

UNITED NATIONS

GENERAL
ASSEMBLY



PROVISIONAL*



Distr.
GENERAL

A/AC.138/SR.102
23 August 1973

ENGLISH
Original: FRENCH

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

PROVISIONAL SUMMARY RECORD OF THE ONE HUNDRED AND SECOND MEETING*/

held at the Palais des Nations, Geneva,
on Thursday, 23 August 1973, at 10.50 a.m.

Chairman:

Mr. AMERASINGHE

Sri Lanka

Rapporteur:

Mr. VELLA

Malta

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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 LX 2332, United Nations, New York, by 20 September 1973.

*/ 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.

ORGANIZATION OF WORK

The CHAIRMAN said it was essential to work faster. Sub-Committee II had not yet finished its report and had only that day to do it.

Replying to questions which had been put to him the previous day, he said that no final date had been fixed for the submission of new texts. Until the General Assembly had taken a decision on the future of the Committee, new texts would be published as Committee documents. Subsequently, any texts submitted would be for the conference itself and would therefore be published as conference documents.

REPORT OF SUB-COMMITTEE I (A/AC.138/94 and Add.1)

Mr. ENGO (Cameroon), Chairman of Sub-Committee I, said that the task of Sub-Committee I, namely, to prepare draft articles for treaties dealing with the international régime and the international machinery for the sea-bed beyond the limits of national jurisdiction, was of truly historic importance. It was of great importance to the community of nations and occupied a central place in the preparatory work of the Committee. In order to carry out its mandate, the Sub-Committee had held six sessions since its establishment in 1971. The results of its work were contained in documents A/AC.138/94 and Add.1.

In 1971, the Sub-Committee had held a general debate on the subject of its mandate and had decided to make a more detailed study of the question in 1972, so as to be able to proceed to the preparation of draft articles. In 1972, the Sub-Committee had examined the status, scope and basic provisions of the international régime as well as the status, scope, functions and powers of the international machinery. It had set up a Working Group under the chairmanship of Mr. Pinto (Sri Lanka), which had been asked to prepare a working paper showing the areas of agreement and disagreement on the various questions covered by its mandate, and to try to settle questions of substance by negotiation. In 1973, the Working Group had continued its work, the results of which were contained in document A/AC.138/94/Add.1.

Although many difficulties had been overcome and although the Sub-Committee could be satisfied with what it had achieved, there was still a lot to be done before a final text on the international régime and machinery could be prepared, since the texts submitted disclosed serious differences of opinion on several particularly important questions of substance. The Committee was not perhaps the ideal forum for political negotiations on the major issues but it had done its best to pave the way for such negotiations. On the basis of its achievements, it would be possible to launch fresh efforts in order to ensure the success of the Santiago Conference. In his view, no

time should be lost in establishing informal contacts for discussion of the outstanding questions, taking account of communities of interest and seeking genuine solutions. Although it might be difficult to carry on political negotiations in the Committee, it would be dangerous to wait till the Santiago Conference opened before starting them.

The value of the work of the Sub-Committee lay in the fact that it had succeeded in bringing out clearly the current trends of opinion in a committee of 92 nations on the vital questions concerning the sea-bed. It would be difficult to argue that the Sub-Committee could have produced draft articles which had secured unanimous approval. The Committee was not, like the International Law Commission, a body of independent jurists. The International Law Commission was responsible for the codification and development of rules and principles of existing international law. The Committee, on the other hand, was composed of representatives of governments which had different interests, preoccupations and aspirations. In his opinion, the work of the Committee could not be considered as an exercise in codification and progressive development of existing international law. Existing law was inadequate, even for those who considered that it was universal in character and should be of general application. Personally, he had urged that they should pursue a more realistic course and attempt to negotiate a new universal legal order for the sea-bed and its sub-soil beyond the limits of national jurisdiction.

In order not to underestimate the results that had been achieved, it was essential to take account of the fundamental difference between the tasks assigned to an expert technical committee and those assigned to the Sea-bed Committee. It should not be forgotten that the preparation of a treaty on the sea-bed area posed some highly complex problems and that the most important questions would probably have to be settled by political decisions at the Plenipotentiary Conference. Moreover, although all shades of opinion were represented in the Committee, there were more than 45 nations that were not taking part in its work. In those circumstances, he felt that the texts annexed to the report of the Sub-Committee were the best that could have been produced. The various schools of thought and areas of interest would thus be brought to the attention of the Conference, and that would make it easier for Governments to study the questions, particularly those that had not taken part in the Committee's work. The negotiation of a treaty containing generally acceptable articles would take place at the level of the Plenipotentiary Conference. That was a task that the Committee could not pretend to carry out.

What was now important was to make a fresh effort, but at the same time to remain realistic so as to avoid acrimony. Personally, he was optimistic and firmly believed that sooner rather than later Governments would take the right decisions and that the Conference would succeed in preparing a treaty on the international régime and machinery for the sea-bed, which would allow its enormous potential to be harnessed for the benefit of all mankind. That was the objective that the international community should endeavour to achieve.

He wished to pay a tribute to the members of the Sub-Committee and to the Working Group, whose spirit of co-operation had made it possible, despite all difficulties, to complete the drafts that had been submitted to the Committee; to express his sincere thanks to the Officers of the Sub-Committee, and particularly to the Rapporteur, Mr. Mott, who had succeeded in producing a report that had been unanimously adopted; and finally to thank particularly the secretariat, which had not stinted its efforts, and to Mr. Levy, the Secretary of Sub-Committee I.

Mr. MOTT (Australia), Rapporteur of Sub-Committee I, said that the Sub-Committee's report (A/AC.138/94 and Add.1), which had been adopted unanimously, did not require a long introduction. The report was in two parts -- one dealing with the background to the work of the Sub-Committee and the other with the work carried out by the Sub-Committee in 1973; in addition, there were three annexes, the first two of which were an index of the documents submitted to the Sub-Committee and an index of the summary records of the Sub-Committee, and the third which contained the draft texts. The bulk of the work had been carried out by the Working Group which had been asked to prepare texts on the status, scope and basic provisions of the international régime and on the status, scope, functions and powers of the international machinery. As a result of the work performed by the Group, the Sub-Committee had been able to submit a series of important texts that could be expected to serve as a basis for the decisions of the Conference.

The CHAIRMAN proposed that the Committee adopt the report of Sub-Committee I (A/AC.138/94 and Add.1), which would be annexed to its own report.

The report of Sub-Committee I (A/AC.138/94 and Add.1) was adopted.

The meeting rose at 11.15 a.m.