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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

PROVISIONAL SUMMARY RECORD OF THE FORTY-SIXTH MEETING^{*/}

held at the Palais des Nations, Geneva,
on Thursday, 16 August 1973, at 4.5 p.m.

Chairman: Mr. van der ESSEN

Belgium

Rapporteur: Mr. IGUCHI

Japan

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Consideration of the draft report of Sub-Committee III

N.B. Participants wishing to submit corrections to this provisional summary record are requested to submit them in writing preferably on a copy of the record itself, to the Official Records Editing Section, Room E.4121, Palais des Nations, Geneva, within three working days of receiving the provisional record in their working language.

^{*/} This provisional summary record, together with the corrections to be issued in consolidated form after the session, will constitute the final record of the meeting.

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CONSIDERATION OF THE DRAFT REPORT OF SUB-COMMITTEE III (A/AC.138/SC.III/L.51 and Add.1)

Mr. IGUCHI (Japan), Rapporteur, introducing the draft report, said that he had sought the Sub-Committee's guidance concerning the form and content of that document. Part I dealt with the historical background of the Sub-Committee's work in 1971, 1972 and 1973. Part II was a summary of the general debates on scientific research and transfer of technology, while Part III would be devoted to the reports of Working Group 2 on pollution and Working Group 3 on transfer of technology and scientific research. The Sub-Committee's achievements would be mainly reflected in the latter part of the report, since it was in the Working Group that most of its deliberations had been conducted. With the help of the Secretariat, he had tried to keep the draft report impartial, factual and well-balanced, and he hoped that it could be adopted without much controversy.

Mr. STEINER (Secretary of the Sub-Committee) drew attention to some small changes which should be made in the draft report (A/AC.138/SC.III/L.51). In paragraph 16, the words ", named Working Group 3," should be inserted after the words "a Working Group" in the third line. In footnote 2 on page 4, Venezuela should be added to the list of members of the Working Group. At the top of page 5, a main heading reading "II. Summary of general debates" should be inserted before the sub-heading preceding paragraph 20. Finally, a main heading reading "III. Reports of Working Groups" should be inserted after paragraph 66 on page 16.

The CHAIRMAN suggested that, since paragraphs 1 to 19 were purely factual and appeared in other reports, Part I should be approved as a whole, while paragraph 20 et seq. should be considered paragraph by paragraph.

He suggested that purely drafting amendments should be discussed directly between the delegations and the Secretariat.

It was so agreed.

Paragraphs 1 to 19 (A/AC.138/SC.III/L.51)

Mr. BAYDUR (Turkey) pointed out that it was confusing to refer to seasons of the year in connexion with sessions of the Sub-Committee and its Working Groups, since seasons varied according to the geographical position of countries. He proposed that the actual months in question should be mentioned where appropriate.

It was so agreed.

Mr. YTURRIAGA (Spain) proposed that the reference to IOC in paragraph 10 should be amplified by the words "of UNESCO", to make it clear that the Intergovernmental Oceanographic Commission was not itself a specialized agency. He also proposed that the last sentence of paragraph 13 should be deleted, since the information therein was of no importance to readers of the report.

Those amendments were adopted.

In reply to questions by Mr. KOLCHAKOV (Bulgaria) and Miss MARIANI (France), the CHAIRMAN said that the countries listed in the footnotes on pages 3 and 4 were those which were official members of the Working Groups in question.

Mr. FATTAL (Lebanon) asked whether it was necessary to go into the historical background of the Sub-Committee's work as far back as 1971.

The CHAIRMAN said that the historical background of the work of the Sub-Committee had been inserted to meet a wish expressed at a meeting between the Chairman of the plenary Committee and the Rapporteurs of the Sub-Committees. It should be borne in mind that the Committee's report was intended to show non-members how its work had developed. The Rapporteur of the plenary Committee would consolidate the historical backgrounds in the Sub-Committees' reports as he thought appropriate.

Paragraphs 1 to 19, as amended, were adopted.

The CHAIRMAN reminded the Sub-Committee that the Rapporteur had taken the precaution of circulating the relevant paragraphs of Part II to interested delegations for their approval.

Paragraph 20

Miss MARIANI (France) suggested a drafting change in the French text.

Paragraph 20 was adopted.

Paragraph 21

Paragraph 21 was adopted.

Paragraph 22

Miss MARIANI (France) and Mr. LOPEZ REINA (Colombia) suggested drafting changes in the French and Spanish texts, respectively.

Paragraph 22 was adopted.

Paragraph 23

Mr. YTURRIAGA (Spain) suggested a drafting change in the Spanish text.

Paragraph 23 was adopted.

Paragraph 24

Mr. BOHPE (Yugoslavia), supported by Mr. YTURRIAGA (Spain), proposed that the words "of the freedom" in the penultimate line should be deleted, in order to maintain the balance between the views of those who advocated restrictions on research and those who considered that research should be unrestricted.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) and Mr. McKERNAN (United States of America) said that, in their opinion, the existing text accurately reflected the views expressed by advocates of the two schools of thought.

Miss MARIANI (France) said that the last phrase did not convey over-all advocacy of restrictions on research, since the word "abuses" was counterbalanced by the word "freedom".

Mr. FIGUEIREDO BUSTANI (Brazil) supported the Yugoslav proposal, since the phrase "unburdened by restrictive measures" adequately conveyed the idea of freedom of research.

Mr. SEYIFU (Ethiopia) also supported the Yugoslav proposal. Moreover, the existing wording of the last phrase presupposed that freedom of research already existed, whereas that was not the case. One solution might be to insert the words "freedom of" before "marine scientific research" in the second line of the last sentence.

Miss CASKEY (Canada) also supported the Yugoslav representative's views and suggested that the whole phrase after the word "abuses" should be deleted.

Mr. MBOTE (Kenya) said he agreed that the paragraph did not satisfactorily reflect the opposing views expressed in the debate. The phrase "unburdened by restrictive measures" in fact meant "free" and should be replaced by that word. Moreover, the advocates of restriction were not motivated solely by concern for the protection of the marine environment.

Mr. IGUCHI (Japan), Rapporteur, thought that approval of the Ethiopian and Canadian suggestions might provide a solution.

Mr. McKERNAN (United States of America) and Mr. BOHTE (Yugoslavia) said that those proposals seemed to be acceptable.

Mr. YTURRIAGA (Spain) and Mr. MBOTE (Kenya) pointed out that the words "freedom of marine scientific research" would still erroneously imply the existence of the freedom in question.

Mr. FIGUEIREDO BUSTANI (Brazil) proposed that the last part of the sentence should read "... those who wanted marine scientific research to be free and unburdened by restrictive measures and the views of those who wished to have the marine environment protected from possible abuses."

It was so agreed.

Paragraph 24, as amended, was adopted.

Paragraph 25

Mr. YTURRIAGA (Spain) said that the Spanish text was not clear and needed redrafting. He would make some suggestions to the Secretariat in that connexion, but no changes of substance would be involved.

Paragraph 25 was adopted.

Paragraph 26

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) said that the Russian text of the first sentence needed to be brought into line with the English text.

Mr. YTURRIAGA (Spain) requested that a drafting change be made in the first sentence of the Spanish text.

Paragraph 26 was adopted.

Paragraph 27

Mr. KOLCHAKOV (Bulgaria) said that the paragraph did not give a balanced interpretation of the two schools of thought. A text along the following lines should be included, either to replace the second sentence or as an addition to the third sentence: "Opinions were expressed that freedom of scientific research was based on international law and usage".

Mr. BOHTE (Yugoslavia), supported by Miss MARIANI (France), did not think that the second sentence should be deleted since, together with the first sentence, it reflected one school of thought. The amendment proposed by the representative of Bulgaria concerned the other school of thought and would, if accepted, have to be linked with the third sentence.

Mr. MBOTE (Kenya) said that he had no objection to the inclusion of an additional sentence or phrase reflecting the point of view of the exponents of the second school of thought. On the other hand, the use of the word "impossible" in the third sentence was incorrect; "inappropriate" would be preferable.

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) agreed with the Bulgarian representative that the paragraph was not balanced. He suggested that the third sentence should be replaced by wording along the following lines:

"On the other hand, it was pointed out that the freedom of scientific research was one of the generally recognized freedoms of the high seas and that for centuries this freedom had been exercised in practice. It was emphasized that it was inappropriate to limit the right to conduct scientific research and that the concept of the freedom to carry out such research should be reflected in the convention."

Alternatively, he would be prepared to accept an amendment along the lines of that proposed by the Bulgarian representative.

Mr. YTURRIAGA (Spain) said that the Ukrainian amendment was more acceptable to his delegation than the Bulgarian amendment.

Mr. BOHTE (Yugoslavia) said that he doubted very much whether scientific research on the sea-bed had been carried out for centuries. Furthermore, he considered that it would be almost impossible to achieve perfect balance in every paragraph of the report.

The CHAIRMAN said that the Sub-Committee should not, in its concern for balance, lose sight of the fact that the report must be an accurate reflection of the discussions that had actually taken place.

Mr. BALLAH (Trinidad and Tobago) said that he had serious reservations about the amendment suggested by the Ukrainian representative. Views expressed by a minority should not be given the same weight in the report as those expressed by a larger number of delegations. In his view, the draft report as it stood presented a sufficiently balanced picture of the Sub-Committee's discussion.

Mr. McKERNAN (United States of America) agreed. The paragraph should be left unchanged except for the replacement of the word "impossible" by "inappropriate" in the third sentence.

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) said that he could not agree with the views expressed by the two previous speakers. The position and arguments of each delegation should be reflected in a balanced way in the report. The paragraph was unacceptable to his delegation as it stood.

The CHAIRMAN suggested that further consideration of paragraph 27 should be deferred until an acceptable solution had been found by the delegations concerned.

It was so agreed.

Paragraph 28

Mr. YTURRIAGA (Spain) said that the meaning of paragraph 28 was not clear. For example, he wondered what States were being referred to in the third line. The word "restrictions" was unsuitable and should be replaced by some word such as "regulations", "norms" or "standards".

Mr. de FIGUEIREDO BUSTANI (Brazil) observed that the opening part of the paragraph was so worded as to imply that scientific research was already free. The true situation would be conveyed if the words "one should recognize that" were inserted after the word "while". He agreed with the Spanish representative's criticism of the

word "restrictions": it should be replaced by the word "rules". Finally, he proposed insertion of the words "rights and" after the words "takes into account the" in the third line.

Mr. KATEKA (United Republic of Tanzania) said that the view outlined in paragraph 28 seemed paradoxical because if restrictions were imposed on scientific research it could no longer be free. It would be more logical either to drop the latter part of the paragraph after the word "restrictions" or to replace it by the words "so that it takes into account the interests of other States".

Mr. IGUCHI (Japan), Rapporteur, suggested that the words "restrictions in cases where it did not appear to take into account the interests of other States or ignored" should be replaced by the words "rules, regulations and standards so that it took into account the rights and interests of other States and adhered to".

Mr. de FIGUEIREDO BUSTANI (Brazil) said that since paragraph 28 expressed a view that was not substantially different from that held by the proponents of the freedom of scientific research it might be dropped altogether or perhaps incorporated at the end of paragraph 27.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that the subject of paragraph 28 was of great importance and had been discussed at considerable length. Many opponents of the freedom of scientific research had mistakenly accused its champions of advocating absolute freedom whereas the latter recognized that it could be subject to restrictions, for example, in order to prevent pollution. The paragraph reflected a view expressed by many delegations including his own and there was no reason why it should be dropped. While paragraphs could not be deleted merely because they failed to satisfy a particular delegation: if such a procedure were followed most of the draft report might disappear.

The Rapporteur's suggested changes had rendered paragraph 28 more acceptable.

Mr. SEYIFU (Ethiopia) said that the real distinctions between the three schools of thought that the Rapporteur had sought to reflect in paragraphs 27 and 28 was difficult to discern. If it was the case that the supporters of the freedom of scientific research had not argued that it should be entirely untrammelled, paragraph 28 would have to be redrafted. He suggested as a solution that the word "while" in the first line should be omitted and that the words "and/or recognized that" should be inserted after the word "protected".

Mr. KATEKA (United Republic of Tanzania) felt that paragraph 28 might be maintained and the proposed changes to the latter part of paragraph 27 might prove to be unnecessary.

Mr. McKERNAN (United States of America) said that the Rapporteur's modified text for paragraph 28 was acceptable. That paragraph was certainly not redundant since it obviously dealt with a different view from the one described in the last sentence of paragraph 27. Hence he could not agree with the Brazilian representative.

The CHAIRMAN suggested that the delegations which had commented on paragraph 28 be requested to work out a compromise text.

It was so agreed.

Paragraph 29

Paragraph 29 was adopted, subject to drafting changes in the French text.

Paragraph 30

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) suggested the insertion of the words "and the continental shelf" after the words "territorial sea" in the fourth line.

Mr. de FIGUEIREDO BUSTANI (Brazil) proposed that the word "and" after the words "coastal State" in the fourth line should be replaced by the words "and/or" and that the words "sovereignty and" should be inserted before the word "jurisdiction" in the same line.

The CHAIRMAN said it seemed superfluous to refer to the sovereignty of a coastal State since it was implicit in the institution of the territorial sea.

Mr. McKERNAN (United States of America) said that the Brazilian amendments would be acceptable provided the difficulties over paragraphs 27 and 28 were resolved.

Mr. KOLCHAKOV (Bulgaria) said that the term "areas under its jurisdiction" was meaningless for some countries and should be excluded particularly if paragraph 30 was intended to reflect their views. Such areas should not be mentioned in conjunction with the territorial sea.

Mr. VALDEZ (Peru) said that the Brazilian amendments were acceptable. His delegation, among others, always used the terms "sovereignty and jurisdiction" in juxtaposition.

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) observed that a proper balance had to be struck between paragraphs 27 and 28 which referred to the high seas and areas outside national jurisdiction and paragraphs 29 and 30 dealing with the

territorial sea, the continental shelf or "zones of national jurisdiction". The agreement of the coastal State was necessary for the conduct of scientific research in the latter three areas.

He had no objection to the Brazilian amendments.

Miss CASKEY (Canada) said that the Brazilian amendments were acceptable. Paragraph 29 reflected the position taken by the Soviet Union delegation and some others but it should be borne in mind that the term "zones of national jurisdiction" had not yet been adopted or defined.

The Ukrainian and Brazilian amendments to paragraph 30 were adopted.

Paragraph 30, as amended, was adopted.

Mr. ISSA ADAN (Somalia) appealed for reason and urged members of the Sub-Committee not to indulge in captious criticism of the Rapporteur's draft.

The meeting rose at 6.30 p.m.