



UNITED NATIONS

GENERAL
ASSEMBLY



Distr.
LIMITED

A/AC.138/SC.II/L.61/Rev.1
21 August 1973

ENGLISH
Original: FRENCH

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

Letter dated 18 August 1973 from the Chairman of the Working Group
of the Whole addressed to the Chairman of Sub-Committee II

Further to the progress reports which I have had occasion to make on the work of the Working Group of the Whole of Sub-Committee II (see documents A/AC.138/SC.II/SR.57, 62, 65 and 71, and A/AC.138/SR.93, 95 and 100) and the letter which I addressed to you on 16 August 1973 (A/AC.138/SC.II/L.57) on the same subject, I have the honour to submit to you the final report of the Working Group of the Whole.

I should be grateful if, as Chairman of Sub-Committee II, you would kindly draw the attention of the Sub-Committee's members to the contents of this letter and to the report which you will find attached hereto and if you would regard them, together with my letter of 16 August already mentioned, as a coherent whole reflecting the activities of the Working Group of the Whole since its inception.

During the discussions in the Working Group of the Whole, delegations have made every effort to translate proposals into specific and precise formulae and often into draft articles, thus facilitating the work of the Working Group of the Whole.

I have therefore refrained from reproducing or analysing the views expressed by delegations in the course of discussion; I have confined myself to reporting facts, communicating the frank and cordial atmosphere which has always prevailed in the Working Group of the Whole, summarizing the results obtained to date, and annexing to the report the relevant documents.

I wish to thank you personally for all the support you have given me in performing my difficult task, and would ask you to transmit to my colleagues, the members of Sub-Committee II, my deep gratitude for such favourable reception as they may give this report.

(Signed) Moncef KEDADI

Chairman of the Working Group
of the Whole
of Sub-Committee II

CE.73-51546

Report of the Chairman of the Working Group of the Whole to Sub-Committee II

1. At its 51st meeting, held on 9 March 1973, Sub-Committee II of the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction set up a working group called the Working Group of the Whole.
2. In an understanding reached at that meeting, it was decided that the Working Group of the Whole would be open-ended, so that all delegations might participate in its deliberations, and that the Group would be free to choose its own method of work and to determine its own programme.
3. At the first meeting of the Working Group of the Whole, held on 12 March, it was decided that consultations of regional groups would be held with a view to choosing a Chairman for the Working Group of the Whole. At the Group's second meeting, held on 20 March, it elected Ambassador Moncef Kedadi (Tunisia) Chairman by acclamation.
4. In the course of 1973 the Working Group of the Whole has held 42 meetings, including 11 in New York in March and April and 31 at Geneva in July and August.
5. At the third meeting, held on 22 March, the Chairman of the Working Group of the Whole made a statement on the consultations which had been held between the chairmen of regional groups under the chairmanship of the Chairman of the Working Group of the Whole and the Chairman of Sub-Committee II the previous day with a view to determining the positions of the various groups concerning the organization of the Working Group's work. The Chairman read out the text of the consensus which had emerged from the regional groups' consultations on the subject (Statement of the Chairman at the third meeting of the Working Group of the Whole, held on 22 March 1973, SC.II/WG/Paper No.1, annex ____).
6. In this connexion it was recognized that all items on the list of subjects and issues were closely interrelated but that the Working Group could begin its work by examining items 2, 3, 4, 5, 6 and 7. It was also recognized that some other items, although in a different part of the list, were also bound up with the items just cited; this applies to items 16, 9, 10 and 11 and to certain questions relating to item 8. In addition it was decided that, in proceeding to examine those items, delegations were free to refer to other items connected with those subjects and issues. It was further decided that the subjects and issues would not be examined one by one or in groups, but should be regarded as forming part of one whole. Furthermore on several occasions the Working Group of the Whole opted for a flexible and pragmatic approach to its work. Lastly, the Group decided not to have summary records of its meetings.

7. As to the Group's specific functions, its terms of reference are to make a thorough examination of all draft articles introduced in Sub-Committee II or of all documents submitted to it, and to study and prepare draft articles for transmission to Sub-Committee II in order to help in preparing for the Conference on the Law of the Sea.

8. The Working Group of the Whole held intensive discussions on a host of problems closely connected with even more complex and more delicate questions of national sovereignty, peace and security, progress and development, and international co-operation and solidarity.

9. The discussions in the Working Group were marked by frankness and were conducted in a spirit of good will and compromise. All delegations were able to express their Governments' views freely and drew attention to the importance, sometimes the vital importance, which a particular subject or subjects under examination possessed for their countries.

10. The discussions dealt with several subjects and issues, and in particular with the following: question of the nature and characteristics of the territorial sea; unity or plurality of régimes in that area; question of sovereignty in that area; straits used for international navigation; continental shelf; exclusive economic zone beyond the territorial sea; coastal State preferential rights or other non-exclusive jurisdiction over resources beyond the territorial sea; management and conservation of living resources; rights and interests of land-locked countries; those of shelf-locked States and States with narrow shelves or short coastlines; those of States with broad shelves; situation of geographically disadvantaged countries; States bordering on straits; archipelagos; and the régime of islands.

11. In the course of discussion, stress was laid on the need to reconcile all interests, including those of coastal countries, those of shipping, regional interests, the interests of a group of countries, those of land-locked countries, geographically disadvantaged countries and archipelagic States, the interests of developing countries, those of the international community and so on. It was stated that the solution to many problems confronting the Working Group of the Whole lay in harmonizing all those interests and groups of interests, and several methods of reconciling them all were suggested.

12. At the 12th meeting, held on 3 July, the Chairman of the Working Group summed up the discussions which had been held in New York in March and April on the questions under examination by the Group (Statement by the Chairman of the Working Group of the

Whole at the 12th meeting, held on 3 July 1973, SC.II/WG/Paper No.2, annex ____). At the same meeting the Chairman also supplied explanations on certain points of procedure (Explanations supplied by the Chairman during the twelfth meeting, held on 3 July 1973, published at the request of the members of the Working Group, SC.II/WG/Paper No. 3, annex ____).

13. At the end of the discussions at the March-April session it was suggested, and the Working Group decided, that in order to advance the work of the Working Group of the Whole it was necessary to set a time-limit -- albeit a flexible one -- for the submission of specific proposals. The date of 15 July was chosen for that purpose. This date was later changed to 16 July. Delegations submitted their proposals by that date, and a comparative table was prepared on that basis (Tentative comparative table of proposals, declarations, working papers, etc., relating to subjects and issues allocated to Sub-Committee II, SC.II/WG/Paper No. 4, annex ____). On item 2 (Territorial sea) and related items, namely item 4 (Straits used for international navigation), item 5 (Continental shelf), item 8.4 (High seas: management and conservation of living resources) and item 16 (Archipelagos), consolidated texts were prepared (annex ____). In the course of discussion on item 2.3.2 (Breadth of the territorial sea), the Working Group of the Whole decided to study that item in close conjunction with item 6.5 (Limits of the exclusive economic zone) and closely related items, namely items 5, 6, 7, 8.4, 9, 9.4, 10 and 11.

14. The Working Group of the Whole decided, using the comparative table and consolidated texts as a tool, to present variants which might, where appropriate, form the basis of draft articles. At the last few meetings of the present session, delegations have presented a great many variants in this way.

15. By the time of publication of this report, a series of documents had been circulated dealing with the alternatives presented by delegations on such questions and issues as the nature and characteristics of the territorial sea; the delimitation of the territorial sea; the breadth of the territorial sea; innocent passage; straits; archipelagos; the exclusive economic zone; the continental shelf; preferential rights and duties of coastal States; rights and interests of land-locked and geographically disadvantaged countries; regional arrangements; and certain aspects of fishing on the high seas (Working Group of the Whole, Conference Room Documents,*/ annex ____).

*/ These documents will be presented in the order of the list of subjects and issues.

It was also recognized in the Working Group of the Whole that the presentation or non-presentation of variants by delegations could not commit them to a particular position or signify support for one or other of the variants presented, inasmuch as Governments' official proposals were lodged with Sub-Committee II. The exercise of presenting variants formed part of the preparatory work for the Conference, with a view to beginning the preparation of draft articles on the subjects and issues on the list.

16. The Working Group of the Whole examined the variants over the past few days and it was decided that the Chairman of Sub-Committee II and the Chairman of the Working Group of the Whole would hold informal consultations with the sponsors of the variants in an endeavour to reduce the variants to a reasonable number. This has been done, and the effort has proved fruitful.

17. These consultations have made it possible to effect some reduction in the number of variants. In view of the shortage of time at its disposal, the Working Group of the Whole has not been able to study all the variants presented to it.