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## GENERAL ASSEMBLY



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

### Revised Draft Addendum to the Report

1. Certain broad questions were the subject of comment in almost every intervention in the general debate. These may be taken as the relationship between existing law and the problems requiring consideration and resolution by the Conference on the Law of the Sea scheduled to be held in 1973 in accordance with the terms of resolution 2750 C (XXV); the identification of particular interests of States, as well as of categories of States, and of the international community as such; and suggestions regarding various possible means of reconciliation of divergent interests and needs. The Committee recognized the need to bear in mind in such an account the statement in resolution 2750 C (XXV) that problems of ocean space were closely interrelated and needed to be considered as a whole.
2. The relationship of existing law to the kinds of international arrangements that might emerge from the anticipated Conference on the Law of the Sea elicited a variety of approaches. The need for the progressive development of the law of the sea was widely recognized, but opinions differed considerably about the nature and extent of the changes required.
3. In noting that the Committee was to examine the law of the sea comprehensively, particularly from the point of view of States which had not attended the 1958 Geneva Conference, some members emphasized the need to retain as much as possible of the Geneva Conventions of 1958 or other relevant international agreements, preserving the freedoms of the high seas, while seeking solution of outstanding problems that had not been settled at the Geneva Conferences as well as making

any adjustments in such agreements necessitated by the establishment of the new régime to govern the peaceful uses and the exploration and exploitation of the resources of the area of the sea-bed and the ocean floor beyond national jurisdiction. A number of delegations expressed the opinion that a solution of the problems left unsettled by the Geneva Conventions did not require any revision of those Conventions. In this connexion they emphasized that the Geneva Conventions had formalized the rules of international law of the sea that had developed historically and proven their value in practice, including those relating to freedom of navigation and fishing in the high seas. They were therefore, from the point of view of these delegations, of particular significance today when economic and other peaceful ties among States were rapidly expanding. This made it all the more imperative that the uses of ocean space be more orderly and rational and conform to the generally recognized rules of international law. In the view of these delegations, the Geneva Conventions had been elaborated with the participation of all groups of States, and proposals to revise them would not be justified. Among other considerations alluded to in this respect was that of the need to preserve an existing system until agreement had been reached on one to replace it.

4. Reference was also made to the need to permit accession by all States to the 1958 Geneva Conventions and any future international instruments governing the law of the sea.

5. A number of delegations expressed the view that the Geneva Conventions, ratified only by a limited number of States, were in need of thorough revision and that they should be amended and supplemented by new Conventions, inasmuch as they reflected the interests of the great maritime Powers, and furthermore some delegations denied that there existed generally recognized rules of international law in regard to many aspects of ocean space.

6. Other delegations expressed the view that the Geneva Conventions constituted a valuable step forward in the task of codifying and developing the law of the sea and that they had been evolved at conferences in which a large number of members of the international community had participated; those delegations nevertheless recognized the necessity to review a large part of the provisions of those international conventions and instruments in order either to complete them or to

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modify them, taking into account the vital interests of coastal countries, State practice, and political and economic realities, including the scientific development and technological advances of the last decade.

7. A number of delegations emphasized that existing law had been outmoded by the rapidity of technological advance which involved new and more extensive uses of ocean space and its resources, by the realization that the latter were not inexhaustible and that the world's seas were not immune to pollution, by the changing nature of the world from a political, economic and social point of view, and by the overwhelming need to bridge the dangerous division between a minority consisting of certain highly industrialized countries and the majority made up mainly of developing countries. Reference was made to the need to take account of the origins of existing law, which reflected the interests of that minority, and in particular of the fact that many States Members of the United Nations had not been able to take part in the framing of the existing Conventions or were not parties to them; one aspect stressed in this context was the importance of ensuring that the law be equitable.

8. Differing positions were taken in regard to the basis on which the rights of States were founded. These included the view that a State had the right to avail itself of the resources of the sea and the sea-bed adjacent to its coasts, in order to ensure its social and economic development, and in the exercise of this right, was entitled to fix its own maritime sovereignty or jurisdiction in accordance with the geographical, geological and biological characteristics of its own territory and the ocean space off its coasts. In this respect the view was expressed that there were no uniform limits prescribed by existing law. They also included the view that States could not establish jurisdictional limits without regard to international practice and interests, and the view was expressed that these interests included those of the international community in the exercise by all States of the freedoms of the high seas and the establishment of an equitable international régime for the sea-bed beyond the limits of national jurisdiction, taking into account the special interests of developing countries, whether coastal or land-locked. In support of this position, the view was expressed that there were uniformities of practice with respect to such limits in existing law, as well

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as relevant international conventions and opinions of the International Court of Justice and the International Law Commission.

9. In this connexion the opinion was expressed that the criteria and basis for defining the breadth of territorial waters and that of special maritime jurisdiction should differ. In this respect the view was also expressed by some delegations that a reasonable and unified, though not necessarily uniform, limit of national sovereignty or jurisdiction for all purposes over the sea-bed, the superjacent waters and the air space above them would constitute the best applicable criterion. A view was also expressed by some delegations that the best solution to the question of limits of coastal State sovereignty would be the adoption by all States, by international agreement, of uniform criteria.

10. Many of the interventions in the general debate dealt in detail with the circumstances and interests of States in relation to the matters under consideration. In view of the importance attributed to the reconciliation and adjustment of these interests and circumstances, both as between States, and with the interest of the international community as a whole, as well as the importance of securing a realistic and workable solution to problems posed by potentially conflicting uses of ocean space, it would appear desirable to indicate the kinds of particular interests and circumstances brought to the attention of the Committee. It may be noted, however, that these matters involved delicate and often controversial issues of definition at least in respect of the classification of types of interest and circumstance and of classes of States in relation thereto. Thus, while classifications were suggested, it was contended that there were very few States whose interests could be regarded as identical.

11. In the general debate reference was made to the special circumstances and interests, and the need to find solutions to the specific problems, of States such as island States; mid-ocean and other archipelago States; maritime States; land-locked States; shelf-locked States;\* States bordering enclosed and semi-enclosed seas; States situated on gulfs; States with a narrow shelf; States with a broad shelf, etc. Among other circumstances and interests which were considered relevant

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\* The meaning to be attached to the term "shelf-locked" has still to be defined.

to the treatment of the issues involved were the stage of economic and technological development of States and the extent of their resources for future development; the interest of States in the sea-bed and ocean floor beyond national jurisdiction as the common heritage of mankind, including the extent of that area and equitable sharing of the benefits derived from exploration and exploitation of its resources; the interests of developing States in terms of possible adverse economic effects of future production of sea-bed resources, including the fluctuation of prices; the degree of dependency of the economy of a State on mineral resources producible from the sea-bed and the ocean floor beyond national jurisdiction; the area of the continental shelf of States under different possible formulae and limits of jurisdiction; the degree of dependence of States on the marine environment and the resources thereof; the interests of States in regard to offshore and distant water fisheries; the security interests of States in the use of ocean space; the degree of geographical isolation of States; the degree of dependence of States on international trade; the degree of dependence of States on merchant fleets; the situation of States in relation to actual or potential continental shelf resources; the existing and future ability of States to exploit subsea mineral and other resources; the interest of States, and particularly coastal States, in adequate measures against marine pollution and its effects on tourism and fisheries; the interests of States the coasts of which are particularly exposed to risks of contamination and other hazards; the interest of States in conducting and in the results of scientific research, including the special interest of coastal States in respect of scientific research in areas adjacent to them; and the interest of developing States in scientific and technological training of their nationals. In particular, delegations urged that priority should be given to the training of nationals of developing countries in all aspects of marine science and technology and sea-bed operations. In this connexion, it was proposed by some delegations that the UNDP should urgently examine the problem with a view to establishing and funding on a regional basis of oceanographic training institutions in developing countries.

12. A number of delegations expressed the view that the established rights of States concerning the continental shelf under existing law could not be called into question, and could not be altered without the consent of the State concerned,

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and they noted that some States have already exercised rights conferred upon them by existing law.

13. The international community interests mentioned by various delegations in the general debate included the following: the need for international order and security in the seas in accordance with the purposes and principles of the United Nations Charter and for the avoidance of conflict in the various uses of ocean space; the need to utilize the resources of ocean space for economic development of the international community, taking into account the special needs and interests of developing countries, whether coastal or land-locked, and the need to adopt the most suitable régimes and machinery to this end; the need for the peaceful and rational management and orderly development of ocean space and its resources; the need for further progressive development of the law of the sea in the interests of international co-operation; the need to prevent conflict and friction among States in relation to the use of the resources of the sea-bed and ocean space; the need for settlement of outstanding questions of the law of the sea on the basis of international agreement, due account being taken of the interests of coastal States as well as those of the international community as a whole; the interest of all States, whether coastal or land-locked, in access to the resources of the sea-bed and ocean space on the basis of equality and without discrimination; the need for such access to be in accordance with the principle of common heritage of mankind which entails, inter alia, the notions of equitable sharing of benefits and participation by all States, through an international authority, as contained in the Declaration of Principles governing the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction, adopted by the General Assembly in resolution 2749 (XXV); the need for maximum use of the mineral resources of the sea-bed and the living resources of ocean space for the benefit of mankind; the need for the use of the resources of the sea-bed and the ocean floor beyond the limits of national jurisdiction to be controlled in such a way as to prevent detrimental effects to the economies of developing countries, particularly exporters of land-based raw materials; the need to preserve the sea-bed exclusively for peaceful purposes; the need to promote scientific research on the sea-bed and in ocean space on the basis of increasing international co-operation; the need for further development of international navigation and trade, as well as

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economic and dependable means of communication; the need to preserve the area of the sea-bed beyond national jurisdiction from encroachment or appropriation by any State; the need to protect and preserve the marine environment, including prevention of pollution, and the need to establish uniform minimum standards to that end; the need to recognize the objective international liability of States in the field of pollution of ocean space; the need to implement, through the establishment of an appropriate international régime, including a machinery, the Declaration of Principles adopted in resolution 2749 (XXV).

14. Reference was made to the question of straits used for international navigation, innocent passage through these straits, the interests of coastal States concerned (security requirements, prevention against risks, and measures to combat pollution, etc.), the interests of international navigation and free transit through and over the above-mentioned straits. Reference was also made to the differences between straits, their relative importance for international navigation and the present treaty régime on straits. Existing civil aviation regulations were also referred to in connexion with overflight in straits.

15. In the course of the general debate various delegations addressed themselves to the problem of finding means of reconciling the divergent interests that had come to light in the Committee's work of preparing for a new Conference on the Law of the Sea.

16. Several suggestions put forward in the Committee were presented as means for an over-all accommodation of the interests of coastal States and the international community and thus provided an indication of the thinking of some members in this respect, although there would appear to be need for further study and examination of the problems involved.

17. The following were among the suggestions put forward by different delegations: that much of the administration of the law of the future should be carried out by coastal States on the basis of the concepts of resource management and delegation of powers to them, together with the assumption by them of duties and responsibilities as custodians of the vital interests of the international community in the discharge of their delegated and sovereign powers; that a reasonable and unified, though not necessarily uniform, limit of national sovereignty or jurisdiction for all purposes over the sea-bed, the superjacent

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waters and the air space above them should be universally recognized; that there would be established one limit of national jurisdiction for all purposes rather than different limits for different purposes, though some legal limitations would have to be set to the freedom of States within the area under their control, and a portion of the financial benefits derived from that area would be contributed to the international community, and that it was necessary to create a new equitable legal order of an institutional character for the oceans as a whole to replace the existing law of the sea; that the territorial sea under the coastal State's exclusive sovereignty and jurisdiction should be of reasonable width and that there should be an economic zone, described as the patrimonial sea, in which there would be freedom of navigation and overflight with the coastal State enjoying an exclusive right to all resources, with States maintaining their existing rights over that part of the continental shelf not covered by the patrimonial sea, as long as this part would not exceed the depth criterion mentioned in the 1958 Geneva Convention on the Continental Shelf; that, in considering the outer limits of jurisdiction or rights in relation to the continental shelf, there were various criteria suggested (based, for example, on depth, distance or geomorphological factors) which might provide the basis for an accommodation; that a reconciliation of interests could be found by establishing an intermediate zone (the limits of which might be determined by any one of a variety of methods) under a régime of mixed coastal and international elements in which coastal States' interests would be accommodated through international arrangements taking into account the special interests of the coastal State, or through delegation of specific and limited authority to the coastal State; that a settlement of the issues left outstanding by the Geneva Conventions should be reached together with an agreement on a régime for the exploration and exploitation of the resources of the sea-bed beyond the limits of national jurisdiction and on a more precise definition of the outer limit of the continental shelf; that, inter alia, the overriding importance of guaranteeing that maximum direct control and authority over the sea-bed beyond the limits of national jurisdiction and particularly over economic activities conducted therein, be vested in the international régime and machinery as the only reliable way of safeguarding and ensuring the practical implementation of the common heritage concept; that there was the need for the

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international community as a whole through the machinery to be established to have direct control over all financial and economic benefits accruing from activities undertaken within the area, as well as being responsible for the equitable distribution of benefits and profits from exploration and exploitation of the resources, bearing in mind the special interests and needs of developing countries, whether coastal or land-locked; that the protection of the interests of the coastal States and the international community could best be ensured by the international area commencing immediately where the limits of national jurisdiction would end and that national jurisdiction and the jurisdiction over the international area would be distinctly separate, with the latter falling entirely and solely to the international community without mixed jurisdictions; that, in regard to the determination of limits, a distinction should be drawn between the territorial sea and special jurisdictions or rights in specific matters, such as the continental shelf and living resources; that consideration should be given, in respect of rights over living resources, to an approach which, while taking account of the capacities of coastal States and their economic development needs, would respect the interests of the international community; that recognition should be given to the need for the developing coastal State to exclusively preserve, conserve and regulate fishing for their nationals in a reasonable zone beyond their territorial sea; that a plurality of norms, including those relating to the territorial sea and outer limits of the continental shelf, be considered so as to take into account the particular geographical, economic and social circumstances of countries and regions. Different views, including opposing views, were expressed in the Committee on the suggestions mentioned above.

18. The inclusion of suggestions and ideas in this report as a reflection of the general debate does not in any way imply acceptance or endorsement by the Committee of such suggestions and ideas. The Committee also wishes to note that this account should be read in conjunction with other portions of its report, Parts II, III and IV of which provide detailed information on various aspects of its work.

19. Two delegations made statements on behalf and at the request of the Governments of five developing South Pacific countries not members of the Committee whose Governments had requested them to draw the attention of the Committee to the special importance of marine resources to the islands of the South Pacific.

20. The present addendum to the Committee's report to the General Assembly was adopted on                      and should be regarded as constituting the final portion of Part I of its Report as adopted on 27 August 1971 (A/                      ).

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16 October 1971

Suggested Amendments

Argentina

Amendment to be included at an appropriate point:

"The problem of straits, in particular their definition and classification, having regard to their varying features and the precise determination of the legal régimes applicable to these international waterways as regards navigation and overflight".

Jamaica

At the end of paragraph 13, add the following:

"On the other hand, further suggestions included the views of a number of States which stressed, inter alia: the overriding importance of guaranteeing that maximum direct control and authority over the international area, and particularly over economic activities conducted therein, be invested in the international régime and machinery, as the only reliable way of safeguarding and ensuring the practical implementation of the common heritage concept; the need for the international community as a whole through the machinery to be established to have direct control over all financial and economic benefits accruing from activities undertaken within the area, as well as being responsible for the equitable distribution of profits from exploration and exploitation, taking fully into account the special needs and interests of developing countries, whether coastal or land-locked. A number of delegations also opposed the concept of intermediate zone with mixed jurisdiction as taking away both from the international community and from the coastal State to the benefit mainly of the major maritime Powers."

Amendments suggested by the Delegation of Brazil to the Sea-bed Committee  
to document A/AC.119/L.4/Ann.2

1. In the 3rd through 8th lines of paragraph 6, replace the text beginning "that greater...." up to ".... State's security" by the following:

"...that recognition should be given to the coastal State's rights and interests in the sea and the sea-bed adjacent to it, particularly as regards the conservation of the living resources of the area, the reservation of those resources to its own nationals, activities of scientific research conducted in the area and matters related to its security; ...."

2. In paragraph 7, replace the second sentence by the following:

"These included the view that a State, in the exercise of its right to avail itself of the resources of the sea and the sea-bed adjacent to its coasts, in order to insure its social and economic development, was entitled to fix its own maritime sovereignty or jurisdiction in accordance with the geographical, geological and biological characteristics of its own territory and the ocean space off its coasts. In this respect it was noted that there were no uniform limits prescribed by existing law."

3. Insert the following in paragraph 13, after the words "sovereign powers" in line 6:

"that a reasonable and unified, though not necessarily uniform, limit of national sovereignty or jurisdiction for all purposes over the sea-bed, the superjacent waters and the air space above them should be universally recognized;..."

Amendments suggested by the USSR Delegation to the Sea-Bed Committee  
to document A/AC.138/L.4/Add.2

1. Paragraph 4 - Add the following after the words "marine environment" in the sixteenth line of that paragraph:

"A number of delegations expressed the opinion that a solution of the problems left unsettled by the Geneva Conventions did not require any revision of those Conventions. In this connection it was emphasized that the Geneva Conventions had formalized the rules of international law of the sea that had developed historically and proven their value in practice, including those relating to freedom of navigation and fishing in the high seas. They were therefore of particular significance today when economic and other peaceful ties among States were rapidly expanding. ~~This made it all the more imperative that the uses of ocean space be more orderly and rational and conform to the generally recognized rules of international law.~~ In the view of these delegations, the Geneva Conventions had been elaborated with the participation of all major groups of States, including developed countries, and the proposals to revise them were not well founded."

2. In paragraph 6, line 3, after the words "Solutions should be found", insert the following:

"the question of the establishment of a uniform limit of the breadth of the territorial sea, in accordance with existing international practice, the securing of freedom of transit through and over international straits, the definition of the outer limits of the continental shelf, the prohibition of the use of the sea-bed for military purposes and"

(Thereafter the text stands.)

3. Add the following at the end of the first sentence of paragraph 9:

"and States bordering enclosed and semi-enclosed seas."

4. Delete paragraph 10.

Amendments suggested by the Delegation of Spain to the Sea-Bed Committee  
to document A/AC.138/L.4/Add.2

1. In paragraph 4, lines 11 and 12, delete the words "....supplementing and clarifying existing rules on the right of transit through and over ....".
2. In paragraph 4, line 16, after the word "environment", add the words "including the prevention of pollution."
3. In paragraph 6, line 8, add after the word "security", the words "as a result of the different uses of ocean space".
4. In paragraph 6, line 10, replace the word "review" by "more precision".
5. In paragraph 9, line 2, replace the words "the following" by "States such as".
6. In paragraph 9, line 3, add "etc." after "shelf-locked States".
7. In paragraph 9, line 3 of page 5, add after "straits" the words "the interests of States the coasts of which are particularly exposed to risks of contamination and other hazards".
8. In paragraph 10, line 2, after the word "security", add "in the seas in accordance with the purposes and principles of the United Nations Charter."