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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

SUMMARY RECORDS OF THE FIRST TO THE THIRD MEETINGS

held at the Palais des Nations, Geneva,
from 12 to 19 March 1971

<u>Acting Chairman:</u>	Mr. AMERASINGHE	Ceylon
<u>Chairman:</u>	Mr. GALINDO POHL	El Salvador
<u>Rapporteur:</u>	Mr. ABDEL-HAMID	United Arab Republic

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

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ABBREVIATIONS

FAO Food and Agriculture Organization of the United Nations

SUMMARY RECORD OF THE FIRST MEETING

Held on Friday, 12 March 1971, at 11.55 a.m.

<u>Acting Chairman:</u>	Mr. AMERASINGHE	Ceylon
<u>Chairman:</u>	Mr. GALINDO POHL	El Salvador

ELECTION OF OFFICERS

The ACTING CHAIRMAN declared the meeting open and said that the various regional groups had agreed on the choice of Mr. Galindo Pohl (El Salvador) as Chairman of Sub-Committee II.

Mr. Galindo Pohl (El Salvador) was unanimously elected Chairman and took the Chair.

The CHAIRMAN thanked members for his election and assured them that he would be at the service of all of them in the difficult task ahead. Constant consultation, negotiation and mutual concessions would be necessary in order to achieve results. He would strive to co-ordinate the intentions of the members and to carry out faithfully the decisions of the Sub-Committee; he might sometimes have to act as a mediator, but never as an arbitrator, in the exercise of his functions. He relied on the co-operation of all the delegations and on the legal and technical experience of the representatives in their joint efforts to find a common denominator.

The task ahead was the preparation of a third United Nations conference on the law of the sea. To appreciate the magnitude of that task, it was enough to recall the Conference for the Codification of International Law (The Hague, 1930) and the two Geneva Conferences on the Law of the Sea of 1958 and 1960. The present endeavour amounted to nothing less than the renewal and the development of the law of the sea in the light of the changed circumstances since those earlier conferences.

With regard to the election of officers, he said that the various regional groups had agreed to propose Mr. Holder (Liberia), Mr. Massoud Ansari (Iran), Mr. Yankov (Bulgaria) and Mr. Tuncel (Turkey) as the four Vice-Chairmen of the Sub-Committee. If there were no objection, he would take it that the Sub-Committee accepted those proposals.

It was so agreed.

Mr. KABBAJ (Morocco) proposed that the election of the Rapporteur be postponed in order to enable the African group to hold consultations.

Mr. NUR ELMI (Somalia) supported that proposal.

Mr. FRANCIS (Jamaica) also supported that proposal.

The CHAIRMAN said that since all elections of officers so far had been made by consensus, it would be appropriate to defer to the wishes of the African group. If there were no objection, he would take it that the Sub-Committee agreed to postpone its decision on the election of a Rapporteur.

It was so agreed.

The meeting rose at 12.10 p.m.

SUMMARY RECORD OF THE SECOND MEETING
held on Wednesday, 17 March 1971, at 3.30 p.m.

Chairman: Mr. GALINDO POHL El Salvador

ELECTION OF OFFICERS (concluded)

The CHAIRMAN said that, in informal discussions, agreement had been reached on the election of Mr. Abdel-Hamid (United Arab Republic) as Rapporteur. He proposed that that representative should be considered elected unanimously.

It was so decided.

Mr. ABDEL-HAMID (United Arab Republic) thanked the members of the Sub-Committee.

Mr. KHANACHET (Kuwait) expressed his satisfaction at the election of the representative of the United Arab Republic, which was striking proof of the unity of the African Group. He paid a special tribute to the Moroccan delegation for having enabled agreement to be reached by withdrawing its candidature.

Mr. KABBAJ (Morocco) said that his delegation had wished by its action to demonstrate its attachment to the spirit of the Charter and the principles of the Organization of African Unity and to facilitate the start of work.

He congratulated the representative of the United Arab Republic on his election, which provided an assurance of success for the Sub-Committee.

The meeting rose at 3.45 p.m.

SUMMARY RECORD OF THE THIRD MEETING

Held on Friday, 19 March 1971, at 3.25 p.m.

Chairman:

Mr. GALINDO POHL El Salvador

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

and

CONSIDERATION OF QUESTIONS REFERRED TO THE SUB-COMMITTEE BY THE COMMITTEE UNDER THE TERMS OF THE AGREEMENT REACHED ON ORGANIZATION OF WORK AS READ AT THE 45th MEETING OF THE COMMITTEE HELD ON 12 MARCH 1971 (A/AC.138/SC.II/L.2)

The CHAIRMAN said that the provisional agenda (A/AC.138/SC.II/L.1) and his own note (A/AC.138/SC.II/L.2) reflected the agreement reached on the organization of work,^{1/} which accounted, in particular, for the wording of item 4 of the agenda. His note repeated word for word the passage in the above-mentioned agreement defining the Sub-Committee's terms of reference, and added some indication regarding the organization of work and documentation.

Mr. ZEGERS (Chile) agreed with the Chairman's note, but recalled that, at the joint meeting of the Bureaux of the Committee and the sub-committees, his delegation had suggested that, in addition to the relevant United Nations documentation, the Secretariat should try to assemble information about agreements relating to the law of the sea at present in force and about national jurisdiction in maritime matters.

The CHAIRMAN said that the Bureaux had been in favour of that suggestion but, as it might have financial implications, the Secretariat had requested that it should not be brought up before the amount of resources available was more definitely known.

Mr. STEVENSON (United States of America) requested that, for the summer session, those delegations which had not participated in the earlier work should receive a list of the documents prepared for previous meetings, if not the documents themselves.

The CHAIRMAN said that the Secretariat would be asked to see to the matter.

^{1/} See A/AC.138/SR.45.

Mr. ARIAS SCHREIBER (Peru) pointed out that in 1969 FAO had published a brochure on the limits of the territorial sea and exclusive fishing zones and on the continental shelf, containing useful documentation for the Sub-Committee. The information contained in the publication could be brought up to date and circulated as a mimeographed document, without entailing any great expenditure.

Mr. SAPOZHNIKOV (Secretary of the Sub-Committee) said that the Secretariat was preparing a list of the principal documents as requested.

The relevant General Assembly documents were those which had been prepared for the Committee and the Ad Hoc Committee, the official documents of the two United Nations Conferences on the Law of the Sea, the Yearbooks of the International Law Commission and the publications in the United Nations Legislative Series. Inquiries had indicated that some of the documents to be consulted were out of print. They could, of course, be consulted in the United Nations libraries in New York and Geneva. Some of them were rather voluminous and their reproduction would take time and require funds. In any case, however, the question of documentation was to be further considered by the Bureaux.

Mr. CABRAL DE MELLO (Brazil) observed that a great deal of national legislation was not mentioned in the documents referred to; he felt that the Committee should have accurate information concerning national legislation relating to the sea-bed, the territorial sea, fishing zones and contiguous zones.

Mr. SAPOZHNIKOV (Secretary of the Sub-Committee) indicated that the Office of Legal Affairs was preparing a collection of national legislation and international instruments concerning the territorial sea and contiguous zones, the continental shelf, the high seas, fishing zones and the conservation of the living resources of the sea. The volume would appear in June 1971.

Mr. ZEGERS (Chile) said that it would be interesting to have documentation about regional agreements relating to certain areas, such as the North Sea shelf, the Baltic and the Adriatic, the agreements on fishing in the Indian Ocean, the Montivedeo and Lima agreements for Latin America, and the agreements adopted by the Asian-African Legal Consultative Committee at its twelfth session (Colombo, January 1971).

The CHAIRMAN said that the Secretariat was considering all those questions, along with their financial implications, and would supply fuller information at a later meeting.

Mr. NUR ELMI (Somalia) endorsed the suggestions concerning the organization of work in paragraph 3 of the Chairman's note.

His country welcomed the adoption by the General Assembly of the Declaration of Principles contained in resolution 2749 (XXV), but it did not share the view of some circles that the Assembly had thereby brought the phase of information meetings to an end and inaugurated the phase of quick decisions. Some countries, like Somalia, for whom the information phase was just beginning, could only make commitments when they had fully determined the implications. That was all the more necessary since the industrialized countries at present had a de facto monopoly of research and exploration of the mineral resources of the sea-bed and their ships engaged thousands of miles from their bases in operations which were often detrimental to the developing countries. Undue haste might lead to the conclusion of treaty articles that were totally ineffective and inappropriate. Somalia, for its part, would be reluctant at that point to enter into discussions about the type of international instrument to be drafted or about the methods to be used in drafting it.

The CHAIRMAN said that, if there were no objections, he would take it that the agenda was adopted.

It was so decided.

Mr. ROMANOV (Union of Soviet Socialist Republics) felt that the work of the Sub-Committee would be greatly expedited by an exchange of views, which could start immediately, on the easiest task before it, namely the preparation of a list of the questions to be dealt with by the conference on the law of the sea. The USSR delegation suggested that the list should consist of the following questions:

The question of the breadth of the territorial sea and related matters - i.e. the limit of the territorial sea, freedom of navigation through, and flight over, straits used for international navigation where such straits become territorial waters established by the coastal States within the limit referred to above, and the right of a State to establish a fisheries zone contiguous to its territorial sea if the latter's breadth is less than the said limit-; and arrangements to ensure that any State, irrespective of membership of the United Nations or its specialized agencies, may become a party to the Conventions on the Law of the Sea adopted at Geneva in 1958.

The above list should not be regarded either as an official proposal or as a working document. It was simply some suggestions to be mentioned in the summary record so as to inform the members of the Sub-Committee of the approach of the USSR delegation to the extremely important questions which it was absolutely necessary to settle and which the earlier Conferences on the Law of the Sea had not solved.

It should be stressed from the outset that all questions would have to be considered jointly and in parallel, including the questions referred to Sub-Committees I and III.

Mr. ARIAS SCHREIBER (Peru) said that he entirely agreed with the representative of Somalia: the Sub-Committee should obtain more information about the subjects to be dealt with before approving a list and starting to prepare draft treaty articles.

He thanked the representative of the Soviet Union for his contribution to the Sub-Committee's work. The developing countries had also started drawing up a list of questions which, in their view, should be dealt with by the next conference on the law of the sea. In doing so, they would certainly take into account the statement by the USSR delegation and the list it had suggested, although it seemed clear that that list was too limited.

Mr. YANKOV (Bulgaria) recalled that he had already expressed his views in the Committee^{2/} regarding the list of questions to be dealt with at the next conference. Even if that list were not considered exhaustive, it was important that the Committee should reach a decision on it. Moreover, it might not be realistic to approve a list that was too ambitious.

The statement by the delegation of the Soviet Union had been very useful in that it had given an idea of the position of some of the delegations regarding the responsibilities of the Sub-Committee, particularly as regards the drafting of the requested list.

For its part, the Bulgarian delegation thought that the Sub-Committee should concentrate on the specific aspects of the problem which had been referred to it. It should in particular study the question of the limits of the territorial

^{2/} See A/AC.138/SR.51.

sea and contiguous fisheries zones, fishing issues and, more particularly, the preservation of the living resources of zones adjacent to the territorial sea. Another important subject was that of navigation in international straits.

The question of the continental shelf and its limits had to be studied both from the point of view of the régime applicable to the sea-bed and ocean floor and from that of the law of the sea in general. That issue could not be dealt with until the limits of national jurisdiction had been clearly and precisely defined.

Mr. JELIC (Yugoslavia) wished to say that his delegation did not regard the suggestions put forward by the Soviet Union as a comprehensive list.

What was more, he could not agree that such suggestions should be purely and simply incorporated in a bigger list, because the very use of the words "freedom of navigation through the straits" and "the right to establish a fisheries zone within the twelve-mile limit" implied a predetermined position.

The suggestions of the delegation of the Soviet Union should only be looked on as something to be borne in mind in preparing the comprehensive list to be drafted.

Mr. TUNCEL (Turkey) thought that the suggestions put forward by the delegation of the USSR were useful but incomplete; they added nothing new to proposals already made in the General Assembly.

What was needed was for the delegation of the USSR and other delegations that might make proposals to provide their proposals with sufficiently detailed explanatory notes so as to make the questions clear to the Sub-Committee and the Committee.

Mr. ZEGERS (Chile) said that his delegation considered as the most important task assigned to the Sub-Committee and the Committee itself by General Assembly resolution 2750 C (XXV) the preparation for the conference of a list of subjects and issues related to the law of the sea, because it was on that list that the General Assembly would base the conference's agenda.

Obviously the Sub-Committee must take as a starting-point the questions enumerated in operative paragraph 2 of resolution 2750 C (XXV) and select the subjects to be studied, identifying in each of them the particular problems to be tackled, for example those resulting either from the progress of science and technology or from the entry on the world scene of new States whose presence required the updating of the old rules.

The character of the conference planned for 1973 would depend on the list drawn up, and until the issues and subjects to be studied were identified it would not be possible to set up working groups and embark on political and economic discussions with a view to agreement. Once agreement was achieved the drawing up of draft treaty articles would no longer present any difficulty.

As to the suggestions made by the representative of the USSR, they were a positive contribution, but the Chilean delegation did not plan to discuss them for the time being.

Mr. POLLARD (Guyana) also stressed the importance of the list that the Sub-Committee had been instructed to prepare, emphasizing that the way in which the questions concerning the law of the sea were framed for the conference should not prejudice the answers. Thus the suggestion of the Soviet Union which referred to "freedom of navigation through [...] the straits used for international navigation" was not very suitably worded, and it would be better to use a more neutral wording such as "question of transit through the straits used for international navigation".

Mr. ROMANOV (Union of Soviet Socialist Republics) reiterated that in presenting its suggestions his delegation had had no intention of putting them forward as a comprehensive list.

The Soviet delegation was prepared to provide the classification desired by the representative of Turkey, but in so doing it would not want to go beyond the limits permitted by the agreement reached on the organization of work or to broach matters of substance.

For the moment, however, his delegation wished to explain that the reason why in the last of its suggestions it mentioned the possibility of arrangements enabling any State, including a non-member State, to become a party to the Geneva Conventions was because it was already envisaged that an international agreement governing the régime of the sea-bed and ocean floor had to be universal.

Mr. STEVENSON (United States) wished to know if the exchange of views mentioned in paragraph 3 of the note by the Chairman would deal only with the preparation of the list of subjects and issues to be considered by the conference on the law of the sea, or whether it would involve discussion of the subjects and issues to be included in the list. Judging from the statements that had been made in the course of the meeting, it seemed that paragraph 3 was not being interpreted in the same way by all delegations.

The meeting rose at 4.50 p.m.