a fourth paragraph should be added to this draft article stating that any measures adopted by a State in accordance with this article shall forthwith be communicated to the competent international organization, which shall be given a reasonable time in which to request modifications to the measures, if it so decides. Those measures would not enter into force before that time period had elapsed.

"27/ For the information of delegations, the referenced article would give to the coastal State rights to: (1) explore and exploit and authorize the exploration and exploitation of the natural resources of the sea-bed and subsoil; (2) authorize and regulate the construction, operation and use of offshore installations affecting its economic interests and drilling for purposes other than exploration and exploitation of resources; and (3) establish reasonable safety zones around such offshore installations.

"'(b) for vessels entering their ports and off-shore facilities; 28/

"'(c) for their nationals, natural or juridical, and vessels registered in their territory or flying their flag.' 29/ 30/

OR

"C. '1. Nothing in this Convention may be interpreted as preventing a (coastal) State from taking special measures within the limits of its national jurisdiction and/or sovereignty, in the light of local geographical, ecological and economic characteristics, for the prevention of marine pollution.

"'2. Measures taken in accordance with this article must remain within the limits of the objectives of this Convention and must not be discriminatory in their application and must not unnecessarily or unreasonably restrict other legitimate uses of the marine environment, including navigation.

"'3. Measures adopted by a coastal State to protect its marine environment in areas under its jurisdiction and/or sovereignty shall not be incompatible with the standards established by developing States for vessels under their flag.' 31/ 32/

"Annex 2

"Alternative texts to document A/AC.138/SC.III/L.39  
and Working Group 2 papers Nos. 10-15

(presented by the delegation of Brazil)

"(1) WG.2/Paper No. 3

"Delete the note '\*The reference to ... '.

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"28/ With respect to paragraph (b) see foot-note 22.

"29/ The view was expressed that this draft article covered only some aspects of marine pollution and that it should apply to marine pollution generally in areas within national jurisdiction (to be determined by the Conference).

"30/ Some delegations had doubts as to the inclusion of subparagraphs (a) and (b) of this text and considered that the draft article should apply to the competence of the flag-State and to the rights of coastal States, in connexion with their territorial waters, to establish standards taking international standards into account.

"31/ See foot-note 23.

"32/ See foot-note 22."



"(2) WG.2/Paper No. 8/Add.2

"1. States shall take all necessary measures to prevent pollution of the marine environment from any source, using for this purpose the best practicable means in accordance with their capabilities and their national environmental policies, individually or jointly, as appropriate. In particular, States shall take measures to ensure that activities under their jurisdiction or control do not cause significant damage to the marine environment of other States.

"2. In taking measures to prevent pollution of the marine environment, States shall have due regard to the legitimate uses of the marine environment and shall refrain from unjustifiable interference with such uses.

"(3) WG.2/Paper No. 7

"(Omit the introductory note)

"Nothing in this Convention shall derogate from the sovereign right of a State to exploit its own resources pursuant to its environmental policies and programmes for economic development.

"(4) WG.2/Paper No. 10 and No. 10/Add.1

"(b) A State which becomes aware of cases in which the marine environment is in imminent danger of being significantly damaged or has been significantly damaged by pollution shall immediately notify other States it deems likely to be affected by such damage, as well as the competent international organizations.

"(d) States shall co-operate directly or through competent international organizations in the research of causes of marine pollution and in the exchange of information and data acquired about pollution of the marine environment, with a view to working out appropriate scientific criteria for the formulation and elaboration of rules and standards for the prevention of marine pollution.

"(e) Delete.

"(5) WG.2/Paper No. 13

"1. States, in areas under their sovereignty and national jurisdiction, shall employ suitable systems of observation, measurement, evaluation and analysis to determine the risk of pollution on the marine environment.

"2. States shall disseminate the data and information obtained on the risks and effects of pollution on the marine environment to States they deem likely to be affected and to the international organizations concerned, with a request to disseminate such data and information.

"In the case of violations of the obligations under the present Convention, resulting in significant pollution of the marine environment, the State responsible for these violations shall immediately take steps, to the extent practicable, to put an end to them and to the effects thereof."

B. Report of Working Group 3

70. Below is a note with annex from the Chairman of Working Group 3, reflecting the work achieved in the Working Group. The Working Group, as already mentioned above, was established towards the end of the March-April session in New York. It began its substantive work towards the middle of the July-August session.

Note by the Chairman of Working Group 3 addressed to the Chairman of Sub-Committee III f/

"I have the honour to inform you that the Working Group on marine scientific research and transfer of technology (Working Group 3 of Sub-Committee III), established on 5 April 1973 in New York, held 10 meetings during the current session.

"In accordance with its terms of reference, the Working Group discussed the proposals formally submitted to Sub-Committee III in documents A/AC.138/SC.III/L.18, 23, 31, 34, 1/ 42, 44 and 45. Its discussions covered the definition and objectives of marine scientific research, the conduct and promotion of marine scientific research, and the prerequisites for the conduct of such research. It was not possible for the Working Group to initiate consideration of the question of the transfer of technology.

"At its first meeting during the current session, the Working Group decided to establish informal consultations which were open to participation by all delegations. These informal consultations produced a number of texts which are attached to this note. These texts were drafted on the basis of the above-mentioned proposals and of comments and suggestions by delegations in the Working Group.

"Because of lack of time, it was not possible for the Working Group and its informal consultations to consider all the draft articles contained in the proposals submitted to Sub-Committee III. 1/ Also, there was no opportunity for the Working Group to review the texts attached to this note.

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1/ The Working Group also referred to the relevant texts in A/AC.138/SC.II/L.28.

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f/ Originally circulated as document A/AC.138/SC.III/L.53.



"The Working Group, having taken note of the attached texts, authorized me to inform you and Sub-Committee III of the work it has achieved in carrying out its mandate.

"WG.3/Paper No. 4

"Definition and Objectives of Marine Scientific Research

"Marine scientific research is any study and related experimental work, excluding industrial exploration and other activities aimed at the direct exploitation of marine resources, designed to increase mankind's scientific knowledge of the marine environment and conducted for peaceful purposes." 1/ 2/ 3/ /The informal drafting group had decided to postpone the drafting of any further text dealing with objectives./

"The following alternative texts were agreed without prejudice to their place in the order of the draft articles:

"Marine scientific research as such shall not form the legal basis for any claims of exploitation rights or any other rights in areas beyond the limits of national jurisdiction."

OR

"Marine scientific research as such shall not form the legal basis for any claim to any part of the marine environment 4/ or its resources."

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"1/ The view was expressed by some delegations that this definition was acceptable provided that another article in the Convention recognized the fact that scientific research may provide a basis for industrial and commercial advantage.

"2/ Some delegations were of the opinion that an article on definitions was not necessary and that the articles to be drafted on the obligations of States would indirectly, but clearly, establish the meaning intended.

"3/ Some delegations considered that it would be desirable to include a definition of the term 'marine environment'.

"4/ The view was expressed that the reference to 'any part of the marine environment' should not prejudice the rights of the coastal State within its area of national jurisdiction.

"WG.3/Paper No. 5

Conduct and promotion of marine scientific research

"A. 1. Subject to the rights of coastal States /and of the International Authority/ /OR/ /and subject to the régime of the international sea-bed area/ as provided for in this Convention, all States, irrespective of their geographical location, as well as appropriate international organizations, have the right /OR the right of freedom/ 1/ to conduct marine scientific research and other research activities in the marine environment.

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"1/ Some delegations were opposed to the use of the words 'or the right of freedom' in this text and considered them superfluous.

"2. States shall promote co-operative marine scientific programmes taking into particular consideration the interests and needs of developing countries. 2/ 3/ 4/ 5/

OR

"B. Subject to the rights of coastal States, States whether coastal or landlocked shall co-operate in the promotion of scientific research and investigation in the marine environment, as provided for in this Convention, in an orderly and rational manner, taking into account the interests of the international community, particularly the interests and needs of developing countries. 3/ 4/ 5/

OR

"C. Scientific research in the sea being essential to an understanding of global environment, the preservation and enhancement of the sea and its rational and effective use, States shall promote and facilitate the development and conduct of all scientific research in the sea for the benefit of the international community. All States, irrespective of geographic location, as well as appropriate international organizations may engage in scientific research in the sea, recognizing the rights and interests of the international community and coastal States, particularly the interests and needs of developing countries, as provided for in this Convention.

OR

"D. Subject to the rights of coastal States, States, as well as the competent international organizations, may promote and conduct scientific research in the marine environment, taking into account all relevant factors, including the interests of the international community and particularly those of the developing countries, as provided for in this Convention. 6/

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"2/ A view was expressed that this draft article should have included a reference to physical and juridical persons as also having the right to conduct scientific research in the marine environment.

"3/ Some delegations took the view that texts A and B were not alternatives but complementary.

"4/ Some delegations expressed the view that texts A and B were not complementary but real alternatives.

"5/ Some delegations expressed the view that it was premature to include the words 'subject to the rights of coastal States' in the above texts since it may be prejudicial to the inherent rights of States.

"6/ See foot-note 5.

OR

"E. All States, irrespective of their geographical location, as well as international organizations, shall enjoy on a basis of equality and without any discrimination the right of freedom to conduct scientific research in the world ocean. 7/

"The term 'world ocean' as used in this Convention covers all ocean space, the sea-bed and the subsoil thereof, with the exception of internal and territorial waters and the bed and subsoil of the continental shelf.

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"7/ See foot-note 1."

## Appendix I

### Index of proposals submitted to Sub-Committee III from 1971 to 1973

#### I. Proposals submitted in 1971<sup>a/</sup>

#### II. Proposals submitted in 1972<sup>b/</sup>

#### III. Proposals submitted in 1973

1. Working paper on preservation of the marine environment, submitted by Australia (A/AC.138/SC.III/L.27).
2. Draft articles for a comprehensive marine pollution convention, submitted by Canada (A/AC.138/SC.III/L.28).
3. Draft articles for a convention on scientific research in the world ocean, submitted by Bulgaria, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics (A/AC.138/SC.III/L.31).
4. Draft articles for a convention on general principles for the preservation of the marine environment, submitted by the Union of Soviet Socialist Republics (A/AC.138/SC.III/L.32).
5. Draft articles for the preservation of the marine environment (including, inter alia, the prevention of pollution) submitted by Malta (A/AC.138/SC.III/L.33).
6. Draft articles on scientific research, submitted by Malta (A/AC.138/SC.III/L.34).
7. Observations by the Government of the Netherlands in regard to questions concerning the preservation of the marine environment including the prevention of marine pollution (A/AC.138/SC.III/L.35).
8. Working paper submitted by the United States of America on competence to establish standards for the control of vessel source pollution (A/AC.138/SC.III/L.36).
9. Working paper on prevention of pollution from ships, submitted by Canada (A/AC.138/SC.III/L.37 and Add.1).
10. Draft articles on the protection of the marine environment and the prevention of marine pollution, submitted by the United States of America (A/AC.138/SC.III/L.40).

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<sup>a/</sup> See Official Records of the General Assembly, Twenty-sixth Session, Supplement No. 21 (A/8421), annex V.

<sup>b/</sup> Ibid., Twenty-seventh Session, Supplement No. 21 (A/8721), annex IV.

11. Draft articles on prevention and control of pollution in the marine environment, submitted by Kenya (A/AC.138/SC.III/L.41).
12. Working paper on marine scientific research, submitted by China (A/AC.138/SC.III/L.42).
13. Draft articles on the protection of the marine environment against pollution: working paper submitted by Norway (A/AC.138/SC.III/L.43).
14. Draft articles for a chapter on marine scientific research, submitted by the United States of America (A/AC.138/SC.III/L.44).
15. Working paper on scientific research within the zone subject to the sovereignty and jurisdiction of the coastal State, submitted by Brazil, Ecuador, El Salvador, Panama, Peru and Uruguay (A/AC.138/SC.III/L.45).
16. Draft articles concerning the rights exercisable by coastal States for the purpose of preventing marine pollution, submitted by France (A/AC.138/SC.III/L.46).
17. Working paper on the preservation of the marine environment, submitted by Ecuador, El Salvador, Peru and Uruguay (A/AC.138/SC.III/L.47 and Corr.1).
18. Draft articles on the enforcement of international provisions for the prevention of marine pollution from vessels, submitted by the Netherlands (A/AC.138/SC.III/L.48).
19. Proposal on enforcement measures by coastal States for the purpose of preventing marine pollution, submitted by Japan (A/AC.138/SC.III/L.49).
20. Proposal concerning obligations of the coastal State regarding scientific marine research, submitted by Italy (A/AC.138/SC.III/L.50).
21. Draft articles on responsibility and liability, submitted by Trinidad and Tobago (A/AC.138/SC.III/L.54).
22. Draft article on consent to conduct marine scientific research, submitted by the delegations of Algeria, Argentina, Brazil, China, Ecuador, El Salvador, Ethiopia, Egypt, Indonesia, Iran, Kenya, Mexico, Pakistan, Peru, Philippines, Romania, Somalia, Trinidad and Tobago, Tunisia, United Republic of Tanzania and Yugoslavia (A/AC.138/SC.III/L.55).
23. Working paper on coastal State enforcement of standards for prevention of pollution from vessels: basic zonal approach, submitted by Australia, Canada, Colombia, Egypt, Fiji, Ghana, Iceland, Indonesia, Iran, Jamaica, Kenya, Mexico, New Zealand, Philippines, Spain, Trinidad and Tobago and United Republic of Tanzania (A/AC.138/SC.III/L.56).

## Appendix II

### Index to the summary records of Sub-Committee III from 1971 to 1973

Statements made in 1971<sup>a/</sup>

Statements made in 1972<sup>b/</sup>

#### Statements made in 1973

Meetings held from 7 March to 6 April 1973 (A/AC.138/SC.III/SR.33-39)

##### 33rd meeting:

###### Organization of work

Statements by the Chairman of the Sub-Committee, Chile, the United Kingdom, Canada, the United States of America, Australia, the Union of Soviet Socialist Republics and Malta.

##### 34th meeting:

###### Marine pollution

Statements by the United Kingdom, Canada, Peru, Malta and the Union of Soviet Socialist Republics.

##### 35th meeting:

###### Scientific research

Statements by the Union of Soviet Socialist Republics and Ghana.

##### 36th meeting:

###### Scientific research

Statements by the Chairman of the Sub-Committee, the United States of America, Indonesia and Peru.

###### Progress report on the work of Working Group 2:

Statement by the Chairman.

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<sup>a/</sup> See Official Records of the General Assembly, Twenty-sixth Session Supplement No. 21 (A/8421), annex VI, sect. 4.

<sup>b/</sup> Ibid., Twenty-seventh Session, Supplement No. 21 (A/8721), annex V, sect. 4.

37th meeting:

Marine pollution

Statements by the observer for the Inter-Governmental Maritime Consultative Organization, and statements by Canada and the United States of America.

Scientific research

Statements by the Chairman of the Sub-Committee, Finland, Iceland, the United States of America, Poland, Peru and Argentina.

38th meeting:

Statement by the Assistant Executive Director of the United Nations Environment Programme.

Scientific research

Statements by Iran, Malta, Chile, the Ukrainian Soviet Socialist Republic, Colombia, China, the Union of Soviet Socialist Republics, the United Kingdom, Canada, Brazil, and the Chairman of the Sub-Committee.

Progress report on the work of Working Group 2

Statement by the Chairman.

Marine pollution

Statements by the United States of America, Canada, and the Chairman of the Sub-Committee.

39th meeting:

Progress report on the work of Working Group 3

Statement by the Chairman.

Scientific research and transfer of technology

Statements by the Chairman of the Sub-Committee, the Union of Soviet Socialist Republics, Ghana, Peru, Venezuela, Liberia, Malta, United Republic of Tanzania, Canada, Romania, Spain, Colombia.

Report on the work of Working Group 2 during the March/April session (A/AC.138/SC.III/L.39)

Statement by the Chairman.

Marine pollution

Statements by Greece, Canada, Trinidad and Tobago, Liberia, Malta, Argentina, the United States of America and Spain.

Meetings held from 4 July to 20 August 1973 (A/AC.138/SC.III/SR.40-49)

40th meeting:

Organization of work

Statements by the Chairman and Malta.

41st meeting:

Marine pollution

Statements by the United States of America, Kenya and Malta.

Scientific research and transfer of technology

Statements by Colombia, Yugoslavia, Union of Soviet Socialist Republics and Greece.

42nd meeting:

Progress report on the work of Working Group 2

Statement by the Chairman.

Marine pollution

Statements by Canada, United Republic of Tanzania.

Scientific research and transfer of technology

Statements by the United States of America, France, Malta and Chile.

43rd meeting:

Marine pollution

Statements by Norway, France and Peru.

Scientific research and transfer of technology

Statements by China, Peru, Brazil, Pakistan and Venezuela.

Progress reports on the work of Working Groups 2 and 3

Statements by the Chairmen and by Chile, United Republic of Tanzania, Peru.

44th meeting:

Progress reports on the work of Working Groups 2 and 3

Statements by the Chairmen.

Statement by the Rapporteur on the draft report of the Sub-Committee and statements by Chile, United Republic of Tanzania and Spain.

Statements by the observers for the International Atomic Energy Agency and the Intergovernmental Oceanographic Commission, and statements by Peru, Colombia, Spain, United Republic of Tanzania and the Union of Soviet Socialist Republics.

45th meeting:

Consideration of the report of Working Group 2 (A/AC.138/SC.III/L.52) and the report of Working Group 3 (A/AC.138/SC.III/L.53).



Marine pollution (proposed letter to IMCO)

Statements by the United Republic of Tanzania, Malta, the United Kingdom, Canada, Chile, Kenya, Spain, Lebanon, Egypt, Mexico, the Union of Soviet Socialist Republics, the United States of America, Australia and the Chairman of the Sub-Committee.

46th meeting:

Consideration of the report of the Sub-Committee (A/AC.138/SC.III/L.51 and Add.1).

47th meeting:

Marine pollution (proposed letter to IMCO)

Statements by the United Republic of Tanzania, Brazil, the United Kingdom, Chile, Canada and the Chairman of the Sub-Committee.

Consideration of the report of the Sub-Committee (A/AC.138/SC.III/L.51 and Add.1).

48th meeting:

Consideration of the report of the Sub-Committee (A/AC.138/SC.III/L.51 and Add.1).

49th meeting:

Adoption of the report of the Sub-Committee (A/AC.138/SC.III/L.51 and Add.1).

Scientific research and transfer of technology

Statements by Italy, Yugoslavia, Pakistan.

Marine pollution (proposed letter to IMCO)

Statements by the United Republic of Tanzania, Malta, Union of Soviet Socialist Republics, Lebanon, Kenya, Canada, Bulgaria, Greece, the United States of America, Ukrainian Soviet Socialist Republic, Poland, the United Kingdom, Malta and the Chairman of the Sub-Committee.

ANNEX IV

LIST OF DOCUMENTS SUBMITTED TO THE COMMITTEE IN 1973

Working paper concerning the concept of an intermediate zone, submitted by the Netherlands /dated 16 March 1973/	A/AC.138/86
Economic significance, in terms of sea-bed mineral resources, of the various limits proposed for national jurisdiction: report of the Secretary-General /dated 4 June 1973/	A/AC.138/87 and Corr.1
Examples of precedents of provisional application, pending their entry into force, of multilateral treaties, especially treaties which have established international organizations and/or régimes: report of the Secretary-General /dated 12 June 1973/	A/AC.138/88
Organization of African Unity Declaration on the Issues of the Law of the Sea /dated 2 July 1973/	A/AC.138/89 and Corr.1 (F. only)
Sea-bed mineral resources - recent developments: progress report by the Secretary-General /dated 3 July 1973/	A/AC.138/90
Artificial islands and installations: working paper submitted by Belgium /dated 11 July 1973/	A/AC.138/91
Letter dated 10 July from the representative of Bolivia addressed to the Chairman of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction /dated 12 July 1973/	A/AC.138/92
Draft articles relating to land-locked States submitted by Afghanistan, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia /dated 2 August 1973/	A/AC.138/93
Report of Sub-Committee I /dated 17 August 1973/	A/AC.138/94 and Add.1 and Add.1/Corr.1 (E. only)
Report of Sub-Committee II /dated 23 August 1973/	A/AC.138/95
Report of Sub-Committee III /dated 21 August 1973/	A/AC.138/96

United States of America: draft articles for a chapter  
on the settlement of disputes /dated 21 August 1973/

A/AC.138/97

Proposals in regard to the organization of the  
Committee's work presented to the Committee by the  
Chairman at the 90th meeting held on 5 March 1973  
/dated 5 March 1973/

A/AC.138/L.13  
and Corr.1  
(E. only)  
and Add.1 and  
Rev.1

Draft report of the Committee on the Peaceful Uses of  
the Sea-Bed and the Ocean Floor beyond the Limits of  
National Jurisdiction /dated 21 August 1973/

A/AC.138/L.14

ANNEX V

INDEXES TO SUMMARY RECORDS OF THE COMMITTEE IN 1973

Meetings held from 5 March to 6 April 1973 (A/AC.138/SR.90-93)

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Tribute to the memory of Mr. Khanachet

Organization of work

Statements by the Chairman, Chile, the Union of Soviet Socialist Republics and El Salvador

91st meeting:

Organization of work (continued)

Statements by the Chairman, Venezuela, the Chairmen of the Sub-Committees, the Union of Soviet Socialist Republics, Argentina, Australia, Turkey, Cameroon, Brazil, Canada, Chile, India, Norway, the United Kingdom, Singapore, Malta, the United States of America, the Union of Soviet Socialist Republics and Egypt

92nd meeting:

Tribute to the memory of Mr. Alcívar and Mr. Chacko

General statements

Statements by the representatives of FAO, the International Hydrographic Organization, the Intergovernmental Oceanographic Commission of UNESCO, Sri Lanka, Iceland, the Chairman, Australia, Peru, the United States of America, Turkey, Canada, India, Poland and Malta

93rd meeting:

Progress reports on the work of the Sub-Committees

Statements by the Chairman and Rapporteur of Sub-Committee I, the Chairman of Sub-Committee II, the Chairman of the Working Group of the whole of Sub-Committee I, the Chairman of Sub-Committee III and the Chairman of the Committee

Arrangements for the Third United Nations Conference on the Law of the Sea

Statements by the Chairman, Kenya, the Philippines, Czechoslovakia, Venezuela, the United States of America, Canada, Chile, Malta, the Secretary of the Committee, Mexico, Peru, Egypt, Ecuador, France, Cameroon, the Philippines, the Union of Soviet Socialist Republics, Iraq, the United Kingdom and the Secretary of the Committee

Closure of the session  
Statement by the Chairman

Meetings held from 2 July to 24 August 1973 (A/AC.138/SR.94-104)

94th meeting:

Opening of the session  
Statements by the Chairman and by the Director-General of the United Nations Office at Geneva

Organization of work  
Statements by the Chairman and by Peru, Mexico, the United Kingdom, Egypt and Senegal

Financial matters  
Statements by the Director-General of the United Nations Office at Geneva and by Chile

95th meeting:

General statements  
Peru, Sierra Leone, Jamaica and the representative of FAO

Progress reports  
Statements by the Chairmen of Sub-Committees I, II and III, of the Working Group of the whole of Sub-Committee II and of Working Group 2 of Sub-Committee III

Documents prepared by the Secretariat in response to requests in resolutions 3029 B and C (XXVII)  
Statement by the Under-Secretary-General for Legal Affairs

96th meeting:

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Congratulations on the occasion of the independence of the Bahamas  
Statements by Venezuela, Jamaica, Singapore, Peru, Canada, the Philippines, Kenya and the United Kingdom

97th meeting:

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98th meeting:

Progress reports

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Organization of work

Statements by the Chairman and by the Union of Soviet Socialist Republics, Uruguay, Spain, Bulgaria, Senegal, Chile, Colombia, Peru, Cameroon, the United Kingdom, the United Republic of Tanzania and the United States of America

General statement by the Secretary-General of the Permanent Commission for the South Pacific

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Organization of work

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Progress reports

Statement by the Chairman on behalf of the Chairmen of Sub-Committees I, II and III

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Statement by Bolivia introducing document A/AC.138/92

Statements by Czechoslovakia, Zambia, Afghanistan and Cameroon

100th meeting:

Progress reports

Statements by the Chairmen of Sub-Committee I, of the Working Group of the whole of Sub-Committee II and of Sub-Committee III

General statements

The United States of America, Singapore, Iceland, Mexico, Australia, Colombia, the representative of the United Nations Environment Programme, Canada, Peru, Chile and Pakistan

101st meeting:

General statements

The United States of America, the United Republic of Tanzania, Colombia,  
the Union of Soviet Socialist Republics and Poland

Adoption of the report of Sub-Committee III (A/AC.138/96)

Statement by Canada introducing document A/AC.138/SC.III/L.56

102nd meeting:

Adoption of the report of Sub-Committee I (A/AC.138/94 and Add.1)

103rd meeting:

Adoption of the report of Sub-Committee II (A/AC.138/95)

104th meeting:

Consideration and adoption of the draft report of the Committee  
(A/AC.138/L.14)

Closure of the session

Statement by the Chairman





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