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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 II

Draft Report of Sub-Committee II

Rapporteur: Mr. Shaffie ABDEL-HAMID (Egypt)

## I. INTRODUCTION

1. Sub-Committee II, which was one of the three Sub-Committees of the Whole set up in March 1971, continued its work during 1972. Under the terms of the agreement of 12 March 1971 on the organization of work<sup>1/</sup> of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the limits of National Jurisdiction, the following subjects and issues were allocated to Sub-Committee II:

"To prepare a comprehensive list of subjects and issues relating to the law of the sea, including those concerning the régime of the high seas, the continental shelf, the territorial sea (including the question of its breadth and the question of international straits) and contiguous zone, fishing and conservation of the living resources of the high seas (including the question of the preferential rights of coastal States) and to prepare draft treaty articles thereon. It is understood that the Sub-Committee may decide to draft articles before completing the comprehensive list of subjects and issues related to the law of the sea."

2. With regard to the outstanding issues that under the above-mentioned agreement were left to be determined later, the Chairman of the Committee at its 66th meeting, on 27 August 1971, read out the following agreement<sup>2/</sup>:

"The question of the international régime should receive a certain priority as explained by the co-sponsors of the original draft resolution later adopted as resolution 2750 C (XXV) and as implied in the terms of that resolution. This would mean, in the first instance, the allocation of more time to Sub-Committee I.

"While each Sub-Committee will have the right to discuss and record its conclusions on the question of limits so far as it is relevant to the subjects allocated to it, the main Committee will not reach a decision on the final recommendation with regard to limits until the recommendations of Sub-Committee II on the precise definition of the area have been received, which should constitute basic proposals for the consideration of the main Committee.

"The question of peaceful uses is allocated to the main Committee, it being understood that each of the Sub-Committees is free to consider it insofar as this question is relevant to its mandate."

3. Sub-Committee II held in 1972, during the Committee's sessions, two series of meetings - the first in New York from 1 to 30 March, and the second in Geneva from 17 July to \_\_\_ August. In March it held nine meetings; in July/August \_\_\_\_\_ meetings.

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<sup>1/</sup> Official Records of the General Assembly, Twenty-sixth session, Supplement No. 21 (A/8421), para. 19.

<sup>2/</sup> Ibid., para. 22.

4. Being a sub-committee of the whole, Sub-Committee II was composed of the States members of the Committee as enlarged by General Assembly resolutions 2750 C (XXV) and 2881 (XXVI). Also present were observers of the Member States of the United Nations which accepted the invitation to participate as such in the Committee's proceedings. FAO, IAEA, IMCO, UNESCO and its IOC, WMO and UNCTAD, were also represented at the meetings as observers.

5. At its twenty-fourth meeting, on 1 March 1972, the Sub-Committee decided that officers temporarily absent would be replaced, pending their return, by members of their respective delegations. Thus, Mr. Diggs (Liberia) and Mr. Kostov (Bulgaria) acted as Vice-Chairmen during the temporary absence of Mr. Holder and Mr. Yankov respectively and Mr. Kassem (Egypt) as Rapporteur during the temporary absence of Mr. Abdel-Hamid. In the absence of Mr. Galindo Pohl, the Sub-Committee at its thirty-third meeting, on 17 July 1972, elected Mr. Martínez Moreno (El Salvador) as Chairman. The Bureau of Sub-Committee II was composed of the following officers:

<u>Chairman:</u>	Mr. Reynaldo GALINDO POHL (El Salvador) (during the March meetings)
	Mr. Alfredo MARTINEZ MORENO (El Salvador) (during the July/August meetings)
<u>Vice-Chairmen:</u>	Mr. M. Burleigh HOLDER (Liberia)
	Mr. Mohammed Ali MASSOUD-ANSARI (Iran)
	Mr. Alexander YANKOV (Bulgaria)
	Mr. Necmettin TUNCEL (Turkey)
<u>Rapporteur:</u>	Mr. Shaffie ABDEL-HAMID (Egypt)

6. As adopted in 1971, the agenda (A/AC.138/SC.II/L.1) of the Sub-Committee, reproduced in paragraph 92 of last year's report, read as follows:

- "1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of questions referred to the Sub-Committee by the Committee under the terms of the "Agreement reached on organization of work" as read by the Chairman at the 45th meeting of the Committee, on 12 March 1971.
5. Adoption of the report."

7. The guidelines for the organization of work of the Sub-Committee, as agreed in 1971, were contained in a letter and a statement of the Chairman, recorded in paragraphs 93 and 95 of last year's report. The letter (A/AC.138/SC.II/L.2) read inter alia as follows:

".....

"2. To accomplish its mandate the Sub-Committee may adopt various procedures. All procedures that are customary in the United Nations practice are open to its choice.

"3. The Sub-Committee may wish to commence its work with an exchange of views concerning the subjects and matters allocated to it, including the question of the preparation of a comprehensive list of subjects and issues relating to the law of the sea and the preparation of draft treaty articles thereon. In due time, when appropriate, the Sub-Committee may establish working groups to consider in detail specific aspects of the Sub-Committee's work programme.

....."

and the statement specified that:

"I understand that in accordance with the procedural decision, taken yesterday, delegations may submit concrete proposals, including draft articles and may make a statement explaining these proposals. In that connexion I should like to remind you of the text of my note of 18 March 1971 (A/AC.138/SC.II/L.2), which was adopted as a guidance for the work of the Sub-Committee during the present session, an extract from which reads as follows: [see first sentence of point 3 of the letter reproduced in paragraph 7 above].

"The Sub-Committee naturally intends to pay particular attention to the preparation of the list of subjects and issues related to its terms of reference. Consequently, for the sake of proper methods of work and organization of meetings, I hope that delegations will limit their remarks to explanations of proposals; these proposals will be discussed in detail later, at a suitable moment, in accordance with the procedure which the Sub-Committee considers appropriate, possibly through the establishment of working groups."

8. Paragraphs 98 and 99 of last year's report contained the following explanations in connexion with the consideration in 1971 of the questions referred to the Sub-Committee:

"98. The Sub-Committee considered the questions referred to it by the Committee at its 3rd and 5th-20th meetings, held on 19 March and from 27 July to 23 August. During the discussion which took place at those meetings several representatives made statements of a general character and on particular aspects of the questions referred to the Sub-Committee. The importance of the Sub-Committee's work in the context of the preparation of the future conference on the law of the sea was generally recognized. The Sub-Committee concluded the first stage of its work, namely the general debate on the questions referred to it, and started the preparation of a comprehensive list of subjects and issues relating to the law of the sea.

"99. It was generally agreed that the preparation, at the present stage, of a comprehensive list of subjects and issues on the law of the sea should be undertaken with a certain flexibility in order to be able to adjust the list in the light of the progress of work, it being understood that whether or not a particular subject or issue was included in the list would not prejudice the position of any delegation regarding the intrinsic value or substance of the subject or issue concerned or regarding whether or not such a subject or issue would eventually be included in the agenda of the future conference on the law of the sea. It was also understood that the list would not prejudice the order of priority for consideration of the subjects and issues. During the session the possibility that the Sub-Committee might decide to establish working groups to deal with subjects and functions relating to the Sub-Committee's mandate was not excluded."

9. When the Sub-Committee was reconvened on 1 March 1972, the Chairman made, at the twenty-fourth meeting, the following suggestion on the programme of work which was accepted at the same meeting by the Sub-Committee:

"... the Sub-Committee should not prepare a new programme of work. The old programme should be considered in the light of the explanations provided in paragraphs 93, 98 and 99 of the Committee's report (A/8421), which were drawn from the Sub-Committee's report. It was clear that the general debate had been concluded and that the Sub-Committee should proceed to prepare the comprehensive list of subjects and issues relating to the law of the sea. In order to save time ... the Sub-Committee should continue to follow the programme of work adopted at Geneva, as specified in paragraph 92 of the report."

10. As it appears from the summary records, at the conclusion of the 1972 March series of meetings, the Chairman of the Sub-Committee reported orally to the Committee as follows<sup>3/</sup>:

"The Sub-Committee had held several meetings, during which it had heard the statements of various delegations on substantive questions. At the same time, in conformity with a decision taken at the beginning of the session, informal consultations had been held between the African, Asian and Latin American groups with regard to the list of subjects and issues relating to the law of the sea to be submitted to the third Conference on the Law of the Sea. The list that had been submitted following those consultations (A/AC.138/66) had subsequently been considered at a meeting and had also been the subject of consultations between various groups. Unfortunately, those consultations had produced no result, and therefore he regretfully informed the Committee that Sub-Committee II had been unable to achieve its assigned objective of preparing a definitive list."

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<sup>3/</sup> See summary record of the seventy-sixth session of the Committee (A/AC.138/SR.76).

11. The various background documents submitted to the Committee were at the disposal of the Sub-Committee, including a new volume of the United Nations Legislative Series (ST/LEG/SER.B/16) containing texts of recent national legislation and treaty provisions relating to the law of the sea provided by Governments of Member States.

12. In addition, and pursuant to requests previously made, FAO submitted information concerning regulatory fishery bodies (A/AC.138/64), conservation problems with special reference to new technology (A/AC.138/65), an expanded and revised atlas of the living resources of the seas (FID/C/126-Rev.1), fishing methods likely to have adverse effects on the conservation of fishery resources (FID/C/147), sedentary, migratory and intermingling species, their habitat and distribution (FID/C/148), and a series of fishery country profiles.

II: CONSIDERATION OF QUESTIONS REFERRED TO THE SUB-COMMITTEE BY THE COMMITTEE UNDER THE TERMS OF THE AGREEMENT REACHED ON THE ORGANIZATION OF WORK READ BY THE CHAIRMAN AT THE FORTY-FIFTH MEETING OF THE COMMITTEE ON 12 MARCH 1971

13. The Sub-Committee considered the questions referred to it by the Committee at its 25th, 27th to 32nd, and 34th to meetings, held on 15 and 22 to 30 March and 18 July to August 1972<sup>4/</sup>. A series of informal meetings were also held in connexion with the elaboration of a comprehensive list of subjects and issues on the law of the sea under the chairmanship either of the Chairman of the main Committee<sup>5/</sup> or of the Chairman of Sub-Committee II, or jointly. Consultations and negotiations among delegations concentrated on the elaboration of the comprehensive list requested by General Assembly resolution 2750 C(XXV).

14. It was generally agreed that the list of subjects and issues on the law of the sea, without being necessarily complete, should be prepared following a comprehensive approach and should attempt to embrace a wide range of possibilities. It was also understood that the list would not prejudice the order of priority for consideration of the various subjects and issues and that sponsorship or acceptance of the list would not prejudice the position of any State or commit any State with respect to the items on it or to the order, form or classification according to which they were presented. It was generally agreed that the list should serve as a framework for discussion and drafting of necessary articles.

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<sup>4/</sup> An index to summary records of the Sub-Committee is given in Annex ... to the present report.

<sup>5/</sup> See summary records of the seventy-sixth (A/AC.138/SR.76), and seventy-seventh (A/AC.138/SR.77) meetings of the main Committee, held on 30 March and 17 July 1972 respectively.

15. As in previous sessions, emphasis was placed on the need for taking into account the interests of all States, developing and developed, coastal States, land-locked States, States with short coastlines, archipelago States, island States, shelf-locked States, States with narrow shelves, States with broad shelves, etc., the special interests and needs of the developing countries, whether land-locked or coastal, and all relevant aspects of the problems to be studied (legal, political, strategic, economic, social, technical, scientific, etc.) as well as geographical considerations. Reference was also made to regard for general international interests in connexion with various matters.
16. Concerning the preparation of a comprehensive list of subjects and issues relating to the law of the sea, the Sub-Committee had before it, in addition to the proposals submitted in 1971<sup>6/</sup>, a list to be submitted to the conference on the law of the sea proposed by Algeria, Argentina, Brazil, Cameroon, Ceylon, Chile, China, Colombia, Congo, Cyprus, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guyana, Iceland, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Kenya, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mauritania, Mauritius, Mexico, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Romania, Senegal, Sierra Leone, Somalia, Spain, Sudan, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia and Zaire (A/AC.138/66 and Corr.2) (see text in Annex I). Amendments to the list of subjects and issues sponsored by these fifty-six Powers were subsequently submitted: by Malta (A/AC.138/67) (see text in Annex II); by the United States of America (A/AC.138/68) (see text in Annex III); by Italy (A/AC.138/69) (see text in Annex IV); by Japan (A/AC.138/70 and A/AC.138/78) (see texts in Annexes V and XI); by the Union of Soviet Socialist Republics (A/AC.138/71) (see text in Annex VI); jointly by Afghanistan, Austria, Belgium, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia (A/AC.138/72 and Corr.1) (see text in Annex VII); by Turkey (A/AC.138/74 and Corr.1) (see text in Annex VIII); jointly by France, the Netherlands, and the United Kingdom of Great Britain and Northern Ireland (A/AC.138/76) (see text in Annex IX); and by Poland (A/AC.138/77) (see text in Annex X).

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<sup>6/</sup> See Official Records of the General Assembly, Twenty-sixth Session, Supplement No.21 (A/8421), para. 101 and Annex I, 2, 5, 7, 9, 10, 12, 14, 15 and 16.

17. In accordance with the agreed guidelines on the organization of work mentioned in the introduction to the present report, some representatives made statements on certain aspects of the subjects and issues allocated to the Sub-Committee. At the same time, the following documents were before the Sub-Committee: draft articles on the breadth of the territorial sea, straits and fisheries submitted in 1971 by the United States of America (A/AC.138/SC.II/L.4)<sup>7/</sup>; a working paper containing a draft ocean space treaty, some parts of which dealt with subjects allocated to Sub-Committee II, submitted in 1971 by Malta (A/AC.138/53)<sup>8/</sup>; a draft article on fishing together with an explanatory note (A/AC.138/SC.II/L.6) and draft articles on straits used for international navigation (A/AC.138/SC.II/L.7) submitted in 1972 by the Union of Soviet Socialist Republics (see texts in Annex XII and XIII); a working paper on management of the living resources of the sea (A/AC.138/SC.II/L.8) submitted in 1972 by Canada (see text in Annex XIV); a revised draft fisheries article (A/AC.138/SC.II/L.9) submitted in 1972 by the United States of America (see text in Annex XV); draft articles on exclusive economic zone concept (A/AC.138/SC.II/L.10) submitted in 1972 by Kenya (see text in Annex XVI); a working paper on principles for a fisheries régime (A/AC.138/SC.II/L.11) submitted in 1972 by Australia and New Zealand (see text in Annex XVII); and proposals for a régime of fisheries on the high seas (A/AC.138/SC.II/L.12) submitted in 1972 by Japan (see text in Annex XVIII). While a preliminary exchange of views took place on some aspects of these documents, the Sub-Committee, however, did not proceed to a detailed examination of them.

18. During the debate, reference was made to the topics enumerated in General Assembly resolution 2750 C(XIV) and to other related matters either in connexion with the preparation of a comprehensive list of subjects and issues relating to the law of the sea or in statements on certain aspects of such subjects and issues.

19. The points referred to concerning the territorial sea were its nature and characteristics, including the question of the unity or plurality of régimes, the breadth of the territorial sea, the global or regional criteria as well as geographical criteria (open seas and oceans; semi-enclosed seas; enclosed seas) to define such breadth, the question of the delimitation of the territorial sea and the various aspects involved (for instance, drawing of baselines; delimitation between adjacent or

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<sup>7/</sup> Text in Official Records of the General Assembly, Twenty-sixth Session, Supplement No.21 (A/8421), Annex IV.

<sup>8/</sup> Text in ibid, Annex I, 11.



opposite States; etc.), historical waters, straits used for international navigation (see paragraphs 21 to 23 below), the sovereignty of the coastal State over its territorial sea, innocent passage through the territorial sea as passage not prejudicial to the peace, good order or security of the coastal State, and freedom of navigation and overflight resulting from the question of plurality of régimes in the territorial sea.

20. The nature, characteristics and limits of the contiguous zone and the rights of the coastal State in such a zone with regard to national security, customs and fiscal control, sanitation and immigration regulations were also referred to.

21. With respect to straits reference was made to the difference between them and their relative importance for international navigation, to straits used for international navigation, to straits within archipelagos, and to the present customary and treaty régimes on straits.

22. The point was made, in this connexion, that innocent passage through straits used for international navigation as recognized and regulated at present with regard to various categories of ships harmonized adequately, on the one hand, the sovereignty and the protection of the interests of coastal States (security requirements, prevention against risks, safety of navigation, measures to combat pollution) and, on the other, the interests of international navigation. It was also stated that navigation in straits within the territorial sea was subject to coastal State regulation on the same basis as regulation of navigation in any other part of its territorial sea and that the right of the coastal State to enact regulations was inherent in the exercise of its sovereignty over its territorial sea. It was mentioned that such enactment of regulations and its implementation were never arbitrary and that the right of innocent passage as recognized and regulated at present could not be suspended through straits used for international navigation. Existing civil aviation regulations already provided for overflight of foreign territory by civilian aircraft, including straits in the territorial sea. It was emphasized that a distinction should be made between the true interests of international navigation and the deployment of naval and air forces at sea. Finally, it was stated that although a different régime for passage through straits could seemingly provide for safety of navigation and security requirements, in fact, suggestions to that effect were superfluous, since they were already covered by existing international law, did not provide the coastal States with real enforcement powers, and aimed at purposes other than promoting the interests of civil international navigation.

23. From another point of view, it was stated that the interests of international navigation required free transit through and over straits used for international navigation because the régime of innocent passage might be open to various interpretations and might not offer all the necessary safeguards. It was also stated that free transit through straits used for international navigation was collateral to the freedom of the high seas and facilitated communications between States. It was added that in the event of a further extension of the territorial sea, free transit should be maintained through and over straits used for international navigation connecting one part of the high seas with another part of the high seas. Reference was also made to free transit through and over straits connecting one part of the high seas with the territorial sea of a foreign State, but it was also stated that the régime of innocent passage should prevail in those straits. Free transit, it was suggested, should be subject to certain internationally agreed regulations which the coastal State and the flag-State would enforce. It was also suggested that the coastal State would have the right to designate corridors for transit, but it would not be entitled to interrupt or stop the transit. It was added that navigation should comply strictly with these regulations which should provide for the prevention of accidents and pollution as well as for flag-State strict liability for damages caused to the coastal State by accidents resulting from deviations from internationally agreed regulations. It was also added that free transit would be exercised in accordance with strict rules intended to avoid causing any threat to the security of the coastal State. In addition, it was stated that existing civil aviation regulations should be adequately supplemented to cover all aircraft, including State and military aircraft. It was mentioned that these regulations should provide that aircraft exercising a free transit right would be strictly liable for accidents caused by deviations from such regulations. Finally, it was underlined that existing international agreements on particular straits should not be affected.

24. With regard to continental shelf, points were made in connexion with the nature and scope of the sovereign rights of coastal States over the continental shelf, the duties of States in the continental shelf, the outer limit of the continental shelf and the applicable criteria or a combination thereof to define such limit, the question of the delimitation of the continental shelf between States and the various problems involved, for instance the delimitation between adjacent or opposite States and the special problems related to the continental shelf of certain islands, the natural resources of the continental shelf and scientific research in the continental shelf.

25. Reference was made on the one hand to the exclusive economic zone beyond the territorial sea and on the other to coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea. With regard to the exclusive economic zone beyond the territorial sea the points mentioned were: the nature and characteristics of the zone, including the rights and jurisdiction of coastal States to living and non-living resources of the zone and to pollution control and scientific research in the zone; the duties of States in the zone; the limits of the zone and the criteria applicable to the establishment of such limits; the freedom of navigation and overflight in the zone; regional arrangements relating to the zone; fisheries, including exclusive fishery zones, preferential rights of coastal States, management and conservation, protection of coastal States' fisheries in enclosed and semi-enclosed seas, and regime of islands under foreign domination and control in relation to zones of exclusive fishing jurisdiction; sea-bed within national jurisdiction, including its nature and characteristics, sovereign rights of the coastal State over natural resources, limits and criteria applicable to define them and delineation between adjacent and opposite States; prevention and control of pollution and other hazards to the marine environment, including the rights and responsibilities of coastal States in that respect; and scientific research. With regard to the coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea, the points mentioned were: the nature, scope and characteristics of these preferential rights or other non-exclusive jurisdiction; sea-bed resources; fisheries; prevention and control of pollution and other hazards to the marine environment; international co-operation in the study and rational exploitation of marine resources; settlement of disputes; and other rights and obligations. More specific points regarding fisheries and exclusive economic zone or coastal State preferential rights or other non-exclusive jurisdiction are noted in paragraphs 27 to 31 below. Regard for general international interests was also mentioned with respect to some maritime zones and areas.

26. As to the régime of the high seas reference was made to its nature and characteristics, to the rights and duties of States on the high seas, to the question of the freedoms of the high seas and their regulation, to freedom of navigation through and overflight of the high seas and other freedoms or uses, in particular to

fishing and regulation, management and conservation of the living resources of the high seas (for specific points on the matter see paragraphs 27 to 31 below) as well as to the laying of sub-marine cables and pipelines on the bed of the high seas. Mention was also made of the prevention and repression of slavery, piracy and traffic in narcotic drugs on the high seas, and of the exercise of hot pursuit on the high seas. For free access to the sea of land-locked countries and related matters see paragraph 33 below.

27. Concerning fisheries and conservation of the living resources of the sea beyond the territorial sea, reference was made to their importance in ensuring man's nutrition, to the situation of States dependent upon their coastal fisheries for their livelihood or economic development, to the interests of other States, including land-locked and shelf-locked countries, developed States with local or geographically isolated populations heavily dependent on fisheries and States dependent on long-distant-water fisheries, to the different types of fisheries and fishery exploitation, including coastal fisheries and traditional or historical fisheries in coastal waters, to the problems deriving from over-exploitation or under-utilization of resources, to coastal fishery resources as a part of the natural resources of the coastal State, to measures for conservation and development of the living resources of the sea and its protection against pollution and other hazards having harmful effect, to the relationship between the protection of the marine environment as a whole and the conservation of the living resources of the sea, and to the distinction and the relationship between conservation and utilization of the living resources of the sea.

28. The need was recognized for more precise rules, on a world-wide or regional basis, with respect to regulation, allocation, management, control and conservation of fisheries beyond the territorial sea in accordance with criteria for equitable and rational utilization of the living resources and taking into account the relevant economic, social, scientific (biological, ecological, geographical and geological) factors involved. However, different views were advanced with regard to the régime or system which should be established.

29. It was generally recognized that coastal States had a special interest in the living resources of the sea in areas adjacent to their coasts. There was a wide support for the view that this entailed certain specific rights with respect to utilization, allocation, management and conservation of such resources. Particular reference was made to developing coastal States and the view was widely expressed that

any future régime should safeguard the special interests and rights of developing coastal States. Broadly speaking, coastal States' rights were expressed, under various schemes, in either of two forms: exclusive fishing rights or preferential fishing rights, taking into account the interests of traditional distant-waters fisheries.

30. Some representatives elaborated on the particular régime on fishing and conservation of the living resources of the sea which, in their view, should be established. An example of an approach based on the concept of "exclusive economic zone" under which the coastal State would have exclusive jurisdiction, inter alia, over the living resources of an economic zone which would not exceed 200 nautical miles was contained in the draft articles submitted by Kenya; an example of an approach based on the principle of the freedom of fishing in the high seas subject to preferential rights of developing coastal States in the area directly adjacent to their territorial sea (not exceeding 12 miles), including the right of reserving annually for itself a given share of the allowable catch in accordance with its fishing capability, was contained in the draft article submitted by the Union of Soviet Socialist Republics; an example of a functional approach under which the coastal State would have the exclusive management and regulatory jurisdiction of coastal fisheries (coastal and anadromous species) as a custodian, under internationally agreed principles and rules, and would have preferential rights, potentially exclusive for some species, in the exploitation of such resources was contained in the working paper submitted by Canada; an example of a species approach under which the coastal State would regulate and have preferential rights to coastal and anadromous resources to the limits of their migratory range, including the right to reserve to itself all available catch of these resources it could harvest, while recognizing that the unique nature of highly migratory oceanic species was such that only international organizations could properly perform the management function, was contained in the revised draft article submitted by the United States of America; an example of a zonal approach under which the coastal State would have exclusive jurisdiction over the living resources of the sea with certain exceptions in a wide zone adjacent to its territorial sea to be exercised in accordance with certain basic principles reflecting the coastal State's right and responsibility with respect to the resources was contained

in the working paper submitted by Australia and New Zealand; and an example of an approach concerning preferential rights for protection of coastal fisheries, particularly of developing coastal States, in relation to distant-water fisheries of other States in areas of the sea adjacent to the 12-mile limit, which would entitle a developing coastal State to a preferential catch corresponding to its harvesting capacity and a developed coastal State to a differentiated preferential catch in case the protection of its locally conducted small-scale coastal fisheries was necessary, was contained in the proposals submitted by Japan.

31. Different evaluations were made of the effectiveness and accomplishments of the existing international or regional fishery organizations or commissions as set up at present. Certain representatives stated that they should be strengthened and developed, particularly on a regional basis, because they provided the best framework within which conservation and management measures could be formulated and agreed upon internationally. As for highly migratory species it was stated that international fishery organizations provided the most appropriate mechanism for conservation and management. Different views were also expressed on the role and competence of fishery organizations or commissions in the future, according to the characteristics considered more appropriate for the régime on fishing and conservation of the living resources of the sea beyond the territorial sea to be established. Mention was also made of the enforcement powers of the coastal State in the framework of that régime as well as of the need of procedures for the peaceful settlement of fishery disputes, including compulsory arbitration procedures.

32. Reference was also made to the international régime for the sea-bed and the ocean floor beyond national jurisdiction, to its nature and characteristics, international machinery for the area and its structure, functions and powers, the economic implications resulting from the exploitation of the resources of the area, the equitable sharing of benefits bearing in mind the special interests and needs of developing countries, whether land-locked or coastal, the definition and limits of the area, the harmonization of the uses of the area and the use of the area exclusively for peaceful purposes (for the sea-bed within national jurisdiction see paragraph 25 above).

33. Points concerning the land-locked countries were made in connexion with the high seas, the sea-bed beyond national jurisdiction and exclusive economic zones or preferential zones beyond the territorial sea. Reference was made to the general principles of the law of the sea concerning such countries as well as to agreed

arrangements (regional or bilateral). More specifically, the interests and rights of the land-locked countries were mentioned with regard to: free access to and from the sea, including freedom of transit, means and facilities for transport and communications and equality of treatment in the ports of the transit States; free access to the international sea-bed area beyond national jurisdiction, participation in the international régime, including the machinery, and in the equitable sharing of the benefits of the area; the living resources of the sea; and the resources, pollution control and scientific research in exclusive economic zones or preferential zones beyond the territorial sea. The particular interests and needs of developing land-locked countries in the international régime for the sea-bed and in regard to the living resources of the sea were also mentioned.

34. Reference was made to the interests and rights of shelf-locked States, States with narrow shelves and States with short coastlines, particularly with regard to the international régime for the sea-bed area beyond national jurisdiction, fisheries and free access to and from the high seas. The special interests and needs of developing countries falling within these categories were also referred to. Mention was made of the interests and rights of States with broad shelves, including to countries with broad shelves which had exercised jurisdiction thereon for a period of time.

35. Reference was made to various kinds of archipelagos and to the criteria applicable to them. The special characteristics of archipelago States were also mentioned, and in this connexion it was stated that archipelago States would require special treatment as they were more than a group of islands. It was also added that the special interests and needs of archipelago States with regard to economic development, political stability and national security would require a special régime which would guarantee the innocent passage of foreign ships through archipelago waters.

36. Reference was made to the various kinds of islands and to the criteria applicable to them. In this connexion, reference was also made to island States on the account that their peculiar condition would require special criteria for the application to them of the law of the sea. Islands under colonial dependence or foreign domination or control or under the sovereignty of a State and located in the continental shelf of another State in a different continent, and other related matters, were also mentioned in general and in some specific context such as the territorial sea, the continental shelf and exclusive economic zones beyond the territorial sea. However, different views were expressed on the question of islands under sovereignty of a State and located in the continental shelf of another State in a different continent. The regime for enclosed and semi-enclosed seas and for artificial islands and installations was also referred to.

37. With regard to the preservation of the marine environment, the points referred to were the sources of pollution and other hazards and measures to combat them, the measures to preserve the ecological balance of the marine environment, the responsibility and liability for damage to the marine environment and to the coastal State, the responsibility and liability for damages resulting from the use of that environment, the rights of coastal States, and international co-operation to preserve the marine environment.

38. In connexion with scientific research, reference was made to the nature, characteristics and objectives of scientific research of the oceans, to regulation of scientific research, to access to scientific information and to international co-operation. Different views were expressed on the question of freedom of scientific research, especially with regard to maritime spaces other than the high seas.

39. So far as development and transfer of technology are concerned, the points mentioned were the development of technological capabilities of developing countries, the sharing of knowledge and technology between developed and developing countries, the training of personnel from developing countries and the transfer of technology to developing countries. It was reiterated that the Sub-Committee, through the Committee, should recommend to the General Assembly to request the relevant specialized agencies and the industrial and developed States to expend or accelerate the training of personnel from the developing States in all respects of marine science and technology.

40. Finally, reference was likewise made to questions such as regional arrangements and universal arrangements, peaceful uses of the ocean space, zones of peace and security, transmission from the high seas, archaeological and historical treasures on the sea-bed and ocean floor beyond the limits of national jurisdiction, the effects of the provisions adopted in the future conference on the law of the sea on the earlier multilateral conventions on the subject, the enhancing of the universal participation of States in multilateral conventions relating to the law of the sea, and the peaceful settlement of disputes.



## ANNEXES

[Note: the text of the documents referred to in the annexes listed below will be inserted in the edited version of the report]

### ANNEX I

List of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea sponsored by Algeria, Argentina, Brazil, Cameroon, Ceylon, Chile, China, Colombia, Congo, Cyprus, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guyana, Iceland, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Kenya, Kuwait, Liberia, Libya, Madagascar, Malaysia, Mauritania, Mauritius, Mexico, Morocco, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Romania, Senegal, Sierra Leone, Somalia, Spain, Sudan, Trinidad and Tobago, Tunisia, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia and Zaire

(document A/AC.138/66 and Corr.2)

[text to be inserted]

### ANNEX II

Amendments submitted by Malta (document A/AC.138/67) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

[text to be inserted]

### ANNEX III

Amendments submitted by the United States of America (document A/AC.138/68) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

[text to be inserted]

### ANNEX IV

Amendment submitted by Italy (document A/AC.138/69) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

[text to be inserted]

ANNEX V

Amendments submitted by Japan (document A/AC.138/70) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr. 2)

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ANNEX VI

Amendments submitted by the Union of Soviet Socialist Republics (document A/AC.138/71) to the list of subjects and issues to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX VII

Amendments submitted by Afghanistan, Austria, Belgium, Bolivia, Czechoslovakia, Hungary, Mali, Nepal and Zambia (document A/AC.138/72 and Corr.1) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX VIII

Amendments submitted by Turkey (document A/AC.138/74 and Corr.1) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX IX

Amendments submitted by France, the Netherlands and the United Kingdom of Great Britain and Northern Ireland (document A/AC.138/76) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX X

Amendments submitted by Poland (document A/AC.138/77) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX XI

Amendment submitted by Japan (document A/AC.138/78) to the list of subjects and issues relating to the law of the sea to be submitted to the Conference on the Law of the Sea (A/AC.138/66 and Corr.2)

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ANNEX XII

Draft article on fishing (basic provisions and explanatory note) submitted by the Union of Soviet Socialist Republics (document A/AC.138/SC.II/L.6)

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ANNEX XIII

Draft articles on straits used for international navigation submitted by the Union of Soviet Socialist Republics (document A/AC.138/SC.II/L.7)

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ANNEX XIV

Working paper on management of the living resources of the sea submitted by Canada (document A/AC.138/SC.II/L.8)

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ANNEX XV

Revised draft fisheries article submitted by the United States of America (document A/AC.138/SC.II/L.9)

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ANNEX XVI

Draft articles on exclusive economic zone concept submitted by Kenya  
(document A/AC.138/SC.II/L.10)

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ANNEX XVII

Working paper on principles for a fisheries régime submitted by Australia and  
New Zealand (document A/AC.138/SC.II/L.11)

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ANNEX XVIII

Proposals for a régime of fisheries on the high seas submitted by Japan  
(document A/AC.138/SC.II/L.12)

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ANNEX XIX

Index to summary records of Sub-Committee II

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