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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 I

WORKING PAPER SUBMITTED BY THE NETHERLANDS CONCERNING THE
CONCEPT OF AN INTERMEDIATE ZONE

1. A general topic relating to the status, scope, functions and powers of the international machinery is the question of the relationship between the functions and powers of the international machinery and the functions and powers of its "neighbours", i.e. of the coastal States. It is perfectly conceivable to combine those functions and powers. Indeed, since both coastal States' functions and powers and those of the international machinery relate to the ocean space, which in fact is a unity, some such combination would seem inevitable. This is particularly true to the extent that coastal States' interests might be considered to extend further away from their coastline. The more coastal States' rights are expanded into ocean space, the greater the necessity to provide for international control over the exercise of such rights in order to safeguard the interests of the international community as a whole.

Accordingly, several proposals already before this Sub-Committee and other Sub-Committees provide in some way or another for a combination of coastal States' and the international community's rights.

Such combination may take the form of subjecting the coastal States' rights to:

- (a) international rules and standards;
- (b) review by an appropriate international Tribunal;
- (c) supervision by an international authority;
- (d) sharing of benefits with the international community.

2. More particularly - and within the framework of the items allocated to Sub-Committee I - there are several proposals which refer to the concept of an

"intermediate zone" of the sea-bed area. It would seem useful to explore the possibility of reaching some sort of consensus on what could be a régime for an intermediate zone, in case such a zone would be established. The present working paper is not meant to advocate any particular régime for an intermediate zone but only tries to analyse the concept of such a zone. 1/

3. The intermediate zone is a zone wherein the coastal State's rights and powers are combined with the international authority's rights and powers; in other words: a zone where the national and the international area overlap.

4. It would seem to be inherent in the concept of an intermediate zone that, as a minimum:

(a) a substantial part of the financial benefits derived from the use of the zone by a State should be transferred to the international authority, and

(b) the exercise by a State of its jurisdiction over the zone should be subject to international rules and standards and to review before an appropriate international tribunal.

5. Subject to what is stated in paragraph 3 above, there are various possibilities for coastal States' special rights and powers in respect of the intermediate zone. One might distinguish:

(a) powers to prevent activity in the zone prejudicial to the coastal State's interest;

(b) rights to use the zone in the coastal State's interest.

6. If the activities in the intermediate zone are in any case (1) subject to the rules and standards laid down in the treaty establishing the international authority and those adopted by the authority pursuant to such treaty, (2) carried out by or under a licence from the international authority, and (3) under supervision of the international authority, the powers of the coastal State to prevent activity prejudicial to its interests could be of an additional character. As such those powers could be of any of the following types:

(a) power to establish additional rules and standards;

(b) power to object to a licence being given to a particular State or operator as the case may be;

1/ It may be recalled that the Netherlands is a co-sponsor of the seven-Power proposal (A/AC.138/55) which contains specific provisions both on the limits and on the régime of what is there called "the coastal State priority zone".

(c) power to enforce the observance of the applicable rules and standards and the conditions of the licence.

7. If it is considered necessary in addition to grant to the coastal State special rights to use the intermediate zone, either of two systems could be followed:

(a) within the intermediate zone the international authority, if and when it considers granting a licence, shall grant such licence to the coastal State or an operator designated by the coastal State, or

(b) the coastal State shall decide whether or not any part of the intermediate zone shall be exploited and, if so, by which operator; such operator shall then be deemed to be licensed by the international authority.

8. There are obviously many modalities of combining coastal States' rights and powers with the international authority's rights and powers, which are not dealt with in detail in the foregoing analysis, which is only a suggested basis for discussions.

9. It is submitted that a working group should be established to explore the concept of an intermediate zone and its régime, without prejudice to the final decision on its establishment and its limits.
