

UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
GENERAL

A/AC.138/95

26 July 1972

Original: ENGLISH/FRENCH/SPANISH



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

REPORT OF SUB-COMMITTEE II

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. a/ 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:

"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." b/

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.

b/ 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." c/

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.

c/ Ibid., para. 99.

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. d/

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." e/

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).

d/ Ibid., paras. 104-110.

e/ 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. f/ 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

f/ 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 g/ 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 h/ 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)

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

h/ 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. Gheorghe 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.

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

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.