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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-EIGHTH MEETING\*/

held at the Palais des Nations, Geneva,  
on Friday, 17 August 1973, at 8.30 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  
(continued)

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.

CONSIDERATION OF THE DRAFT REPORT OF SUB-COMMITTEE III (A/AC.138/SC.III/L.51) (continued)Paragraphs 30 and 34

The CHAI MAN said that, since the previous meeting, agreement had been reached at informal consultations between the Brazilian and Ukrainian representatives concerning paragraphs 30 and 34. The Brazilian representative had agreed to the Ukrainian amendment whereby the words "and the sea-bed and sub-soil of the continental shelf of a coastal State" would be substituted for the words "of a coastal ... jurisdiction" in the fourth line of paragraph 30. Paragraph 34 would then be maintained as it stood. He asked if that was acceptable to the Sub-Committee.

It was so agreed.

Mr. BAYDUR (Turkey) proposed the deletion of the words "large and small" in paragraph 30.

The Turkish amendment was adopted.

Paragraph 30, as amended, was adopted.

Paragraph 34 was adopted.

Paragraphs 27 and 28 (resumed)

Mr. IGUCHI (Japan), Rapporteur, stated that agreement had been reached on paragraphs 27 and 28 in the course of informal discussions between interested delegations. Paragraph 27 would now consist of the first two sentences of the existing text describing two schools of thought. The last sentence would be deleted and a new paragraph would be inserted as paragraph 28, reflecting the third school of thought and reading: "Another view held that freedom to conduct scientific research was one of the universally recognized freedoms of the high seas and represented the common principle of customary international law".

A compromise had also been reached on replacing the original paragraph 28 by a new paragraph 29 reading: "Another view held that while there was freedom of scientific research and this freedom should be protected, it should also be subject to appropriate regulations so that it took into account the rights and interests of other States and conformed with the basic provisions established to protect the marine environment."

The subsequent paragraphs would then have to be renumbered.

Paragraph 27, as amended, was adopted.

The new texts for paragraphs 28 and 29 were adopted.

Paragraph 35

Mr. CASTILLO (Peru) proposed that paragraph 35 should start with the words "In accordance with this view" instead of the words "The view was expressed that". After the word "countries" in the first sentence, the word "within" should be replaced

by the words "in the zone subject to its sovereignty and". He also proposed the insertion of a new fourth sentence to the effect that it had also been held that the conditions imposed in the authorization by the coastal State should not be altered by anyone carrying out scientific research save with the express consent of the coastal State and that scientific research activities should be carried out in such a way as not to damage marine sources or hinder the exploitation of resources, shipping services or existing facilities.

Mr. APPLETON (Trinidad and Tobago) said that the Peruvian amendments were acceptable. For his own part he proposed the insertion of the words "or be represented" after the words "take part" in the first sentence. The last sentence should be reworded to read "It was also held that the results of such research were the property of the coastal State and that publication of such results should in no way be prejudicial to the interests of the coastal State and should be subject to its prior consent.".

Mr. de FIGUEIREDO BUSTANI (Brazil), while supporting the amendments by Peru and Trinidad and Tobago, suggested that the first sentence might read "... the coastal State shall have the right to take part and be represented, if it so decides, ...".

Mr. SEYIFU (Ethiopia) said that the first phrase in the second sentence of paragraph 35, up to the words "scientific research", contributed nothing to its content and should be dropped.

Mr. MBOTE (Kenya) said that all the proposed amendments were acceptable and also proposed that the words "areas under" should be inserted before the words "its jurisdiction" at the end of the first sentence.

Mr. de FIGUEIREDO BUSTANI (Brazil) pointed out that the Kenyan amendment was already covered in the text suggested by the Peruvian representative.

Mr. METALNIKOV (Union of Soviet Socialist Republics) observed that the word "property" in the amendment of Trinidad and Tobago to the last sentence seemed inappropriate as applied to the results of scientific research.

Mr. APPLETON (Trinidad and Tobago) said that he would be willing to consider an alternative word for "property" in his amendment.

Mr. de FIGUEIREDO BUSTANI (Brazil) suggested that to meet the Ethiopian representative's objection to the second sentence it might be redrafted to read "The coastal State has a right to ensure for itself an equal share in the knowledge about areas under its sovereignty and jurisdiction".

The CHAIRMAN observed that the Peruvian amendments to the first sentence were more or less of a drafting character and appeared to be generally acceptable. Perhaps the Peruvian representative could discuss them with the Rapporteur with a view to arriving at the final wording.

He also suggested that the exact wording of the additional sentence proposed by Peru for insertion after the third sentence should be left to the Rapporteur.

It was so agreed.

The amendments proposed by the representative of Trinidad and Tobago were adopted.

Paragraph 35, as amended, was adopted, subject to drafting changes.

Paragraph 36

Mr. MBOTE (Kenya) proposed the deletion of the word "also" and of the words "outside of, but" and the replacement of the word "areas" by the word "zones". He also proposed the replacement of the word "inter-connexions" by the word "inter-relationships". Finally, he proposed the deletion of the words "at least" in the second sentence.

Those amendments were adopted.

Mr. de FIGUEIREDO BUSTANI (Brazil) said that paragraph 36 seemed isolated and out of context: it should be moved to another part of the draft report.

The CHAIRMAN suggested that paragraph 36 should be adopted and a decision taken later as to its proper place.

It was so agreed.

Paragraph 36, as amended, was adopted.

Paragraph 37

Mr. LIND (Sweden) proposed that in the first sentence the words "other States applied for obtaining the prior consent of the coastal States" should be replaced by the words "coastal States received applications from States for prior consent".

It was so agreed.

Paragraph 37, as amended, was adopted.

Paragraph 38

Mr. VARGAS SILVA (Mexico) proposed the deletion of the word "certain" in the last line of paragraph 38 and the replacement of the word "interests" by the words "rights and interests, particularly the coastal State's scientific priorities".

It was so agreed.

Paragraph 38, as amended, was adopted.

Paragraph 39

Mr. PARDO (Malta) proposed the replacement of the words "There were views holding" by the words "It was pointed out". He also proposed the deletion of the word "and" after the word "uncertainties" and the substitution of a comma; the replacement of the words "a detrimental or" by "an"; and the addition at the end of the sentence of the words "which was highly detrimental to the advance of knowledge concerning the marine environment and hence might delay the rational development of ocean space for the benefit of mankind".

It was so agreed.

Paragraph 39, as amended, was adopted.

Paragraph 40

Mr. STEINER (Secretary of the Sub-Committee) said that the words "of a" after the words "territorial sea" had been omitted in the third line of the English text of paragraph 40.

Paragraph 40 was adopted.

Paragraph 41

Paragraph 41 was adopted.

Paragraph 42

Mr. PARDO (Malta) observed that the scientific research should not only be regulated but also protected.

Mr. BOHTE (Yugoslavia) believed that it was incorrect to state that only one delegation had held the view described in paragraph 42. The words "one view" should accordingly be amended.

He proposed the insertion of the words "international sea" before the word "area".

The Yugoslav amendments were adopted.

Paragraph 42, as amended, was adopted.

Paragraph 43

Mr. de FIGUEIREDO BUSTANI (Brazil) proposed the replacement of the words "it should be possible ... freedom of States to carry out" by the words "in the line of co-operative programmes the promotion of" and the insertion of the words "of a State should meet certain requirements" after the words "national jurisdiction". The word "totally" in the last sentence should be deleted.

Mr. MBOTE (Kenya) proposed that in the second sentence the words "should be such that" should be replaced by the words "governing scientific research in areas beyond the limits of national jurisdiction should ensure that".

The CHAIRMAN suggested that the Brazilian amendments should be adopted subject to possible drafting improvements by the Rapporteur.

It was so agreed.

The Kenyan amendment was adopted.

Paragraph 43, as amended, was adopted, subject to drafting changes.

Paragraph 44

Mr. YTURRIAGA (Spain) said he had no objection to the paragraph, provided it was made clear that the area in question was the area beyond the limits of national jurisdiction.

Mr. de FIGUEIREDO BUSTANI (Brazil) agreed with the Spanish representative and suggested that the words "and sovereignty" should be added after "national jurisdiction".

Mr. YTURRIAGA (Spain) said he could not agree to the Brazilian suggestion.

Mr. de FIGUEIREDO BUSTANI (Brazil) pointed out that the paragraph in question reflected the Brazilian delegation's statement in the Sub-Committee.

Mr. VARGAS SILVA (Mexico) said that he could support the Spanish proposal, but considered that the term used should be "the areas beyond the limits of national jurisdiction".

Mr. de FIGUEIREDO BUSTANI (Brazil) said that in his delegation's opinion there was only one area beyond the limits of national jurisdiction and suggested that the paragraph should begin with the words "In reference to the international sea area".

Mr. YTURRIAGA (Spain) said he could accept that wording.

The Brazilian amendment was adopted.

Paragraph 44, as amended, was adopted.

Paragraph 45

Mr. MBOTE (Kenya) said that his delegation could not agree to the inclusion of the first sentence, unless another sentence was inserted after it, reading "It was further pointed out that the régime of freedom of scientific research referred to above does not exist as one of the freedoms of the high seas".

Mr. de FIGUEIREDO BUSTANI (Brazil) suggested that the first sentence should begin with the words "It was also pointed out that there was freedom of research and that this freedom of research had produced results ...".

The CHAIRMAN observed that the sentence had been included to reflect an opinion expressed by the United Kingdom delegation.

Mr. ARCHER (United Kingdom) said he had hoped that by now the principle would have been established that paragraphs stating the views of delegations should be left in the form in which they had been presented. He hoped that the paragraph would be kept as it stood.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that, although he delegation objected to the term "international area" and to the idea of establishing international organizations for scientific research, it had not objected to reference to those matters in the report, since they had in fact been mentioned by various delegations. It was therefore surprised at the attempt which was being made to distort a view that had been expressed by the United Kingdom delegation; moreover, the USSR delegation shared the view that freedom of research existed.

Mr. YANKOV (Bulgaria) said that he too could not support the Brazilian amendment, which would alter a statement reflecting views expressed by Bulgaria in the Sub-Committee. Moreover, the opposing point of view was reflected elsewhere in the report.

Mr. de FIGUEIREDO BUSTANI (Brazil) suggested that the sentence might begin with the words "The view was expressed that there was freedom of research ...".

Miss MARTIN SANE (France) said she agreed with the Bulgarian representative's views. Perhaps the problem could be solved by beginning the second sentence with the words "According to this view, there was no need for ..."; any more drastic change would be improper.

Mr. de FIGUEIREDO BUSTANI (Brazil) suggested that the first sentence should read "A view was expressed that there was a régime of freedom of research in the area beyond national jurisdiction and that this existing régime of freedom of research had produced results of great benefit and no harm to mankind as a whole".

Mr. ARCHER (United Kingdom) said that he could accept that amendment.

Mr. BOHTE (Yugoslavia) suggested that the second sentence should begin with the words "According to this view, there was therefore no need ...".

Mr. ARCHER (United Kingdom) said he could accept that amendment.

Miss MARTIN SANE (France) said that she would not object to the Brazilian amendment, since it had been accepted by the United Kingdom delegation, but could only interpret the procedure to mean that any delegation could alter passages of the report with which it disagreed.

The Brazilian and Yugoslav amendments were adopted.

Paragraph 45, as amended, was adopted.

Paragraph 46

Mr. PARDO (Malta) suggested that the paragraph should begin with the words "It was generally agreed that ...", since the principle that modern scientific research should not form the legal basis for any claims in areas beyond the limits of national jurisdiction was generally acknowledged.

Mr. YANKOV (Bulgaria) supported that amendment, since the principle in question was embodied in the Declaration of Principles Governing the Sea-bed and the Ocean Floor.

The amendment was adopted.

Paragraph 46, as amended, was adopted.

Paragraph 47

Mr. PARDO (Malta) said that the second sentence gave the impression that ~~the only object of scientific research was to uncover the riches of the oceans and~~ grab as much of them as possible. He therefore suggested that the sentence should be amended to read "Scientific research was the prerequisite for the adoption of effective measures for the prevention of marine pollution, for the management of fisheries, for the development of mineral resources and for a host of new uses".

Mr. YANKOV (Bulgaria) said that he could not agree to the Maltese amendment, since the sentence in question accurately reflected the statements of a number of delegations, including his own. The role of scientific research as a key to the development of the riches of the ocean should not be diminished by any wording which strayed too far from that idea. The Maltese representative must be well aware that only one-third of the sea-bed and the ocean floor had been investigated; everything possible must be done to promote scientific research with a view to more effective exploitation of the riches of the ocean.

Mr. PARDO (Malta) said that he would withdraw his amendment, although his intention had been to broaden and strengthen the sentence, not to weaken it.

Mr. MBOTE (Kenya) proposed that the last sentence should be deleted, by analogy with the deletion of the last sentence of old paragraph 29.

Mr. YTURRIAGA (Spain) said he agreed with the Kenyan representative that the sentence might well be deleted. The Spanish version was poorly translated and very hard to understand.

Mr. VARGAS SILVA (Mexico) agreed with the Spanish representative's criticism.



Mr. OLSZOWKA (Poland) said that the last sentence should be retained, since the corresponding sentence in paragraph 29 did not cover the same subject in the same way and, moreover, several delegations had expressed the view that the term "areas within their jurisdiction" was not established in international law; their opinions should be duly reflected in the report.

Mr. MBOTE (Kenya) said he maintained his proposal.

The CHAIRMAN pointed out that delegations whose views were reflected in certain parts of the report were better aware than others of exactly what they had said and were consequently entitled to defend the relevant passages.

Mr. SEYIFU (Ethiopia) said he did not quite understand the meaning of the term "not yet established", since it was not clear who was to establish "areas within their jurisdiction". For example, the Organization of African Unity had established an area of jurisdiction for itself; if that area did not warrant the term "established", did that mean that other States would have to participate in its establishment?

Mr. de FIGUEIREDO BUSTANI (Brazil) suggested that the sentence might be acceptable if it ended with the words "which is not yet internationally established".

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) said that the issue might perhaps be resolved by emphasizing the fact that it was the content of the term "areas within their jurisdiction" that had not been defined. The analogy drawn between paragraphs 29 and 47 was false, since the Sub-Committee used the term "zones of national jurisdiction" and "areas within national jurisdiction" for different purposes. In any case, the sentence reflected a view expressed by several delegations.

Mr. IGUCHI (Japan), Rapporteur, said that the problem could probably be solved by approving the Brazilian amendment.

Mr. SEYIFU (Ethiopia) said that the Brazilian amendment seemed to be inadequate, since the word "international" applied to the actions of more than one or two countries. He suggested that the end of the sentence should read "which is not yet universally established".

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) said that the only solution would be to stress that the content of the term in question had not been established.

Mr. VARGAS SILVA (Mexico) suggested that the sentence should be amended to read "On the other hand, doubts were raised as to the content of the term 'areas within their jurisdiction', which has not yet been internationally established".

Mr. BURCHAK (Ukrainian Soviet Socialist Republic) said he could accept that wording, provided the word "yet" was omitted. It was for the forthcoming Conference to decide whether the content of the term should be established at all.

The Mexican amendment, as sub-amended by the Ukrainian representative, was adopted.

Paragraph 47, as amended, was adopted.

Paragraphs 48 and 49

Paragraphs 48 and 49 were adopted.

Paragraph 50

Miss MARTIN SANE (France) proposed that the words "all countries on the basis of equality" at the end of the first sentence should be replaced by "the international scientific community".

It was so agreed.

Mr. BOHTE (Yugoslavia) said that he did not understand the meaning of the second sentence, which he thought might be deleted, subject to the addition at the end of the third sentence of a phrase such as "since scientific knowledge belonged to mankind".

Mr. YANKOV (Bulgaria) considered that deletion of the second sentence would destroy the balance of the paragraph. Although the legal and political aspects of the concept of the common heritage of mankind had been extensively discussed, there were still differences of opinion on the exact meaning of that concept. There was, however, no difference of opinion whatsoever on the fact that scientific knowledge belonged to mankind. The second sentence reflected the view held by a number of delegations, including his own, and consequently ought to appear in the report.

Mr. SEYIFU (Ethiopia) said he did not recall that the concept of the common heritage of mankind had ever been challenged during the Sub-Committee's discussions.

Mr. MBOTE (Kenya) agreed with the views expressed by the representative of Bulgaria. In order to make the meaning of the second sentence clearer, he proposed that the words "even if" should be inserted before the words "the concept", and that the word "although" should be deleted.

It was so agreed.

Paragraph 50, as amended, was adopted.

Paragraph 51

The CHAIRMAN said that the words "for covering" in the last sentence of the English text should be replaced by "to govern".

Mr. PARDO (Malta) proposed the insertion of the phrase "with increasing effectiveness" after "promote" in the first sentence. He also proposed the insertion of the following new sentence before the last sentence: "It was also suggested that the creation of comprehensive institutions for ocean space might prove particularly effective in this connexion".

The Maltese proposals were adopted.

Mr. YANKOV (Bulgaria) proposed the addition at the end of the last sentence of the phrase: "for such activities have been carried out by existing international institutions".

It was so agreed.

Paragraph 51, as amended, was adopted.

Paragraph 52

In reply to a comment by Mr. PARDO (Malta), Mr. IGUCHI (Japan), Rapporteur, suggested that the words "build up" in the first sentence should be replaced by "train".

It was so agreed.

Mr. PARDO (Malta), referring to the first sentence, suggested that it would be desirable to qualify the words "technical personnel" by an adjective or phrase indicating that advanced capabilities were required.

The CHAIRMAN suggested that the Rapporteur should be requested to redraft that part of the sentence along the lines suggested by the representative of Malta.

It was so agreed.

Subject to such redrafting, paragraph 52 was adopted.

Paragraph 53

Paragraph 53 was adopted.

Paragraph 54

Mr. VARGAS SILVA (Mexico) proposed that the words "the collection, processing and" should be inserted before the word "dissemination".

It was so agreed.

Paragraph 54, as amended, was adopted.

Paragraph 55

Mr. MBOTE (Kenya) proposed that the word "large" should be deleted from the last sentence.

It was so agreed.

Paragraph 55, as amended, was adopted.

Paragraphs 56 to 62

Paragraphs 56 to 62 were adopted.

Paragraph 63

Mr. NASINOVSKY (Union of Soviet Socialist Republics) observed that the paragraph reflected the views of one delegation. His own delegation, which considered inter alia that the transfer of technology should be effected more particularly through bilateral channels, had expressed somewhat different views, which were not reflected anywhere in the draft report. He requested that the Rapporteur should prepare a synopsis of his delegation's views on the basis of the summary records of the relevant meetings, for insertion at whatever point in the draft report the Rapporteur considered appropriate.

The CHAIRMAN said that there could be no objection to the Soviet representative's request, since it was a question of views which had been expressed by the Soviet delegation. The Rapporteur would prepare a text in compliance with that request.

Paragraph 63 was adopted

Paragraphs 64 and 65

Paragraphs 64 and 65 were adopted.

Paragraph 66

Mr. PARDO (Malta) said that the paragraph was not an accurate reflexion of the views expressed by his delegation. The first sentence should be replaced by the following text: "A view was expressed that guidance from the Sub-Committee was required, since the term "technology" had not yet been defined nor had it yet been agreed what type of technology was to be transferred, and in particular whether the transfer of technology which was being discussed by the Sub-Committee concerned exclusively scientific research or included also industrial processes. Until this question was resolved, it would be difficult to discuss meaningfully the problem of the transfer of technology". He was not at present in a position to propose alternative wording for the second and third sentences, which reflected only very partially the views of his delegation.

The CHAIRMAN suggested that since the paragraph reflected only the views of the Maltese delegation, the Sub-Committee might agree to its adoption on the understanding that it would be redrafted by the Rapporteur in consultation with the representative of Malta.

It was so agreed.

On that understanding, paragraph 66 was adopted.

Mr. CASTILLO (Peru) said that on the conclusion of the Sub-Committee's work on its draft report, which reflected the views expressed on the preservation of the marine environment, scientific research, and the development and transfer of technology, his delegation wished to place it on record that, for various reasons, the Sub-Committee had not fulfilled its mandate to prepare draft treaty articles on those subjects.

The meeting rose at 11.35 p.m.