UNITED NATIONS

GENERAL ASSEMBLY

PROVISIONAL*/

Distr.
GENERAL

A/AC.138/SC.II/SR.65
19 July 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

PROVISIONAL SUMMARY RECORD OF THE SIXTY-FIFTH MEETING*/

held at the Palais des Nations, Geneva,
on Wednesday, 18 July 1973, at 11 a.m.

Chairman:	Mr. GALINDO POHL	El Salvador
Rapporteur:	Mr. ABDEL-HAMID	Egypt

CONTENTS

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.

GE.73-48796

PRELIMINARY REPORT OF THE WORKING GROUP OF THE WHOLE OF SUB-COMMITTEE II

Mr. KEDADI (Tunisia) wished to report to Sub-Committee II on the progress made by the Working Group of the Whole, with particular reference to the work carried out during the current session. He had already had occasion to give a brief account of that work four times, to the Sub-Committee at its 57th and 62nd meetings held on 29 March and 5 April 1973, and to the plenary Committee at its 93rd meeting on 6 April 1973 and its 95th meeting on 9 July 1973. The text of those reports would be found in summary records A/AC.138/SC.II/SR.57 and 62 and A/AC.138/SR.93 and 95. He would not go over them again, but would confine himself to expressing a few very general ideas, which would enable members to assess the present position in regard to the Group's work.

The Working Group of the Whole had been set up pursuant to a decision taken by Sub-Committee II at its 51st meeting on 9 March 1973. Between 2 March, the date of its first meeting, and 17 July the Working Group had held twenty-two meetings, and three phases could be distinguished in its short life. The first, that of its birth, had been characterized by the search for an appropriate method of work and by an attempt to analyse the numerous and highly complex problems which it had to solve. That had been an exploratory phase, whereas he personally believed that the present phase was first and foremost a negotiating and decision-making phase.

During its first meetings at the spring session held in New York, the Working Group had had to face many problems of organization. It had gone through a difficult period at the beginning. Shortly after it was set up, the Group had had to take decisions on questions of organization, particularly the organization of work. It had fortunately chosen the wise course of tackling the problems to be solved in a pragmatic and flexible manner. The Working Group had had and would yet have to deal with a multitude of problems closely bound up with even more complex and delicate questions relating to national sovereignty, peace and security, progress and development, international co-operation and solidarity, and, in certain cases, the survival of a State or a population. The Working Group had chosen to begin by considering the subjects and questions standing at the top of the list, while bearing in mind the possibility of referring to other questions on the list. The experience of the Working Group in its quest for a solution to the many procedural problems which had arisen since it was set up had proved to the full that the flexible and pragmatic approach had been, and still was, the best way of tackling problems.

The Working Group had not spent too much time on procedural questions and had managed to avoid a general debate. It had started on the task of clearing the ground and clarifying the position shortly after it was set up. The substantive debate had begun at its fourth meeting on 23 March. At the very start of the debate the question of the unity or plurality of régimes had been raised. Some representatives had urged the possibility of allowing for a plurality of régimes. In that connexion they had stressed the importance of resources to the coastal States. It had been observed that the existence of resources in all the zones subject to national jurisdiction might lead to the existence of several régimes in one zone. Different régimes might be applied to living resources on the one hand and to mineral resources on the other. It had also been pointed out that very varied régimes might be devised for different kinds of living resources.

The view had been expressed that the plurality of régimes followed from their variety and also from that of geographical conditions. It had been said that there was room for a variety of régimes in zones such as the North Sea, the Mediterranean, Africa and Latin America. Certain delegations had also pointed out that a special régime was necessary, for example, in the case of straits. Some representatives had furthermore explained what they understood to be the nature and characteristics of the territorial sea. Some speakers had thought that the concept of a single régime for the territorial sea was firmly established and should therefore be preserved. It had also been stated that the concept of the plurality of régimes might apply not to the territorial sea but beyond it, for example, to an adjacent zone such as the economic zone or patrimonial sea. Freedom of navigation and overflight, scope for other States to exploit the resources of the zones in question, together with other residual rights, might be recognized within those zones. Other representatives had expressed a preference for a unified or global approach taking specific conditions into account. It had been said that to sub-divide the substance would be to run counter to the debates at the Conference on the Law of the Sea.

The question of the unity or plurality of régimes had given rise to discussions of an etymological nature concerning the territorial sea and other zones adjacent to it, such as the economic zone or the patrimonial sea. It had been stated, for example, that a plurality of régimes would mean a plurality of limits to the territorial sea, bearing in mind specific geographical conditions. Certain representatives had further pointed out that the concept of a single régime would mean complete sovereignty under the terms of the Geneva Convention on the Territorial Sea. Several speakers had expressed their preference for a pragmatic approach which

would take account of the concrete interests involved. It had been said that a prolonged discussion of terms and concepts, although useful for defining and clarifying those terms and concepts, would not lead to results acceptable to all.

A number of speakers had stressed the need to reconcile interests which were sometimes divergent. Those interests had been categorized in various ways: thus distinctions had been drawn between the interests of the coastal States, those of international navigation, regional interests, the interests of a particular group of countries, those of geographically-disadvantaged countries, those of the international community, the common heritage of the international community, and so forth. Reference had also been made to new elements such as economic and social interests and the interests of peoples in general. It had been pointed out that efforts must be made to reconcile all those interests. The interests of the coastal States in regard to resources, for example, should be reconciled with those of navigation and of the international community. The solution was to be found in a general reconciliation of all the divergent interests. For that purpose the view had been expressed that what mattered now was to define and specify the different categories of interest even more accurately in order to reach a compromise acceptable to all the States within the international community.

During the second part of the spring session, members of the Working Group had continued to define terms such as the territorial sea and national sovereignty within it and within other zones, the economic zone, the patrimonial sea, the unity or plurality of régimes in the territorial sea, islands, straits, innocent passage, adjacent countries and those facing one another, the principle of equidistance, and the terms "continental, insular, special interests, interest of the international community, special geographical situation, extension of territorial waters, delimitation, enclosed and semi-enclosed seas". The Group had reviewed interests of all kinds and had proposed several possible ways of reconciling them. The debates had also turned on the question of revising or retaining certain norms of international law.

The Group had also debated procedural questions, and in that connexion he recalled the second part of the report which he had submitted to the Sub-Committee on 5 April, in which he had said: "Another of the procedural questions raised related to the possibility of establishing a deadline for the submission of specific proposals. The date of 15 July was suggested. Yet another such question concerned informal consultations under the chairmanship of the Chairman of the Working Group, in which all members who had submitted specific proposals would participate with a view to reaching a satisfactory formula. It was also suggested that unless basic proposals were drafted, agreement would never be reached. However, the members of the Group also stressed the need to avoid the fragmentation of interrelated subjects, and pointed out that at the present juncture, it should not be forgotten that substantive positions had not yet been presented in the form of drafts. The existing proposals did not represent all the positions of substance presented to the Working Group. The Group also noted that it would be premature to set up small groups to examine specific proposals". That whole complex related to the task of analysis and to the effort to establish methods of work.

With regard to the final phrase the Working Group had decided recently, at its twelfth meeting on 3 July, to keep the date of 16 July as the deadline for the submission of concrete proposals or draft articles, but its interpretation of that decision was reasonably flexible. The date was not absolutely final and delegations could, if they so wished, submit proposals after 16 July. That date had been set only so that on 16 July the Secretariat could begin the preparation of a working document for the purpose of facilitating the Group's task. He recalled that he himself had promised the Working Group to submit to it a combined text covering all the points he had studied at the spring session and dealing with all the issues relating to the territorial sea.

He noted with satisfaction that many delegations had responded to his appeal. Several new texts had appeared in the course of the week. Congratulations must be extended to those delegations which, by submitting concrete texts, had shown their desire to contribute to the urgent work which the Working Group now had to initiate, namely the task of reconciling the various proposals in order to lessen the differences between points of view. The Working Group had also lent its support to the idea of appointing an informal group of delegations to bring points of view closer together. That informal group had started work and he hoped that its mission would soon be crowned with success.

Meanwhile the members of the Working Group had held intensive discussions on the question of the continental shelf and the exclusive economic zone, without, however, neglecting the question of the preferential rights of coastal States, which was very much bound up with the question of the exclusive economic zone. Many speakers had tried to draw comparisons between the concepts of the continental shelf and of the economic zone. Members had said, for example, that the continental shelf and the economic zone were closely related, while pointing out that the concept of the continental shelf was already recognized in international law, whereas the concept of the economic zone was new. It had also been said that the two concepts were analogous and linked in that they both rested on economic considerations: they were bound up with the resources of the seas and oceans.

The Working Group had also discussed the criteria for determining the limits of the continental shelf at length. The criterion of depth, that of distance and a combination of both had been proposed. It had been pointed out that the concept of the continental shelf had not been adequately defined in the 1958 Geneva Convention on the Continental Shelf (the dual criterion of depth and exploitability). Determination of the limits of the continental shelf could be based on scientific, technical and geographical as well as legal criteria. Other delegations had maintained that geological and morphological criteria could not be applied because there was no morphological or geological uniformity. The criterion of distance should therefore be adopted, since it introduced a measure of uniformity. It had nevertheless been admitted that the distance criterion was insufficient. The application of a secondary morphological criterion, extending beyond 200 miles in exceptional cases, had therefore been suggested. It had been pointed out, however, that if the continental shelf and slope were to be under the sovereignty of the coastal State, the resources remaining at the disposal of the international authority for equitable distribution among all the States of the international community would be reduced to excess.

The great majority of the Working Group's members appeared to him to be in favour of a distance criterion of 200 miles for the economic zone. Some had pointed out, however, that if the exclusive economic zone were too large, that might render the concept of the territorial sea meaningless. Some speakers had given prominence to the relationship which existed between the concept of an economic zone and the high seas, and to the fact that freedom of navigation and overflight, and freedom to lay cables and pipelines in that economic zone, would be safeguarded, showing that the coastal State would have limited rights with respect to international activities in the zone.

The discussion had also dealt with the case of States with a continental shelf wider than 200 miles. In such cases it was claimed, the State was entitled to a continental shelf limit in excess of 200 miles. It had been pointed out that there was here an acquired right recognized in existing international law, and that under international law the coastal State had sovereign rights over the natural resources lying within its continental shelf. It had also been argued that if the coastal State adhered strictly to the concept of acquired rights, the international area would be greatly reduced and the concept of a common heritage undermined.

It had also been said that if States preferred to extend their rights over a large area, the exercise of those rights would entail obligations. The question of international standards applicable to the zone would provide a basis for a general agreement taking into account the interests of land-locked countries. Such international standards might relate to the avoidance of unreasonable interference with other uses of the sea, protection against pollution, the integrity of investments, revenue-sharing and compulsory settlement of disputes. It had also been pointed out that in some cases, a uniform limit of 200 miles could not be respected. That applied to coastal States on enclosed or semi-enclosed seas.

Nearly all the representatives who had spoken about the continental shelf had admitted that the concept as defined in the 1958 Geneva Convention was not clear or accurate. The great majority of those representatives had said that the concept of the continental shelf would have to be defined on new bases. The criterion of exploitability in particular had been widely criticized. The 500-metre isobath and a width of 40 miles had also been suggested as limits for the continental shelf. There had been some support for an intermediate zone as a way of striking a fair balance between the interests of coastal States and the international community. It had been suggested that a solution might be found on the basis of equity, of an intermediate zone and of a just sharing of revenue.

The view had been expressed that an extension of the rights of coastal States might widen the gap between developed and developing countries and diminish the extent of the international area. Part of the continental shelf should be made available to the international authority.

Some speakers had also maintained that if the concept of an exclusive economic zone was adopted, countries geographically disadvantaged should be compensated and given access to and the possibility of exploiting and using the resources of that zone. Thought should at least be given to regional agreements making it possible to alleviate the position of countries suffering from geographical disadvantages.

Other speakers, however, had argued that no-one had so far contested the validity of the concept of acquired rights beyond 200 miles on a morphological shelf broader than 200 miles. Some countries, it was added, had already granted licences for exploitation of resources in zones beyond 200 miles. The interests of ocean States with a very extensive continental shelf and margin should be taken into account. Acquired rights were a reality and should therefore be considered. Countries such as those on the Mediterranean might be given compensation.

It had been suggested that a study might be made of the real needs of coastal States. The extension of the economic zone would not provide a solution for other States and would reduce the extent of the international area and the scope of the international authority.

All delegations had emphasized the need to reconcile the interests of every party, including those of land-locked States, ocean States, archipelagic States, States on closed and semi-enclosed seas, and States having a wide continental shelf. The majority had appeared to be in favour of a distance criterion of 200 miles, but some considered it necessary to apply the concept of compensation, for example through action by the international authority or on the basis of regional agreements. In order to safeguard interests, the principles of justice, equality and uniformity would have to be taken into account. The form and amount of such compensation would have to be specified to allay the fears of countries which considered that their interests would be harmed by the adoption of a uniform limit of 200 miles. Some speakers had said that compensation was not the best solution. Could there be compensation? Why? In what form? States, it had been argued, possessed clearly established rights and did not need to make claims. What was needed was a determination to harmonize all interests. Every country should accept sacrifices. The interests of all countries should be reconciled on an equitable basis, without violating the principle of the common heritage of mankind; the interests of States should be harmonized with those of the international community.

To sum up, the Working Group of the Whole had had occasion in New York to deal with the question of the territorial sea. At the present session, it had carefully examined the question of the continental shelf and that of the economic zone and the preferential rights of States. After an exchange of views on those two questions,

the Working Group might revert to the question of the territorial sea, but the discussion would then be centred on a consolidated text dealing with that subject, which he hoped to be able to circulate to its members. The Working Group would revert to the questions of the continental shelf and the economic zone when considering another text which he would submit. By that flexible and pragmatic method the Working Group might reach the final stage of its work, the actual preparation of draft articles, as specified in its terms of reference.

He did not wish to conclude his statement without mentioning the atmosphere which had prevailed in the Working Group of the Whole. Many speakers, those from the great Powers as well as those from small countries, had already referred to it. It had been said that the discussions had been most constructive and useful because, for the first time in the Sub-Committee's history, they had enabled delegations to explain their Governments' points of view and seek to reconcile them, and had indicated the course to be followed. Again for the first time, there had been mention of sacrifices, compensation, harmonization and true negotiation. The Working Group of the Whole had even been asked to suspend its discussion on the continental shelf and the economic zone to enable an informal group of delegations to conduct negotiations on those questions. The informal negotiations were still in progress and the Working Group earnestly hoped that they would lead to positive results, to a rapprochement between points of view and to the preparation of a consolidated text. He hoped that the Working Group would continue to work in that favourable atmosphere of mutual understanding.

The CHAIRMAN put to the members of the Sub-Committee a Nigerian proposal that the statement of the Chairman of the Working Group of the Whole should be reproduced in extenso in the summary record of the meeting. If there was no objection, he would take it that the Sub-Committee agreed to that proposal.

It was so decided.

CONSIDERATION OF QUESTIONS REFERRED TO THE SUB-COMMITTEE BY THE COMMITTEE UNDER THE TERMS OF THE "AGREEMENT REACHED ON ORGANIZATION OF WORK" AS READ OUT BY THE CHAIRMAN AT THE FORTY-FIFTH MEETING OF THE COMMITTEE HELD ON 12 MARCH 1971 (continued)

Mr. JACOVIDES (Cyprus) said that he wished to clarify some issues arising from the Turkish delegation's criticisms made on 16 July, regarding the draft articles submitted by Cyprus on the breadth of the territorial sea (A/AC.138/SC.II/L.19). That text applied to the case of two States whose coasts were opposite or adjacent to each other and stated that "neither of these two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line, every point of which is equidistant from the nearest point on the baselines, continental or insular, from which the breadth of the territorial sea of each of the two States is measured." His delegation wished to make it clear that its draft article fell under item 2.3.2 (breadth of the territorial sea) of the list of subjects and issues and not under item 2.3.1 (question of the delimitation of the territorial sea: various aspects involved) as suggested by the representative of Turkey in his criticisms. He referred to the statement he had made when submitting the draft article in question last April in Sub-Committee II (A/AC.138/SC.II/SR.138). Although it was inevitable that those two items should overlap to some extent, the most important thing to bear in mind in that draft article was the concept of a median line to delimit the territorial sea in the case of two States which adjoined or faced each other. There were several arguments in support of that criterion.

Firstly, it was a well-founded principle in international common law, as subsequently codified in the Geneva Convention on the Territorial Sea and Contiguous Zone. Secondly it provided the element of objectivity necessary for any legal rule; in that sense the criterion was essential to ensure the protection of smaller and militarily-weaker States. The additional concept of equidistance placed those States in a position of equality in relation to their more powerful neighbours, who might be tempted to claim the lion's share if left to negotiate outside any legal framework. Thirdly, the draft article proposed by Cyprus contained an element of flexibility by providing that the median line would come into operation only failing agreement on another solution reached between the two States concerned. Naturally any such agreement had to conform to existing rules of Treaty Law, to be freely negotiated in conditions of equality and not imposed. In short, the rule of equidistance had the advantage of limiting the possibly excessive demands of stronger States when they negotiated with weaker ones.

Furthermore the draft article in question expressly stated that the baselines from which the median line was measured were "continental or insular", so as to avoid any ambiguity which could arise from an attempt to distinguish between the rights of continental and of insular States, or indeed States falling into both categories. Cyprus proposed in that way to reaffirm an existing rule, which was both objective and flexible and which conformed with the principle of sovereign equality laid down in the Charter.

The representative of Turkey seemed to have criticized the principle of equidistance in connexion with the delimitation of the continental shelf (set out in article 6 of the Continental Shelf Convention). The draft article submitted by Cyprus, however, expressly provided that the principle of the median line would apply exclusively to the question of the territorial sea and not to that of the continental shelf or to any other delimitation between States having adjacent or facing coasts. It was possible that considerations similar to those applicable to the territorial sea would also be valid for other issues, such as the continental shelf or the economic zone, but in the present instance the text related exclusively to the territorial sea.

Mr. STEVENSON (United States of America), submitting Draft Articles for a Chapter on the Rights and Duties of States in the Coastal Sea-Bed Economic Area, which had been circulated under the reference A/AC.138/SC.II/L.35, said that they did not affect in any way the proposal on fisheries submitted last August. In July the Working Group of Sub-Committee II had debated item 5 on the list of subjects and issues relating to the Law of the Sea - the continental shelf and related matters regarding economic jurisdiction over the sea-bed resources. A fairly widespread agreement had emerged in the Working Group on some fundamental issues with regard to sea-bed resources, and his delegation wished to make some comments on the matter.

There was no question for most States that the coastal State should have exclusive rights over the natural resources of the coastal area's sea-bed and subsoil. The coastal State therefore held the decision whether exploration and exploitation should take place, who should engage in those activities and on what terms and conditions. He also maintained that the coastal State should have full jurisdiction over the management of the resources of the sea-bed in the coastal area, subject, however, to conditions designed to ensure that the rights of coastal States were accompanied by corresponding duties, in order to safeguard the interests of other States and of the international community.

Another preponderant view was that the coastal State's economic jurisdiction should be limited in terms of distance, the generally-preferred limit being 200 miles. A sizeable number of delegations appeared, however, to prefer, in addition to that limit of 200 miles, a seaward limit which would embrace the continental margin where that margin extended beyond 200 miles. The United States would welcome the opportunity of continuing consultations with other States on that outer boundary. In any case, a precise method of delimiting that area would have to be found.

On the other hand his delegation questioned the concept of "compensation", which some claimed for coastal States that gave up their rights over the continental margin beyond 200 miles. It did not see what form such compensation would take and did not think that it would make it easier to secure the agreement of coastal States as a whole, or that it satisfied the aspirations of land-locked and shelf-locked countries. It seemed to him preferable to press for recognition of broad management rights over sea-bed resources for coastal States, the interests of other States being safeguarded by measures such as revenue-sharing.

In his Government's opinion, a new Law of the Sea would not fulfil its purpose if it gave coastal States total economic jurisdiction over the sea-bed without providing for the protection of the rights of other States in the area of economic interest of coastal States. Such rights must not only be clearly safeguarded, but a system should be established which would ensure that the coastal States did not go beyond their economic rights over the sea-bed or interfere unjustifiably with the activities of other States in the area or in superjacent waters. The negotiations now in progress covered vast areas of ocean space in which there would be intense activity, in the future, some of which would not be resource-oriented but would be of interest both to the coastal State and to other States. Coastal States must therefore assume duties corresponding to their rights in order to secure a harmonious balance of interests. It was in order to make its views clear on that subject that his delegation had submitted its draft articles on the rights and duties of States in the coastal sea-bed economic area.

Article 1 (1) would assure the coastal State of the exclusive right to explore and exploit the natural resources of the sea-bed and sub-soil within the coastal sea-bed economic area, as well as to authorize the exploration and exploitation of such resources. That would be one of the main economic objectives of the negotiations for the majority of coastal States, especially coastal developing countries.

Article 1 (2) dealt with the boundaries of the sea-bed economic area. With regard to the inner boundary of the area, simplicity and logic would call for the coastal State's economic rights and duties to begin at the edge of the territorial sea. Moreover, it would be desirable that the duties of the coastal State, set out in article 2, should apply to the widest possible area. The United States recognized, however, that allowance might have to be made for the fact that the Geneva Convention on the Continental Shelf already granted to the coastal States the sovereign right to explore and exploit the resources of the shelf to a depth of 200 metres. Not infrequently, that depth of 200 metres extended seawards up to 12 miles. Consequently, some States would not perhaps wish to subject the area bounded by 12 miles and 200 metres to a new legal régime, or they might object to the application of one of the international standards proposed by the United States, for instance revenue-sharing. There might be other ways of safeguarding the interests of coastal States in the area bounded by 12 miles and 200 metres. However that might be, his delegation reaffirmed its position, which was that it accepted a 12-mile territorial sea limit on condition that there was an international guarantee of free transit through and over straits used for international navigation.

The purpose of paragraph 3 was to ensure, at a time when the world community was beginning to develop new uses for ocean space such as the construction of off-shore ports, power plants and airports, that the coastal State would have all the necessary jurisdiction over them, even if they were not physically attached to the sea-bed. Paragraph 3 also provided that the coastal State would have the exclusive right to authorize and regulate drilling not related to the exploration and the exploitation of resources, since such drilling was not covered by the coastal State's jurisdiction over resources within the meaning of article 1 (1).

Article 1 (4) was designed to protect the interests of the international community as well as the rights of other States to use the economic area, with particular regard to freedom of navigation. Under that paragraph, the breadth of the areas as determined by the coastal State would conform to the international standards which were then in existence or which might be established in the future by IMCO.

Article 2 expressed the substance of the coastal State's duties. Its aim was to secure a balance between that State's jurisdiction over the economic area and the interests of other States in the area. Its sub-paragraph (a) reaffirmed the principle of international law that the activities described in article 1 should not unjustifiably

interfere with other uses of the area. The coastal State would ensure compliance with international standards to prevent such interference. Sub-paragraph (b) provided in effect that every coastal State should have the duty to meet international standards designed to ensure that to attain its economic objectives, it did not pollute the marine environment or the coasts of other States. For example drilling in the economic area of a coastal State, if not conducted with adequate safeguards, could pollute the waters beyond that area and the shores of other coastal States. A coastal State could not of itself determine whether its rules and regulations for oil drilling were adequate; if it could, the international community and other coastal States would not have a satisfactory guarantee. On the other hand, article 1 (6) provided that if a coastal State was not satisfied with the minimum standards, it could choose to apply higher ones.

Article 2(d) related to what his delegation had called "integrity of investment". Its aim was to ensure that the terms and conditions under which an investment was made should be strictly observed and that there would be just compensation if the property of the investors was taken over. There was no intention here to limit the jurisdiction of coastal States over the management of its resources, and any coastal State could reject all foreign investments if it so elected; but if it had concluded arrangements on which other nations relied, it should be obligated to observe them.

He pointed out that during the past few years there had been a considerable flow of investments to areas where the costs of exploitation were higher, but where the oil companies believed that they were assured of a continuity of supply. Moreover, off-shore petroleum exploitation made heavy demands on capital, often exceeding the resources that could be generated internally. Producing countries would therefore best serve their own interests by assuring the stability of contractual arrangements, which was the purpose of sub-paragraph (d).

Referring to Article 2(e), he said that President Nixon had already proposed revenue-sharing in his policy statement of 23 May 1970. That was a solution which would contribute to equity in a final Law of the Sea Treaty, not only for land-locked and shelf-locked countries, but also for those countries which had continental margins where they would find little oil, as well as countries that wished to broaden jurisdiction over the resources of the continental margin. Revenue-sharing was an important element in working out the Law of the Sea; it could help considerably to solve the question of the limits of the jurisdiction of coastal States. Few countries had supported that concept so far; he hoped that discussions on the subject would continue and that specific formulae would be considered.

Article 4 made it clear that nothing in the draft articles submitted by the United States would affect the rights of freedom of navigation and over-flight, or the right to carry on activities not connected with the exploration and exploitation of the resources of the sea-bed, unless the Convention included specific provisions to the contrary. Article 5 went to the core of the question of the settlement of disputes. There was here the foundation of a new world order in ocean space. Without a compulsory system of settlement of disputes, nothing would really ensure that arrangements concluded between States for the exploitation of sea-bed resources would be respected. In fact, many of the proposals made by the United States for a new Law of the Sea Convention could not be upheld in the absence of a system for the compulsory settlement of disputes.

In closing, he noted that differences of opinion over the question of economic rights in the coastal areas were narrowing steadily. He was all the more pleased by that development as the question of the jurisdiction of coastal States over the resources of the sea-bed appeared to be the most important issue for a great many delegations. On that issue he regretted that there had hitherto been inadequate consideration of the international standards which should accompany that jurisidction in order to provide balance between the interests of coastal States and those of other States.

Mr. CHERIF (Tunisia) wished to defend the Turkish and Tunisian sub-amendments (A/AC.138/SC.II/L.31 and 32) proposing the deletion of the words "or insular" from amendment A/AC.138/SC.II/L.17 to the draft article distributed under the symbol A/AC.138/SC.II/L.16.

It was essential that the texts of the articles to be submitted by the Committee to the Santiago Conference should both reflect the majority view and also be clearly and lucidly drafted. Clarity was particularly important, because ambiguities in legal texts led to disputes at a later stage. In the present case, the use of the words "or insular" in the context of baselines could create confusion, since in fixing the baseline, the coastal State could select as the point of reference either its own coast or an island in its possession situated off its coast. Such an approach had to be excluded, for baselines must have a common point of reference.

Mr. KOLESNIK (Union of Soviet Socialist Republics) explained the reasons why his delegation had thought it opportune to submit, in document A/AC.138/SC.II/L.26, a rough draft of basis provisions on the question of the outer limit of the continental shelf. Under those basic provisions, the maximum distance at which a coastal State could establish the outer limit of its continental shelf was the

500-metre isobath, but in regions where very deep waters were found nearer the coast, that limit could be fixed at 100 miles from the coast. The Soviet proposals were based on both legal and economic considerations.

Forty-one States, including the Soviet Union, were parties to the 1958 Convention on the Continental Shelf, and many States which were not parties to that Convention had incorporated the concept of the continental shelf in their national legislation. That proved that the concept of the continental shelf was of vital importance and accorded with the interests and needs of States throughout the world. Any attempt to eliminate it or to replace it by a new concept would have harmful consequences for a large number of States and, to some extent, for all States. The coastal State enjoyed a sovereign right over its continental shelf, since the latter was a submarine extension of its territory and was closely connected with that territory. A further important consideration was that the resources of the shelf were primarily mineral resources which, unlike biological resources, were neither renewable nor mobile.

The discussions in the Working Group had revealed that some delegations wished to replace the concept of the continental shelf by that of an economic zone. The latter concept appeared to be erroneous from a legal point of view, since it embraced different kinds of areas and established a legal régime which did not make allowance for such differences.

It could be argued that the real interests of States were more important than the validity of a legal concept. Consequently, allowance had to be made for economic considerations, and such considerations occupied a leading place in the Soviet proposals. If the problem of the delimitation of the continental shelf was approached from a scientific point of view, i.e. in the light of the available knowledge on the sea-bed, two solutions were possible.

According to the first solution, the limit of the continental shelf could be fixed with reference to the slope of the continental platform, at the point at which that slope became very pronounced. That approach was justified in law and tallied with a concept already found in the 1958 Convention on the Continental Shelf; it was equally justified from a geological point of view, since the continental shelf would then comprise a part of the sea-bed the structure of which corresponded generally to the structure of the terrestrial crust of the continents: it included a sedimentary layer and a granitic layer of great thickness. The outer limit of the continental shelf would then be the point at which the thickness of the sedimentary

layer and of the granitic layer began to diminish in the direction of the high seas. It was estimated that such a limit corresponded to an average depth of approximately 200 metres, although a detailed analysis of the relief of the sea-bed showed that the limit could be situated at a lesser (100-200 m) or at a greater depth (500-600 m).

Under the second solution, the continental shelf could be considered to embrace the whole of the continental projection, including geomorphological elements such as the plateau, the slope and the bank. In that case the limit of the shelf would be the outer limit of the continental bank and, in regions where there was no bank, the outer limit of the continental slope. Such an approach also seemed justified from a geological point of view. The continental shelf would then be taken to be that part of the terrestrial crust the overall structure of which was characteristic of the continental type of crust - i.e. it had a fairly thick sedimentary layer and a fairly thick granitic layer - and the limit of the shelf would correspond to the limit of the granitic layer. It would be situated at the point at which the continental type of terrestrial crust gave way to the oceanic type, in which there was no granitic layer. As a rule, that limit would be situated at average depths of approximately 2.5-3.5 km, and in some regions it would be situated at very much more than 200 miles from the coast.

Such a definition of the continental shelf needed to be analysed from the standpoint of what was currently known about the distribution of natural resources on the sea-bed. Particular account must be taken of oil and gas resources, since oil and gas were the mineral raw materials which would be exploited in very large quantities and in the very near future. Mineral resources such as nodules of precious metals would not be exploitable in the foreseeable future, except in the coastal zone. The question of the delimitation of the shelf would therefore hardly affect such exploitation.

If the first definition of the shelf was adopted, the coastal States area of jurisidction, i.e. the area of the continental shelf in the legal sense of the term, would include, according to the data given in the Secretary-General's latest report (A/AC.138/87), approximately 68 per cent of the total reserves. The area beyond the limit of the shelf, namely the international area to be covered by the international convention, would contain only a little over 30 per cent of the identified reserves attached to geological elements of the terrestrial crust such as the continental slope and the upper part of the bank. If the seaward limit of the shelf was established at the bank or at the outer limit of the continental slope, as a number of States were proposing, the coastal State would become the owner of almost all the potential oil and gas reserves of the sea-bed.

His delegation took the view that the outer limit of the continental shelf must be fixed in such a way that part of the geological elements of the terrestrial crust containing latent reserves of hydrocarbons - coal, petroleum and gas - was included in the international area and was accessible to States which did not have a continental shelf, or whose continental shelf did not contain any minerals or only small quantities of them. An optimal limit of that nature could be drawn at a depth of 500 metres, which, in many regions, would correspond to the limit of the continental shelf in the geomorphological sense of the term and would include only the uppermost part of the continental slope; the greater part of the slope and the whole of the continental bank would be included in the international area.

Quite a different picture emerged from a preliminary analysis of the proposal that the outer limits of the continental shelf should be established at a distance of 200 nautical miles. The Secretary-General's report, already mentioned, could usefully be consulted in that respect. The figures quoted in it were, of course, only approximate, but they gave an idea of the oil and gas resources which would be comprised in the 200-mile area corresponding to a depth of 3,000 metres or more. A 200-mile area would include 93 per cent of the total volume of hydrocarbon resources, including both those which had already been discovered and those which would become exploitable in the near future.

The result would be that the international area of the sea-bed, whose resources had been declared "the common heritage of mankind", would be reduced to an empty shell, and all the current discussions in Sub-Committee II as to which organ should be granted more powers - assembly or council - or who should be entitled to exploit resources - States or the sea-bed authority - would be absolutely meaningless, since the authority would not have at its disposal any part of the hydrocarbon resources, involved, or only a very small part of them.

Countries whose continental shelf was poor in natural resources, particularly the developing countries, would be especially handicapped if that solution was adopted. The calculations made by certain delegations showed that the extension of the rights of coastal States up to the 200-mile limit would benefit only a very small number of countries. The others would be barred from what was called "abyssal depths", where there were very good prospects of finding manganese nodules having a high nickel and copper content. Such a situation would benefit the Soviet Union and India, but the Soviet Union preferred that the problem of the continental shelf should be solved in such a way as to serve the interests of the great majority of countries and peoples of the world, since what was involved was the creation of an

exceptionally important rule of international law, which would remain in force over a long period of time. The Soviet delegation's proposal concerning the outer limit of the continental shelf took account of the interests of both coastal and landlocked States, as well as those of the international community as a whole. It was well grounded in law and was based on sound economic considerations. His Government hoped that its proposal would be correctly interpreted by a majority of delegations and that it would be discussed objectively. His delegation would be pleased to supply any further information that might be requested.

The CHAIRMAN announced that Senegal had asked to be added to the list of sponsors of the draft articles contained in document A/AC.138/SC.II/L.40.

Mr. KOFFI LUC (Ivory Coast) requested that his country too should be added to that list.

Mr. NJENGA (Kenya) said that the Senegalese representative had asked him to announce that his country had also asked to be added to the list of sponsors of the draft articles contained in document A/AC.138/SC.II/L.38.

The CHAIRMAN said that the secretariat had duly noted those wishes.

The meeting rose at 1 p.m.