

# UNITED NATIONS

## 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

- Legal Sub-Committee -

#### DRAFT REPORT

1. The Legal Sub-Committee held a series of formal and informal meetings during its two sessions in 1970. It held six formal meetings and seven informal meetings in New York from 9 to 24 March 1970. It held .... meetings in Geneva from 25 to August 1970. The Sub-Committee also held informal consultations in New York from 15 to 19 June and in Geneva from 27 to 31 July 1970; with the concurrence of the Committee at the opening of its August session in Geneva, the Legal Sub-Committee continued its informal consultations from 3 to 25 August 1970.
2. The Bureau of the Legal Sub-Committee was composed of the following members:  
Chairman : Ambassador Reynaldo Galindo Pohl (El Salvador)  
Vice-Chairman : Mr. Alexander Yankov (Bulgaria)  
Rapporteur : Mr. Abdel Halim Badawi (United Arab Republic).
3. Under operative paragraph 4 of General Assembly resolution 2574 B (XXIV), the Committee was requested to expedite its work of preparing a comprehensive and balanced statement of principles and to submit a draft declaration to the General Assembly at its twenty-fifth session. Accordingly, there was agreement at the seventeenth meeting of the Committee, held on 26 February 1970, that in accordance with the Committee's programme of work (A/AC.138/8) which allocates the various items and functions between the Committee itself and its two Sub-Committees, the Legal Sub-Committee should consider during its two sessions in 1970 the formulation of principles requested by the General Assembly designed to promote international co-operation in the exploration and use of the sea-bed and the ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction and ensure the exploitation of their resources for the benefit of mankind, irrespective of the geographical location of States, taking into account  
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the special interests and needs of the developing countries, whether landlocked or coastal.

4. The Sub-Committee based its consideration particularly on the synthesis at the end of its report covering the 1969 period of its work<sup>1/</sup>. The synthesis, as noted by the General Assembly in operative paragraph 3 of resolution 2574 B (XXIV), reflected the extent of the work done in the formulation of principles. The Sub-Committee considered individually each of the topics dealt with in the synthesis but decided to consider also other matters which are not touched on in the synthesis and which should be included in the statement of principles. It also took into account other formal and informal proposals submitted for consideration during the March and August sessions; two draft resolutions submitted to the Sub-Committee during the March session (A/AC.138/SC.1/L.2 and L.4) were taken into account by the Sub-Committee in addition to various informal proposals submitted in the course of informal consultations.
5. The Legal Sub-Committee agreed, at its thirtieth meeting held on 10 March 1970, that an informal group should be set up to conduct informal consultations and to review the formulation of principles. The great majority of the members of the Sub-Committee participated in the informal consultations. In view of the fact that several formulations were submitted with regard to each of the elements to be included in the draft declaration of principles the Sub-Committee felt that the preparation of a single paper which would attempt to narrow as far as possible the differences between such formulations in the light of the discussions and various views that were expressed during the sessions would be useful. Several delegations, particularly those which had advanced concrete proposal assisted the Rapporteur in carrying out his task.
6. Due to lack of time it was not possible for the Sub-Committee to consider usefully such working paper which tried to reflect the extent of agreement reached as well as to underline those areas on which agreement had still to be reached.
7. The Legal Sub-Committee did not submit a report to the Committee on its work during the March session. Instead, the Chairman of the Sub-Committee, Ambassador Galindo Pohl, sent a letter to the Chairman of the Committee, Ambassador Amerasinghe, informing him of the progress of work (A/AC.138/SC.1/10).
8. At the twenty-seventh meeting of the Committee held on 26 March 1970, there was agreement that the Legal Sub-Committee would hold informal consultations before the

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<sup>1/</sup> Report of the Committee to the General Assembly at its twenty-fourth session, part two, paras. 83-97 (A/7622 and Add.1).

August session of the Committee. As a result of contacts undertaken by the Chairman of the Legal Sub-Committee with its members it was agreed that two series of consultations should be held, the first in New York for a week from 15 to 19 June and the second in Geneva for a week prior to the August session of the Committee, from 27 to 31 July. These second series of consultations were carried through beyond the original time allocated to them since it was estimated that their informal character would be conducive to an early agreement on a draft declaration of principles as requested by General Assembly resolution 2574 B (XXIV).

9. The Chairman of the Legal Sub-Committee presided over the informal consultations. The Vice-Chairman, Mr. Alexander Yankov, presided over ad hoc drafting groups set up in Geneva in order to consider different formulations on specific principles or elements of principles after examination by the informal consultations. There were no records of the informal consultations.

10. The second session of the Legal Sub-Committee opened in Geneva on 25 August 1970 and heard a report by the Chairman on the results of informal consultations at New York and Geneva.

11. As a result of this series of informal discussions, some progress was made with respect to a number of principles and elements of principles for inclusion in a declaration of principles. The texts concerned were agreed at informal meetings held in New York and Geneva; some of the texts agreed upon during meetings in June in New York were re-considered in Geneva. It was understood that agreement on the text of particular provisions was tentative in all cases, and dependent on agreement on other provisions or on the form of the declaration as a whole. Objections and reservations were made by some delegations to certain provisions; these delegations indicated their wish to re-iterate their objections and reservations at a later stage. Consideration of some principles or elements of principles was not completed, and proposals were made by different delegations regarding the formulation of these provisions.

12. The following annex shows the measure of agreement reached on the particular principles and elements of principles considered in the informal consultations and by drafting groups in New York and Geneva. This account is submitted without prejudice to the order in which the principles may eventually be placed. Headings have been given solely to provide ease of reference.

Annex

Elements of the Declaration  
provisionally agreed upon

Non-appropriation

(Provisionally agreed upon by Drafting Group in Geneva)

"The area shall not be subject to appropriation by any means by States or by persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part of its."

Non acquisition of rights

(Provisionally agreed by Drafting Group in Geneva pending agreement on formulation on international régime)

"No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area of its resources incompatible with the régime to be established."

Applicability of International Law<sup>1/</sup>

(Provisionally agreed by Drafting Group in Geneva pending agreement on formulation on international régime)

"The relations and activities of States in the area shall be carried out in accordance with the applicable principles and rules of international law including the United Nations Charter in the interest of maintaining international peace and security and promoting international co-operation and mutual understanding."

Benefit of Mankind

(Provisionally agreed by Drafting Group in New York)

"The exploration of the area and the exploitation of its resources shall be carried out for the benefit of mankind as a whole, irrespective of the geographic location of States, whether landlocked or coastal, taking into particular consideration the needs and interests of the developing countries."

Activities

(Provisionally agreed by Drafting Group in Geneva pending agreement on formulation on international régime)

"All activities regarding, inter alia, the exploration and exploitation of the resources of the area shall be governed by the régime to be established."

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<sup>1/</sup> Reservation was expressed by one delegation to this text.

### Scientific research

(Provisionally agreed by Drafting Group in New York)

"The area shall be open to scientific research exclusively for peaceful purposes by or on behalf of all States.

States shall promote international co-operation in such research:

- (a) by participation in international programmes and by encouraging co-operation in scientific research by personnel of different countries,
- (b) through effective publication and dissemination of research programmes and the results of research through international channels,
- (c) by co-operation in measures to strengthen the research and capabilities of developing countries including the participation of their nationals in research programmes.

No such activity shall form the legal basis for any claims in respect to any part of the area and its resources."

### Pollution

(Provisionally agreed by Drafting Group in Geneva)

"States in their activities in the area (acting in conformity with the international régime to be established)<sup>2/</sup> shall take appropriate measures and shall co-operate in the adoption and implementation of international rules, standards and procedures for:

- (a) prevention of pollution and contamination of, and other hazards to, the marine environment, including the coastline, and of interference with the ecological balance of the marine environment;
- (b) protection and conservation of the natural resources of the area and prevention of damage to the flora and fauna of the marine environment."

### Settlement of Disputes

(Agreed in Informal Consultations in Geneva)

"The parties to any dispute relating to activities in the area shall resolve such dispute by the means mentioned in Article 33 of the United Nations Charter and such procedures for settling disputes as may be agreed upon in the régime to be established."

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<sup>2/</sup> It was understood that in the event that agreement could not be reached in a satisfactory formula regarding the relationship of the principles to the international régime to be established, the whole wording of the above would need to be re-considered. If agreement is reached on a satisfactory formula, the words in brackets would be omitted.

Elements of the Declaration still under consideration

Existence of the area

Common Heritage of Mankind

Peaceful purposes

International Régime

Status of waters and air space above the area

Rights of Coastal States

Responsibility