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

SUB-COMMITTEE III

SUMMARY RECORDS OF THE FIRST AND SECOND MEETINGS

Held at the Palais des Nations, Geneva,  
on 12 and 25 March 1971

<u>Acting Chairman:</u>	Mr. AMERASINGHE	Ceylon
<u>Chairman:</u>	Mr. van der ESSEN	Belgium
<u>Rapporteur:</u>	Mr. IGUCHI	Japan

Note: The list of representatives is to be found in documents  
A/AC.138/INF.4 and Corr. 1 and INF.4/Add. 1-3.

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## ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
IAEA	International Atomic Energy Agency
ICSU	International Council of Scientific Unions
IMCO	Inter-Governmental Maritime Consultative Organization
IOC	Intergovernmental Oceanographic Commission (UNESCO)
UNESCO	United Nations Educational Scientific and Cultural Organization
WMO	World Meteorological Organization

SUMMARY RECORD OF THE FIRST MEETING

Held on Friday, 12 March 1971, at 12.10 p.m.

<u>Acting Chairman:</u>	Mr. AMERASINGHE	Ceylon
<u>Chairman:</u>	Mr. van der ESSEN	Belgium

The ACTING CHAIRMAN declared the meeting open and said that, in their informal discussions, the various regional groups had agreed to appoint as Chairman of Sub-Committee III Mr. van der Essen (Belgium).

Mr. van der Essen (Belgium) was unanimously elected Chairman and took the Chair.

The CHAIRMAN expressed his gratitude to the members for his election, which he took as a tribute to his country and to the group of nations to which it belonged. He was sure that he could count on the co-operation of all of them in the performance of his task.

In their informal discussions, the various regional groups had reached agreement on the designation of Mr. Gebre-Kidan (Ethiopia) and Mr. Espinosa Valderrama (Colombia) as the two Vice-Chairmen and Mr. Iguchi (Japan) as the Rapporteur of the Sub-Committee. If there was no objection, he would consider that the Committee agreed on the appointment of those officers.

It was so agreed.

Mr. IGUCHI (Japan) thanked the members for his election and said that he was sure that he would have the full co-operation of the members and of the Secretariat in carrying out his duties.

The meeting rose at 12.15 p.m.

SUMMARY RECORD OF THE SECOND MEETING

Held on Thursday, 25 March 1971, at 3.25 p.m.

Chairman:

Mr. van der ESSEN

Belgium

ADOPTION OF THE AGENDA (A/AC.138/SC.III/L.1)

The agenda was adopted.

PROGRAMME OF WORK FOR 1971 (A/AC.138/SC.III/L.2)

The CHAIRMAN said that in accordance with the agreement reached on the organization of work adopted by the Committee,<sup>1/</sup> Sub-Committee III was to deal with the preservation of the marine environment (including, inter alia, the prevention of pollution) and scientific research and to prepare draft treaty articles thereon. Of the three Sub-Committees, Sub-Committee III had the briefest, though not necessarily the clearest terms of reference. For that reason he wished to define the terms of reference by formulating certain questions which could be answered at the beginning of the July session.

In the first place, since General Assembly resolution 2750C (XXV) only called for the preparation of a conference on the law of the sea, it seemed quite clear that the Sub-Committee would not have to prepare texts on the technical aspects of pollution or on technical and scientific aspects of research. It had only to prepare draft treaty articles on public international law.

On the other hand, the extent of the competence of the Sub-Committee was not so clearly defined. Should the texts on pollution deal exclusively with the high seas or also with the territorial sea? It might, for example, be desirable to qualify the right of innocent passage through the territorial sea with reference to the risk of pollution. Moreover, it was not unlikely that it would be realized that oil slicks disregarded limits of national jurisdiction, and that it would be decided to treat the problem as a whole, without regard to the limits of jurisdiction. Another question to be decided was whether the study should be confined to pollution arising from exploitation of the area. It would not seem so, since General Assembly resolution 2750C(XXV) authorized the revision of the law of the sea.

Scientific research would not be directed exclusively to the sea-bed and the subsoil thereof; it might equally be directed to the study of the superjacent waters

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<sup>1/</sup> See A/AC.138/SR.45

of the high seas, which were free, and might include such aspects as currents or the saline content. There was a question whether that type of research should be included in the Sub-Committee's study.

It was likely that the decisions taken on those matters would largely depend on the conclusions reached by the other Sub-Committees.

In the performance of its task, the Sub-Committee, as requested in operative paragraph 13 of General Assembly resolution 2750C (XXV), should also take into account the work of other bodies. It should ask the experts from the agencies listed in paragraph 13 to provide relevant basic documentation. First, however, it would have to specify the questions which it intended to examine. That could be done during the general discussion in July.

With regard to the protection of the marine environment, Sub-Committee III should keep abreast of progress made in the preparation for the United Nations Conference on the Human Environment (1972). A report by the Preparatory Committee for that conference had just been circulated.<sup>2/</sup> Another report on the subject of pollution would be submitted at the next session of the Economic and Social Council and would supplement the report of the Secretary-General to the General Assembly at its twenty-fifth session.<sup>3/</sup> With regard to research, the IOC of UNESCO was preparing a report on the implementation of the Long-Term and Expanded Programme of Oceanic Exploration and Research (LEPOR), which would be forwarded to the Sub-Committee when completed.

The Bureau of the Committee had requested the Sub-Committees to indicate in broad outline the programme of work planned for the July session. He thought that session might begin with a general discussion in which delegations would reply to the questions he had just formulated. The Sub-Committee could then appoint two working groups for each of the two parts of its terms of reference - protection of the marine environment and research. ✓

Mr. STEVENSON (United States of America) said that for many years his country had supported activities relating to the two principal subjects assigned to the Sub-Committee: the preservation of the marine environment and scientific research. On

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<sup>2/</sup> Document A/CONF.48/P.C./6.

<sup>3/</sup> Official Records of the General Assembly, Twenty-fifth Session, Annexes, agenda item 25, document A/7924.

23 May 1970, the President of the United States had announced a new oceans policy, in which he had pointed out that States were becoming apprehensive about the ecological hazards of unregulated use of the ocean floor and the sea-bed. He urged that a new international sea-bed régime should, inter alia, protect the ocean from pollution.

Residuals of pollutants, from both maritime and land-based activities, now abounded in all the oceans of the world and constituted a danger to the health and wellbeing of mankind. They could render the ocean environment unsuitable for animal life, and, by accumulating in the living resources of the ocean they could render them unsuitable for human consumption. The impact of certain pollutants was not yet clear, but it was obvious that a better understanding of marine pollution was necessary to permit the adoption of effective pollution control measures according to the nature and origin of the pollutant. Preservation of the marine environment should be approached as a part of the global problem of the environment to be discussed at the 1972 Conference. The measures decided on in connexion with the marine environment should not conflict with measures taken in other areas. Furthermore, it was essential that States should act in concert to prevent economic competition from discouraging anti-pollution action.

An examination of the subject of sea-bed pollution was necessarily closely related to the work of Sub-Committee I on the international régime and machinery, as well as to the work of Sub-Committee II. The régime should provide that all activities in the international sea-bed area must be conducted with strict and adequate safeguards for the protection of human life and the marine environment. The international machinery would also play an important part in the protection of the environment.

In his foreign policy report of 25 February 1971, the President of the United States had proposed that the international community should take the following steps in the near future: identification of pollutants and other ecological hazards; establishment of an effective world monitoring network to keep track of those dangers; initiation of a global information system to facilitate exchange of experience and knowledge about environment problems; establishment of internationally accepted air and water quality criteria and standards; development of international guidelines for the protection of the environment; implementation of comprehensive international action programmes to prevent further environmental deterioration and to repair the damage already done; development and improvement of training and education programme to provide the skilled capabilities necessary to protect the environment.

In attempting to identify the principal problems of marine pollution with a view to drawing up the draft treaty articles, the Sub-Committee should refer to the work done by IMCO on oil spills from ships and by FAO on the effects of pollution on the living resources of the sea. It might consider the establishment of international machinery to determine priorities in research on marine pollution, to coordinate research efforts and to collect the information obtained and arrange for its exchange, and also the regulation of the unloading of materials into the ocean.

It was desirable that the drafting of articles should begin promptly. To that end the Sub-Committee should seek the assistance of the specialized agencies and other competent international bodies, both public and private. Experts from those organizations should participate in the work in a consultative capacity. Also, duplication with the preparations for the 1972 Conference on the Environment should be avoided. In particular, should the committees engaged in the preparatory work establish parallel working groups, one for that conference and one for the 1973 Conference on the Law of the sea, one member from the bureau of each group should be invited to attend the meetings of the other.

His country considered that scientific research should not be interfered with and should be conducted with a view to open publication for the benefit of all. It wholeheartedly supported paragraph 10 in the Declaration of Principles [General Assembly resolution 2749 (XXV)], which stated: "States shall promote international co-operation in scientific research exclusively for peaceful purposes [...] through effective publication of research programmes and dissemination of the results of research through international channels".

His delegation recognized the particular interest of developing countries in learning how the seas could help solve such problems as shortage of proteins; how fresh water might be obtained from the sea; how weather might be modified to improve crop production and to avoid natural catastrophes such as hurricanes; and how low, inexpensive energy sources might be tapped. To answer those questions, increased scientific activity and co-operation would be required in the years to come.

The best way to ensure the dissemination of scientific information was actual participation in scientific projects and continued support for existing scientific mechanisms for the exchange of data, such as the World Weather Watch. New opportunities for international co-operation were opened up by the new means of data collection, such as earth resource survey satellites.

The Sub-Committee should draw upon the experience and knowledge of other bodies, with particular reference to resolution 2750C (XXV), by which the General Assembly invited IOC (UNESCO) to co-operate fully with the Committee. The Sub-Committee should also draw upon FAO, IMCO and the Secretariat of the 1972 Conference on the Human Environment for support. In that connexion, it would be helpful if the Secretariat of the United Nations were to provide each of the Committee members with copies of treaties and other basic documents produced by other international and intergovernmental organizations concerned with marine pollution and scientific research.

Mr. HOLT (United Nations Educational, Scientific and Cultural Organization), Secretary of IOC (UNESCO), speaking at the invitation of the Chairman, recalled that in its resolution 2750C (XXV), the General Assembly had invited UNESCO and IOC to co-operate with the Committee in making preparations for the coming conference on the law of the sea, "in particular by preparing such scientific and technical documentation as the Committee may request". The Director-General of UNESCO had already responded positively to that invitation. IOC had done the same, through a recommendation of its Consultative Council instructing the Chairman of IOC to ensure appropriate representation of the Commission at meetings of the Committee and to discuss matters of common interest with the Committee's Chairman. In another recommendation by the Consultative Council, reference was made to the Commission's relationship with the Committee in connexion with a major project within the "LEPOR" Programme: a Global Investigation of Pollution in the Marine Environment.

IOC had taken a number of specific actions with respect to matters of concern to Sub-Committee III - the pollution of the sea and research. At its fifth session (October 1967) IOC had tackled the broad legal problems related to marine scientific research. At its sixth session (September 1969) it had adopted resolution VI-13 prescribing the steps it would take in certain situations to facilitate research by its member States. It had also drawn up provisional guidelines for member States and for its secretariat in the application of that resolution. At its seventh session (October 1971) it would review the provisional guidelines and would at the same time examine the effectiveness of resolution VI-13.

At present, one of the advisory bodies of IOC, the Scientific Committee on Oceanic Research (SCOR) of ICSU was consulting scientists and scientific institutions throughout the world to ascertain their views on the necessary conditions for effective scientific research in the oceans; it would communicate its conclusions to IOC in October.



The IOC was also dealing with other legal aspects of fundamental scientific research at sea. Since its first session in October 1961, it had been working, in consultation with IMCO, to clarify the legal status of observing buoys. That work had led it to undertake the preparation of draft articles for a convention on the legal status of Ocean Data Acquisition Systems (ODAS). IOC considered that an appropriate legal status must soon be established for the new types of observing instruments at sea and, especially, for the Integrated Global Ocean Station System (IGOSS) which it was actively planning in co-operation with WMO. In preparing the draft articles in question, IOC was co-operating with other organizations of the United Nations system directly concerned, and particularly with IMCO.

At the sixteenth General Conference of UNESCO (October-November 1970), the Director-General had been authorized to convene, in co-operation with IMCO, the United Nations, WMO and FAO, a preparatory conference of government experts to formulate a draft convention on the legal status of ODAS; he was to consider that subject within the framework of the decisions of the United Nations General Assembly. The conference in question would be held at Paris in February 1972, with the co-operation of IMCO. In organizing that conference, the Director-General of UNESCO would naturally be guided by the considerations of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor.

UNESCO and IOC were ready to supply short working papers to the Committee on the various questions he had mentioned. In addition, IOC would be pleased if the Secretary-General of the United Nations could make available to Sub-Committee III the progress report on the "LEPC" Programme, to which the Chairman of the Sub-Committee had referred in paragraph 7 of his note (A/AC.138/SC.III/L.2).

Mr. ARIAS SCHREIBER (Peru), referring to the questions put by the Chairman which were to be answered in the month of July, said that, in his delegation's view, the Sub-Committee could prepare effective standards for the protection of the marine environment and scientific research only if they related to the seas and oceans as a whole, i.e. to all their sectors from coast to coast and from the surface to the bed. Standards applicable within fixed perimeters only would create arbitrary divisions. Moreover, it was absolutely essential to take account of the inter-dependence of the various sectors in that field. That did not mean, however, that the standards adopted should be the same for all sectors; they would have to be adapted to those sectors, whether they were situated within the limits of national jurisdiction or outside them.

Sub-Committee III should make use in its work of the studies being carried out in other United Nations bodies, to ensure that the standards it was to propose would be sufficiently complete. Nevertheless, it should be able to deal with the various subjects involved so that it could carry out its mandate effectively and submit to the conference draft articles on all important aspects of pollution and scientific research.

Mr. GOWLAND (Argentina) said that the question of scientific research, which was closely linked with régime of the sea and, in particular, with that of the continental shelf, came very near to the topics to be considered by Sub-Committee II. Consequently, in order to harmonize its work with that of the other sub-committees, Sub-Committee III should bear in mind existing standards for scientific research on the continental shelf.

The question was an extremely delicate one in view of its implications for the sovereignty and security of the coastal States. The freedom of scientific research was not unlimited and the international community should be able at any time to verify the strictly scientific nature of the work being carried out. States undertaking research might, for example, be required to make a prior declaration of the programmes in question, to publish the results obtained without delay and to facilitate access to them by all States through the intermediary of an international distribution organ.

His country, which was perfectly well aware of the prospects offered to science by the sea-bed in the context of close and genuine international co-operation, thought it important that such co-operation should be considered in the light of the principle laid down in paragraph 10 of the Declaration of Principles /General Assembly resolution 2749 (XV)/.

In his view, scientific research should respect the existing standards of international law, particularly those relating to the continental shelf, which recognized the sovereign right of the coastal State. His country had often insisted that, in conformity with article 5, paragraph 8 of the 1958 Convention on the Continental Shelf,<sup>4/</sup> no scientific research should be undertaken on the shelf without the consent of the coastal States, which would certainly not withhold it and would undoubtedly be prepared to co-operate in any undertaking of that nature if their rights, security and legitimate interests were respected. The Sub-Committee should

<sup>4/</sup> See United Nations, Treaty Series, vol.499, p.316.

therefore make an assessment of the known facts in that regard and of any which might later be brought to its attention.

His delegation had read with interest the Chairman's note on the organization of work (A/AC.138/SC.III/L.2). It considered that the expression "its own particular sphere of interest" (paragraph 3) covered everything connected with scientific research on the sea-bed and the prevention of pollution resulting from exploitation of the area, on the one hand, and, on the other, the protection of the marine environment.

In the first place, with respect to scientific research and the prevention of pollution, the terms of reference of the Sub-Committee were clearly established by paragraph 4 of the Declaration of Principles, which stated that "All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international régime". One of the chief objectives of its work was thus the preparation of rules covering such activities for inclusion in the structure to be worked out by Sub-Committee I.

In the second place, the Sub-Committee was responsible for studying everything connected, in a more general way, with the protection of the marine environment. Moreover, in accordance with paragraph 2 of General Assembly resolution 2750C (XXV), it had to examine questions relating to the law of the sea concerning "the preservation of the marine environment (including, *inter alia*, the prevention of pollution) and scientific research" with which the conference was to deal. The latter task depended on the preparation of the list of subjects and issues by Sub-Committee II and could not be carried out effectively unless that Sub-Committee examined matters connected with scientific research and with pollution.

In his delegation's view, until Sub-Committee III had carried out its mandate completely and until the conference on the law of the sea had been convened, no international meeting should adopt any resolution of principle on scientific research which would modify the existing régime. Under General Assembly resolution 2750 (XXV), the Committee was the chief organ competent to deal with that question. Everything connected with the establishment of rules of law for the seas and oceans, the sea-bed and ocean floor, the subsoil thereof and their resources should thus be referred to it, including the results of the work currently being done by IOC and its subsidiary bodies on the legal aspects of oceanographic research. It was vital that, from the outset, the Committee should be kept informed of the progress of that work and that IOC should communicate to it all relevant documents, including the recommendations adopted on

6 March 1971 by the Bureau and Consultative Council of IOC (particularly recommendations 14 and 15), as well as all useful information on its Working Group on Legal Questions Related to Scientific Investigations of the Ocean.

Mr. ARIAS SCHREIBER (Peru) said that the fact that the Sub-Committee's activities covered the whole sea area did not mean that the rules proposed should be the same for all sectors of that area. The Sub-Committee should take account of the different relevant rules applicable to areas situated both within and beyond the limits of national jurisdiction.

Mr. KHLESTOV (Union of Soviet Socialist Republics) said that various IMCO organs were currently studying topics connected with the prevention of pollution by shipping and technical and legal rules, particularly with regard to liability; that IAEA was preparing a draft convention on the prevention of pollution of the sea by radioactive waste; and that WMO was studying the pollution of the sea by substances coming from the atmosphere. It was essential that there should be some co-operation between the Committee and those organizations since, in most cases, the studies in question were too technical for the Committee itself to deal with them.

The CHAIRMAN recalling that the representative of the United States had suggested that a member of the bureau of any working group that the Committee established should participate in the work of the Preparatory Committee for the Conference on the Human Environment, said that Japan and Belgium would be represented on the Preparatory Committee by observers. The Sub-Committee's Rapporteur and he himself would get in touch with those observers with a view to establishing the closest possible co-operation.

The meeting rose at 4.40 p.m.