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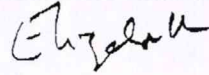
**FOUNDATION FOR INTERNATIONAL STUDIES
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FAX MESSAGE

TO:	Prof Elizabeth Mann Borgese		
FAX NO:	001 902 868 2455		
FROM:	Salvino Busuttil		
PAGES + THIS:	1	DATE:	6.9.94

Dear

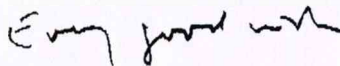


Re: **The UN Second Generation - Experts' Meeting; 3 - 5th October, Malta.**

Following my conversation with Dr. Krishan Saigal, it has been agreed that we would issue invitations to all members of the IOI Governing Board without mentioning the allocation for travel, on the assumption that, otherwise, we would be paying for accommodation only. Naturally, the situation would be brighter if the \$10,000 promised were actually available immediately. Dr. Saigal, while assuring me that "somehow" these \$10,000 will come, also advises me not to enter into hard and fast commitments until we can actually have them. Actually, we have sent invitations to the following:

Judge Mohammed Bedjaoui
Dr Erskine Childers
Admiral Fred Cickard
Ms Isabelle Grunbert
Prof Paul Kennedy
Dr Gunnar Kullenberg
Dr Barbara Kwiatkowska
Mr Dolliver Nelson
Hon Joseph Warioha
Dr Peter Payoyo
Mr Vladimir Petrovski
Prof M.M. Puri
Sir Brian Urquhart

Yours sincerely



Salvino Busuttil



PERMANENT MISSION OF MALTA TO THE U. N. AND
OTHER INTERNATIONAL ORGANIZATIONS

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Our ref. ADM 2/5/22
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RECEIVED NOV 22 1994

Geneva, 15 November 1994

To: Professor
Salvino Busuttill

From: Michael Bartolo

MEETING ON SECOND GENERATION UNITED NATIONS

1. I hope that the drafters of the report on the above meeting received my detailed comments which I sent a few days after the meeting.
2. I should appreciate receiving a copy of the draft report. I suggest that I send copies to the Yale/Ford Foundation Group.
3. What are the chances of the Foundation organizing something in connection with the 50 Anniversary of the United Nations during which Malta's ideas on UN restructuring could be discussed? We could also involve the Ford Foundation/Yale Group as well as other personalities like Ms. Anstee and Mr. Dadzie.

Regards,


Michael Bartolo
Ambassador
Permanent Representative



FOUNDATION FOR INTERNATIONAL STUDIES
at the University of Malta



COPY

28th Nov. 1994

Dear Elizabeth,

Many thanks for your fax of the 24th November 1994.

I am faxing you today with a copy of the **UN Restructuring Report**. The Annexes (List of Experts, list of Presentations as well as the Programme of the Meeting) will be sent to you separately.

I am afraid I have some health problems *re* my visit to India. Last Friday, I had a blood-pressure "crisis" and I have been asked to have further tests today and tomorrow, on the outcome of which will depend whether I am allowed to come to India. It will grieve me enormously if I cannot come; but I am keeping my fingers crossed...

I have taken note of what you say *re* Mario Soares etc., and I tend to agree with your proposed approach. I am all for having the Mediterranean Area hearings organised jointly between IOI and FIS. Do keep me posted.

With Best Wishes,

Salvino Busuttill

THE UN SECOND GENERATION

- EXPERTS' MEETING -

3 - 5 October, 1994

MALTA

Organized by

FOUNDATION FOR INTERNATIONAL STUDIES,
EURO-MEDITERRANEAN CENTRE FOR INSULAR COASTAL DYNAMICS
MALTA

MINISTRY FOR FOREIGN AFFAIRS, MALTA

INTERNATIONAL OCEAN INSTITUTE

Elisabeth
The edited final report
Krishan
9 Jan. 95

Report of Experts' Meeting on Restructuring the United Nations

Malta 3-5 October, 1994

PART I - Introduction

The Expert' Meeting on the UN Second Generation was inaugurated by the Hon. Professor Guido De Marco, Deputy Prime Minister and Minister of Foreign Affairs, Government of Malta, at 9.30 am on the 3rd of October 1994. The meeting was co-organized by the Foundation for International studies (with the assistance of the Euro-Mediterranean centre for Insular Coastal Dynamics), the Ministry for Foreign Affairs, Malta, and the International Ocean Institute.

In his keynote address the Hon. Deputy Prime Minister referred to the change in the environment in which the United Nations was founded over 49 years back and, in particular, referred to:

- its large horizontal extension whereby the number of member states had gone up from 60 to 184 today
- the emergence of a large number of states which did not exist in 1945 due to the process of decolonization.
- the shift in the international system from being largely bipolar to multi-polarity.
- the manner in which the UN has come into its own as shown by its concerted action against aggression against Kuwait and its humanitarian missions in Somalia et al.

The keynote address went on to suggest that in spite of its many successes, the UN system was today distorted and out of phase with the fast changing international scenario and he urged the Experts' Meeting to look into the concepts, ideas and proposals for the restructuring of the United Nations as it enters into its second generation. He referred to a number of ideas, proposals and recommendations which were initiated during Malta's presidency of the 45th session of the General Assembly. These included:

- The acceptance of the UN General Assembly as the pre-eminent organ - the only major organ where every member is a permanent member - with its General Committee strengthened and with a more active role for Ministries and Heads of State.
- The General Assembly should meet more than once a year, say three or four times for a shorter period and with special focus on sectoral issues including environment and oceans.
- A decentralized United Nations that would rely to a much greater extent on Regional Institutions; for example, as already proposed by Malta in Helsinki II, the CSCE would become the regional arrangement for peace keeping in terms of Article 8 of the Charter of the United Nations.
- The Security Council retaining a major role with possibly some changes regarding its functioning, membership and veto powers and including its possible expansion, while keeping it an effective organ of the United Nations.

- Effective linkage between the Security Council and the General Assembly so as to keep the two in harmony and to prevent there being divergence between them.
- A Trusteeship Council to hold in trust for humanity its common heritage and its common concerns; the environment; the resources of the sea and the seabed; the climate; the rights of peoples in situations of complete breakdown of the organs of the State.

The Meeting of Experts spent the next two days on an exhaustive discussion of the manner in which the United Nations System needed to be restructured and revitalized, with particular reference to ocean affairs. A number of papers were presented and thereafter subjected to a scrutiny which was wide ranging in scope and rigorously analytical. The list of experts is included as Annex 1, the list of papers presented as Annex 2 and the programme of the meeting as Annex 3.

It is not the purpose of this Report, and indeed it is not possible, to report in detail the breadth and depth the discussions that took place and the nuances of the various suggestions and recommendations that emanated from the Meeting. Some themes and clusters of recommendations arising from the Meeting will, however, be highlighted under the following broad headings:

- A. The Changing Environment of the United Nations.
- B. The Values Underpinning the Recommendations.
- C. Recommendations on Structural Changes.
- D. Recommendations on the Processing System.

A. The Changing Environment of the United Nations.

The Meeting noted that the International System had changed from the simple "us" and "them" situation of 1945 - of victors and vanquished, Allies and Axis, aggressors and defenders - to the much more variegated, complex and multi-cultural world of today. The concept of the security of nation states - the key pillar of the UN system - had changed from territorial security to eradication of poverty, removal of inequity, both intergenerational and intra-generational, defence of human rights, prevention of a catastrophe in the planet's ecosystem. The concept of sovereignty of the member states of the UN System had also got qualified as the Western nation-state concept is beginning to erode under the complexities of management and financing of urbanized consumer societies, with mounting citizen demand for local and provincial autonomy, declining citizen confidence in national level democratic processes and the operation of key socio-economic and other processes operating beyond the control of any one state and needing to be controlled and managed by multilateral mechanisms e.g.: the Law of the Sea Convention, the Convention on Climate Change, the Convention on Biodiversity, the need to control Trans - National Corporations. All this has profoundly affected the traditional concepts of sovereignty and led to growing demand for multilateral mechanisms

for managing the global "commons" - the oceans, interplanetary space, the planet's ecosystems.

The Meeting noted that all those developments and changes in the international system meant that the UN System is now functioning in a world in which the volume and interaction of issues and dangers to security is vastly more complex than when the organization was created. The need for changing the UN System's structure needed to be looked at both from the viewpoint relatable to the overall context and, thereafter, to what was applicable in the realm of the oceans, perhaps the most important of the global commons.

B. The Values Underpinning the Recommendations.

The Meeting was of the view that in a multi-cultural variegated international system, the establishment of universally acceptable values was no easy task. The Meeting noted, however, that in the very recent past the international community had reached consensus on some values and aspirations which had been enshrined in three Conventions - relating to the Sea, Climate Change and Biodiversity - and a Policy Statement - Agenda 21 - and that this represented a good starting point for defining the context in which the restructuring of the UN could take place.

The Meeting noted that these Conventions and Agendas had accepted the following as principles that should inform the actions of the international community.

- the principle considering some domains as the common heritage of mankind - the deep seabed of the oceans, space, biodiversity, climate - and so requiring multilateral management and/or policy making mechanisms;
- the principle of giving importance to eco-systems management within the constraints of socio-economic equity;
- the principles of cooperation and solidarity;
- the principle of promoting equity, inter-generational and intra-generational;
- the principle of democratic behavior, participation, transparency in decision-making, and the involvement of citizen groups - NGOs - along with state parties as actors in the international system.

The Meeting also noted that recent developments and discussions had brought to the fore the need for having lean and non-bureaucratic structures at the multi-lateral level, of making such structures cost-effective and for exercising strict financial control on international organizations. The need for decentralization - to regional and lower levels - had also been stressed as a way out of the rigidities and inefficiencies of centralized control while at the same time ensuring coordination and consideration of matters in a holistic manner through appropriate linking mechanisms both vertical (by levels) and horizontally (by sectors). The Meeting noted that in this regard, the ocean sector had, over the years, developed a rich store of such mechanisms which could serve as models for managing other complex ecosystems such as the atmosphere, space and

climate change.

C. Recommendations on Structural Changes:

The Meeting was of the idea that it was very necessary for the Security Council to be made more representative, democratic and transparent in its functioning. A number of proposals were under consideration such as its enlargement; the examination of the so called 'veto'; mechanisms linking it organically to the General Assembly - and the Meeting felt that it was necessary for the international community to give its most earnest consideration to this matter so that the chief organ of the UN system could be made effective, efficient and representative of the urges of the large part of humanity which felt left out of its decision making processes.

The Meeting commended the initiative of the Government of Malta in seeking more meetings of the General Assembly focussed on sectoral issues. The Meeting also felt that the historical record of Malta, a small island state, in taking major initiatives during the last 30 years was a good model for other states to follow as that would make for greater participation in the UN system.

The Meeting noted that there was a great deal of stress being laid on citizens' participation in the UN system along with the governments of States parties, whether through an international "peoples" assembly in the line of the European Parliament, or federations of NGOs. This was a complex issue and though the principle of citizens' participation was desirable, it needed to be carefully harmonized and balanced with the participation of governments.

The Meeting also considered the question of decentralization to the regional level. In this connection, the Meeting took note of various regional initiatives already under way - the Regional Commissions of the UN, programmes like the Regional Seas Programme of UNEP, regional initiatives of bodies like FAO, IOC etc., - and was of the view that the whole regional concept needed to be evaluated whereafter appropriately coordinated and integrated institutions needed to be established at the regional level. This could be done by adding on the functions to existing institutions and mechanisms like the proposal to establish a Regional Commission for Sustainable Development for the Mediterranean in the framework of the Barcelona Convention and the Mediterranean Action Plan.

The Meeting noted that, when it was founded, the UN was supposed to be very closely integrated with the Breton Woods Institutions - the World Bank and the IMF - but that over time the Breton Woods Institutions had tended to acquire their own character and to function separately from the UN system. The Breton Woods Institutions and the UN systems needed to be closely linked and their policies made more relevant to regional needs by decentralizing their functions to autonomous Regional Institutions linked to the Regional Commissions of the UN system.

The soon to be established World Trade Organisation also needed to have similar close links with the United Nations.

PART II - UN Restructuring and Ocean Affairs

A Recommendation on Structural Changes.

The Meeting was of the view that the actual and potential contributions of the United Nations Convention on the Law of the Sea to the UNCED process, the Agenda for Peace, the Agenda for Development and the progressive development of international law are of prime importance and should have major impact on the restructuring of the United Nations system as a whole.

The Convention provides the legal framework, the dispute settlement system and the enforcement mechanisms for Chapter 17 of Agenda 21, and also interacts with the Conventions and Agenda 21 adopted at Rio. These Conventions and Agenda 21 on the one hand, and the Law of the Sea Convention on the other, can be utilized to reinforce each other.

The development of the peaceful uses of the oceans and further elaboration of the principle of the reservation for peaceful purposes as well as the provisions for mandatory peaceful settlement of disputes all have the potential of making major contributions to the Secretary-General's Agenda for Peace.

The implementation of the Agenda for Development can be enhanced by the Convention's provisions especially in the areas of security and development (peaceful uses of navies), sustainable use of living resources, expanding the resource base, integration of environment and development, enhancement of science and information, technology cooperation, and development of human resources. The holding of special sessions of the General Assembly, where States and other entities can consider the closely interrelated problems of ocean space as a whole would further augment and strengthen the Agenda for Development.

The Meeting further noted the two "values" underlying the Convention, namely:

- i. the principle of the Common Heritage of Mankind
- ii. a comprehensive approach to ocean affairs

The Meeting also noted that, keeping in view the exceptional condition of the landlocked states, some of their problems had been taken note of in the 1982 Law of the Sea Convention and some other places; however, more meaningful, possibly specific, measures needed to be taken which, while entitling them to the benefits from oceans, would oblige them to share their responsibilities equally with other members of the world community. The Meeting emphasized that stress should not only be on integrated coastal zone management but on oceans as a whole, including the atmosphere-ocean interactions and the environmental stresses resulting therefrom.

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The Meeting further noted that though some steps had been taken to address the problems of landlocked states, more needed to be done in the form of access to the oceans for transport, scientific endeavors etc. The Meeting also noted that the end of the Cold War has led to negative consequences in the form of careless disposal of nuclear material, winding down of shipyards etc. There was, in the view of the Meeting, the need to use navies for peaceful purposes in constabulary, monitoring and enforcement roles so as to ensure sustainability of the oceanic ecosystem.

It was agreed that Ocean Affairs need to be looked at in an integrated, intersectorial manner which implies a broader approach than is presently the case. In this respect, the present UN system in which several agencies or bodies work in a specific and sectorial area of marine affairs is inadequate. The meeting therefore supported the idea that a Forum on the Oceans be set up so as to deal with ocean affairs in the integrated manner required for the achievement of sustainable management of the oceans as a whole, including its interaction with land and the atmosphere. Such a Forum could be set up within the framework of the United Nations system and either meet separately every other year or, as a part of the United Nations General Assembly, dedicating a special session of two to three weeks duration to this area of concern.

It was also suggested that the attempt to improve the efficiency of the General Assembly by transferring new functions to the Trusteeship Council would tie in well with the above proposal. The Trusteeship Council could be viewed as a senate-type body which would provide advice on global issues.

It was stressed that there was a strong need to develop adequate matching structures at national level which would include all relevant policy making sectors. There is a need to investigate the establishment of Regional Commissions for Sustainable Development which would provide the integrated, intersectorial base for regional programmes.

With regards to the proposed set-up of the Sea Bed Authority, it was agreed that it is of essence that there should be a shift from its current restricted "monitoring" function and limited competence to one emphasizing the sustainable development of resources, in particular for developing countries. Its new functions could include the exploration for minerals and oil using its available skills, experience and resources; for environmental testing of seabed mining; for joint projects in sea bed mapping and for the development of training programmes. The establishment of a purely bureaucratic set up for this Authority should be avoided.

The oceans have an environmental dimension which must be conserved, a development dimension which must be carried out in a sustainable manner and a disarmament dimension, all of which have institutional implications needing to be explored.

Within the UN system, the concept of sustainable development is somewhat marginally situated. The Commission for Sustainable Development should be given a more central role than it has now.

It was pointed out the UN system included a number of tools e.g. WHO, FAO, IOC, UNEP etc., which can, if used properly, result in valuable work; the reason why integrated resource management is still so difficult to achieve is because we lack a true understanding of our own resources and their interdependence.

B. The Values Underpinning the Recommendations.

It was suggested that the world oceans, as a whole, should eventually be accorded the status of Common Heritage of Mankind. It was agreed also that this concept must be extended so as to apply to the water column above the sea bed. It was emphasized that the concept of common heritage is meant as a base for joint management and protection of resources. It was suggested that the EEZ cannot be considered as a closed system since matters concerning it transcend political and geographical boundaries. The point was also made that there was the danger that the EEZ concept could, if applied without limitations, result in a large area of the sea coming under national sovereignty. This would conflict with the principle of the common heritage and would seriously impair the jurisdiction of the Sea Bed Authority.

The concepts of sustainable development and common heritage are intrinsically linked to that of security. This should have an institutional projection like for example, the establishment of a Security Council for the Environment.

The concept of sovereignty also needs to be transformed beyond the present state based approach. One should therefore consider the possibility of regarding this concept as a right not of an individual state but of groups of states or of regions.

C. Processing System.

The Committee noted that as at present the UN System functioned in a fragmented, ad hoc and reactive manner. In the view of the Meeting, while there was the need for an ultimate major constitutional transformation of the disparate agencies of the UN System into an integrated, proactive and precautionary system, this was not likely to be possible of attainment in the short run.

In the short run, therefore, the Meeting recommended the establishment of coordinating mechanisms, in line of what has been recommended for the oceans, for sectors like the environment, economic development and poverty eradication.

The Meeting further noted the dispersed location of UN agencies and organs (New York, Geneva, Vienna, Nairobi, Montreal) and was of the view that modern technology could be utilised to

link them up and so provide integration. This could be done by using the information superhighway for information networking (both horizontally and vertically), teleconferencing etc. so that integrated and coordinated functioning could take place.

Among the most important contributions of UNCLOS to the progressive development of international law are the concept of the Common Heritage of Mankind, the creative development of the concept of sovereignty, the comprehensive and mandatory dispute settlement system, the international environmental law.

The impact of the UNCLOS process, converging with that of the UNCED process, on the restructuring of the United Nations system has already begun in the form of the Commission for Sustainable Development and its supporting organs and the coordination, streamlining and integration of the UN Agencies and programmes. In the marine sector, it is proposed that the future role of UNCLOS should include:

- the further development of the concept of the Common Heritage of Mankind and its extension to the living resources of the oceans, starting with those of the high seas and the international seabed;
- the strengthening of the Commission for Sustainable Development and its relocation at the centre of the restructured UN system as a Commission for Comprehensive Security and Sustainable Development;
- the establishment of a broadly representative "Ocean Forum" or "Ocean Assembly" where States and other entities can consider the closely interrelated problems of ocean space as a whole;
- the establishment of some form of international taxation, starting, perhaps with a tourist tax and taxes on other industrial/commercial uses of the seas and oceans, on a regional basis, to contribute to the cost of implementing Agenda 21 and the Agendas for Peace and Development;
- early reconsideration by the Council and the Assembly of the International Seabed Authority, of the "initial functions" of that Authority, to implement the "evolutionary approach", contribute to cost-effectiveness and make the Authority immediately useful to the international community and, in particular, to developing countries;
- a request to the International Law Commission for an elaboration and development of the concept of reservation for peaceful purposes and the harmonization and integration of the Seabed Disarmament Treaty and the Law of the Sea Convention;
- the establishment of a Federation of Ocean Universities to enhance interdisciplinary (comprising the natural as well as the social sciences) and international cooperation in ocean affairs;
- the establishment of Regional Commissions for Comprehensive Security and Sustainable Development as executive bodies for Regional Seas Programmes, as a step in the process of bringing them up to date, and "moving them from Stockholm

Page 9

- . to Rio",
- . the implementation of articles 276 and 277 of the Law of the Sea Convention by establishing Regional Centres for Technology Cooperation, based on the EUREKA system of public/private regional cooperation;
- . the establishment of proper linkages between the new type of interdepartmental mechanisms for EEZ and coastal management, strengthened regional organizations, and the UN system.

The point was raised that the concept of Common Heritage and sovereignty are often politically influenced whereby the South was often the "victim" of unequal application of these concepts.

There was need to ensure harmonization between the different conventions and legal instruments; this could be one of the roles of the World Commission on the Oceans which could, inter-alia, monitor and coordinate the implementation of UNCLOS.

RECEIVED JAN 10 1995

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FAX MESSAGE

TO:	Prof. Elizabeth Mann Borgese
FAX NO:	++1 902 494 2034
FROM:	Prof. S. Busuttil
PAGES + THIS:	DATE: 10.1.95

Re: *The UN Second Generation, The Experts' Meeting.*

The final version of the Report, a copy of which was faxed to you on 1.12.94, will soon be included in a publication of papers presented at the above meeting. Should you have any comments and suggestions regarding this report, I would be only too pleased to receive them as soon as convenient so that the report may also be sent out to all the participants.

see the letter

Best Wishes,

Salvino

Salvino Busuttil

P.S. We have already received your earlier comments. Is there anything to add? S.

REPORT

THE UN SECOND GENERATION

- EXPERTS' MEETING -

3 - 5 October, 1994

MALTA

**FOUNDATION FOR INTERNATIONAL STUDIES,
EURO-MEDITERRANEAN CENTRE FOR INSULAR COASTAL DYNAMICS
VALLETTA, MALTA**

MINISTRY FOR FOREIGN AFFAIRS, VALLETTA, MALTA

INTERNATIONAL OCEAN INSTITUTE

PART I

The Experts' Meeting on the UN Second Generation was inaugurated by the Hon. Professor Guido De Marco, Deputy Prime Minister and Minister of Foreign Affairs, Government of Malta, at 9.30am on the 3rd of October 1994. The meeting was co-organized by the Foundation for International Studies (with the assistance of the Euro-Mediterranean Centre for Insular Coastal Dynamics), the Ministry for Foreign Affairs, Malta and the International Ocean Institute.

In his keynote address, the Deputy Prime Minister referred to the change in the environment in which the United Nations was founded over 49 years back and, in particular, referred to:

- its large horizontal extension whereby the number of member states had gone up from 60 to 184 today;
- the emergence of a large number of states which did not exist in 1945 due to the process of decolonization;
- the shift in the international system from being largely bipolar to multi-polarity;
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The keynote address went on to suggest that in spite of its many successes, the UN system was today distorted and out of phase with the fast changing international scenario and he urged the Experts' Meeting to look into the concepts, ideas and proposals for the restructuring of the United Nations as it enters into its second generation. He referred to a number of ideas, proposals and recommendations which were initiated during Malta's presidency of the 45th session of the General Assembly. These included:

- The acceptance of the General Assembly as the pre-eminent organ - the only major organ where every member is a permanent member - with its General Committee strengthened and with a more active role for Ministries and Heads of State;
- The General Assembly which should meet more than once a year, say three or four times for a shorter period and with special focus on sectoral issues including environment and oceans;
- A decentralized United Nations that would rely to a much greater extent on Regional Institutions; for example, as already proposed by Malta in Helsinki II, the CSCE would become the regional arrangement for peace keeping in terms of Charter 8 of the Charter of the United Nations;
- The Security Council retaining a major role with possibly some changes regarding its functioning, membership and veto powers and including its possible expansion, while keeping it an effective organ of the United Nations;
- Effective linkage between the Security Council and the General Assembly so as to keep the two in harmony and to prevent there being divergence between them;
- A Trusteeship Council to hold in trust for humanity its common heritage and its common concerns: the environment; the resources of the sea and the seabed; the climate; the rights of peoples in situations of complete breakdown of the organs of the State.

The Meeting of Experts spent the next two days on an exhaustive discussion of the manner in which the United Nations System needed to be restructured and revitalized,

with particular reference to ocean affairs. A number of papers were presented and thereafter subjected to a scrutiny which was wide ranging in scope and rigorously analytical. The list of experts is included as Annex 1, the list of papers presented as Annex 2 and the programme of the meeting as Annex 3.

It is not the purpose of this Report, and indeed it is not possible, to report in detail the breadth and depth the discussions that took place and the nuances of the various suggestions and recommendations that emanated from this Meeting. Some themes and clusters of recommendations arising from this Meeting will however be highlighted in the following broad headings:

- A. The Changing Environment of the United Nations.**
- B. The Values Underpinning the Recommendations.**
- C. Recommendations on Structural Changes.**
- D. Recommendations on the Processing System.**

- A. The Changing Environment of the United Nations.**

The Meeting noted that the International System had changed from the simple "us" and "them" situation of 1945 - of victors and vanquished, Allies and Axis, aggressors and defenders - to the much more variegated, complex and multi-cultural world of today. The concept of the security of nation states - the key pillar of the UN system - had changed from territorial security to eradication of poverty, removal of inequity, both intergenerational and intra-generational, defence of human rights, prevention of a catastrophe in the planet's ecosystem. The concept of sovereignty of the member states of the UN System had also got qualified as the Western nation-state concept is beginning to erode under the complexities of management and financing of urbanized consumer societies, with mounting citizen demand for local and provincial autonomy, declining citizen confidence in national level democratic processes and the operation of key socio-economic and other processes operating beyond the control of any one state and needing to be controlled and managed by multilateral mechanisms e.g.: the Law of the Sea Convention, the Convention of the Climate, the Convention on Biodiversity, the need to control Trans - National Corporations. All this has profoundly affected the traditional concepts of sovereignty and led to growing demand for multilateral mechanisms for managing the global "commons" - the oceans, interplanetary space, the planet's ecosystems.

The Meeting noted that all those developments and changes in the international system meant that the UN System is now functioning in a world in which the volume and interaction of issues and dangers to security is vastly more complex than when the organisation was created. The need for changing the UN System's structure needed to be looked at both from the viewpoint relatable to the overall context and thereafter to what was applicable in the realm of the oceans, perhaps the most important of the global commons.

B. The Values Underpinning the Recommendations.

The Meeting was of the view that in a multi-cultural variegated international system, the establishment of universally acceptable values was no easy task. The Meeting noted, however, that in the very recent past the international community had reached consensus on some values and aspirations which had been enshrined in three Conventions - relating to the Sea, Climate and Biodiversity - and a Policy Statement - Agenda 21 - and that this represented a good starting point for defining the context in which the restructuring of the UN could take place.

The Meeting noted that these Conventions and Agendas had accepted the following as principles that should inform the actions of the international community.

- the principle considering some domains as the common heritage of mankind - the deep seabed of the oceans, space, biodiversity, climate - and so requiring multilateral management and/or policy making mechanisms;
- the principle of giving importance to ecosystem management within the constraints of socio-economic equity;
- the principles of cooperation and solidarity;
- the principle of promoting equity, inter-generational and intra-generational;
- the principle of democratic behavior, participation, transparency in decision-making, and the involvement of citizen groups - NGOs - along with state parties as actors in the international system.

The Meeting also noted that recent developments and discussions had brought to the fore the need for having lean and non-bureaucratic structures at the multi-lateral level, of making such structures cost-effective and for exercising strict financial control on international organisations. The need for decentralization - to regional and lower levels - had also been stressed as a way out of the rigidities and inefficiencies of centralized control while at the same time ensuring coordination and consideration of matters in a holistic manner through appropriate linking mechanisms both vertical by levels and horizontally by sectors. The Meeting noted that in this regard, the ocean sector had, over the years, developed a rich store of such mechanisms which could serve as models for managing other complex ecosystems such as the atmosphere, space and climate change.

C. Recommendations on Structural Changes:

The Meeting was of the idea that it was very necessary for the Security Council to be made more representative, democratic and transparent in its functioning. A number of proposals were under consideration such as its enlargement; the examination of the so called 'veto' mechanisms linking it organically to the General Assembly - and the Meeting felt that it was necessary for the international community to give its most earnest consideration to this matter so that the chief organ of the UN system could be

made effective, efficient and representative of the urges of the large part of humanity which felt left out of its decision making processes.

The Meeting commended the initiative of the Government of Malta in seeking more meetings of the General Assembly focused on sectoral issues. The Meeting also felt that the historical record of Malta, a small island state, in taking major initiatives during the last 30 years was a good model for other states to follow as that would make for greater participation in the UN system.

The Meeting noted that there was a great deal of stress being laid on citizens' participation in the UN system along the governments of States parties, whether through an international "peoples" assembly in the line of the European Parliament, or federations of NGOs. This was a complex issue and though the principle of citizens' participation was desirable, it needed to be carefully harmonized and balanced with the participation of governments.

The Meeting also considered the question of decentralization to the regional level. In this connection, the Meeting took note of various regional initiatives already under way - the Regional Commissions of the UN, programmes like the Regional Seas Programme of UNEP, regional initiatives of bodies like FAO, IOC etc.. - and was of the view that the whole regional concept needed to be evaluated, whereafter, appropriately coordinated and integrated institutions established at the regional level. This could be done by adding on the functions to existing institutions and mechanisms like the proposal to establish a Regional Commission for Sustainable Development for the Mediterranean in the framework of the Barcelona Convention and the Mediterranean Action Plan.

The Meeting noted that, when it was founded, the UN was supposed to be very closely integrated with the Breton Woods Institutions - the World Bank and the IMF - but that over time, the Breton Woods Institutions had tended to acquire their own character and function separately from the UN system. The Breton Woods Institutions and the UN systems needed to be closely linked and their policies made more relevant to regional needs by decentralizing their functions to autonomous Regional Institutions linked to the Regional Commissions of the UN system. The soon to be established World Trade Organisations needed to have similar close links to the United Nations.

- i. the principle of the Common Heritage of Mankind
- ii. a comprehensive approach to ocean affairs

The Meeting also noted that, keeping in view the exceptional condition of the landlocked states, some of their problems had been taken note of in the 1982 Law of the Sea Convention and some other places; however, more meaningful, possibly specific, measures needed to be taken which, while entitling them to the benefits from oceans, would oblige them to share their responsibilities equally with other members of the world community. The Meeting also emphasized that States should not only be an integrated coastal zone management but on oceans as a whole, including the atmosphere-ocean interaction and the environmental stresses resulting therefrom.

The Meeting further noted that though some steps had been taken to address the problems of landlocked states, more was needed to be done in the form of access for the oceans for transport, scientific endeavors etc. The Meeting also noted that the end of the Cold War has led to negative consequences in the form of careless disposal of nuclear material, winding down of shipyards etc. There was, in the view of the Meeting, the

PART II - UN RESTRUCTURING AND OCEAN AFFAIRS

A. Recommendations on Structural Changes.

The Meeting was of the view that the actual and potential contributions of the United Nations Conventions of the Law of the Sea to the UNCED process, the Agenda for Peace, the Agenda for Development and the progressive development of international law are of prime importance and should have a major impact on the restructuring of the United Nations system as a whole.

The Convention provides the legal framework, the dispute settlement system and the enforcement mechanisms for Chapter 17 of Agenda 21; and also interacts with the Conventions and decisions adopted at the Rio Conference. These Conventions and Agenda 21 on the one hand, and the Law of the Sea Convention on the other, can be utilized to reinforce each other.

The development of the peaceful uses of the oceans and the further elaboration of the principle of the reservation for peaceful purposes as well as the provisions for mandatory peaceful settlement of disputes all have the potential for making major contributions to the Secretary-General's Agenda for Peace.

The implementation of the Agenda for Development can be enhanced by the Convention's provisions especially in the areas of security and development (peaceful uses of navies), sustainable use of living resources, expanding the resource base, integration of environment and development, enhancement of science and information, technology cooperation, and development of human resources. The holding of special sessions of the General Assembly, where states and other entities can consider the closely interrelated problems of ocean space as a whole would further augment and strengthen the Agenda for Development.

The Meeting further noted the two "values" underlying the convention, namely:

- i. the principle of the Common Heritage of Mankind
- ii. a comprehensive approach to ocean affairs

The Meeting also noted that, keeping in view the exceptional condition of the landlocked states, some of their problems had been taken note of in the 1982 Law of the Sea Convention and some other places; however, more meaningful, possibly specific, measures needed to be taken which, while entitling them to the benefits from oceans, would oblige them to share their responsibilities equally with other members of the world community. The Meeting also emphasized that stress should not only be on integrated coastal zone management but on oceans as a whole, including the atmosphere-ocean interaction and the environmental stresses resulting therefrom.

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need to use navies for peaceful purposes in constabulary, monitoring and enforcement roles so as to ensure sustainability of the of the oceanic ecosystem.

It was agreed that Ocean Affairs need to be looked at in an integrated, intersectorial manner which implies a broader approach than presently is the case. In this respect, the present UN system in which several agencies or bodies work in a specific and sectorial area of marine affairs is inadequate. The meeting therefore supported the idea that a Forum on the Oceans be set up so as to deal with ocean affairs in the integrated manner required for the achievement of sustainable management of the oceans as a whole, including where its interaction with land and the atmosphere. Such a Forum could be set up within the framework of the United Nations system and could either meet separately every other year or, as part of the United Nations General Assembly, dedicating special sessions of two to three weeks duration to this area of concern.

It was also suggested that the attempt to improve the efficiency of the General Assembly by transferring new functions to the Trusteeship Council tie in well with the above proposal. The Trusteeship Council could be viewed as a senate-type body which would provide advice on global issues.

It was stressed that there was a strong need to develop adequate matching structures at national level which include all relevant policy making sectors. There is a need to investigate the establishment of Regional Commissions for Sustainable Development which would provide the integrated, intersectorial base for regional programmes.

With regards to the proposed set-up of the Sea Bed Authority, it was agreed that it is of essence that there should be a shift from its current restricted "monitoring" function and limited competence to one emphasizing the sustainable development of resources in particular for developing countries. Its new functions could include the exploration for minerals and oil using its available skills, experience and resources; for environmental testing of seabed mining; for joint projects in sea bed mapping and for the development of training programmes. The establishment of a purely bureaucratic set-up for this authority should be avoided.

The oceans have an environmental dimension which must be conserved, a development dimension which must be carried out in sustainable manner and a disarmament dimension, all of which have huge institutional implications which need to be explored.

Within the UN system, the concept of sustainable development is too somewhat situated. The Commission for Sustainable Development should be given a more central role than it has now.

It was pointed out that the UN system included a number of tools e.g.: WHO, FAO, IOC, UNEP etc., which can, if used properly, result in valuable work; the reason why integrated resource management is still so difficult to achieve is because we lack a true understanding of our own resources and their interdependence.

B. The Values Underpinning the Recommendations.

It was suggested that the world oceans, as a whole, should eventually be accorded the status of Common Heritage of Mankind. It was agreed also that this concept must be extended so as to apply to the water column above the sea bed. It was emphasized that the concept of common heritage is meant as a base for joint management and protection of resources. It was suggested that the EEZ can not be considered as a closed system since matters concerning it transcend political and geographical boundaries. The point was also raised that there was the danger that the EEZ concept could, if applied without limitations, result in a large area of the sea coming under national sovereignty. This would conflict with the principle of the common heritage and would seriously impair the jurisdiction of the Sea Bed Authority.

The concept of sustainable development and that of common heritage are intrinsically linked to that of security. This should have institutional projections, such as, for example, the establishment of a Security Council for the Environment.

The concept of sovereignty needs to be transformed beyond the present state based approach and one should therefore consider the possibility of regarding this concept as a right not of a state but of groups of people or of regions.

C. Processing System.

The Committee noted that as at present the UN System functioned in a fragmented, *ad hoc* and reactive manner. In the view of the Meeting, while there was the need for an ultimate major constitutional transformation of the disparate agencies of the UN System into an integrated, proactive and precautionary system, this was not likely to be possible of attainment in the short run.

In the short run, therefore, the Meeting recommended the establishment of coordinating mechanisms in the line of what has been recommended for the oceans, for sectors like the environment, economic development and poverty eradication.

The Meeting further noted the dispersed location of UN agencies and organs (New York, Geneva, Vienna, Nairobi, Montreal) and was of the view that modern technology could be used to link them up and so provide integration. This could be done by using the information superhighway for information networking (both horizontally and vertically), teleconferencing etc. so that integrated and coordinated functioning could take place.

Among the most important contributions of UNCLOS to the progressive development of international law are the concept of the Common Heritage of Mankind, the creative development of the concept of sovereignty, the comprehensive and mandatory dispute settlement system, the comprehensive and mandatory international environmental law.

The impact of the UNCLOS process, converging with that of the UNCED process, on the restructuring of the United Nations system has already begun in the form of the Commission for Sustainable Development and its supporting organs and the

coordination, streamlining and integration of the UN Agencies and programmes. In the marine sector, it is proposed that the future role of UNCLOS should include:

- the further development of the concept of the Common Heritage of Mankind and its extension to the living resources of the oceans, starting with those of the high seas and the international seabed;
- the strengthening of the Commission for Sustainable Development and its relocation at the centre of the restructured UN system as a Commission for Comprehensive Security and Sustainable Development;
- the establishment of a broadly representative "Ocean Forum" or "Ocean Assembly" where States and other entities can consider the closely interrelated problems of ocean space as a whole;
- the establishment of some form of international taxation, starting, perhaps with a tourist tax and taxes on other industrial/commercial uses of the seas and oceans, on a regional basis, to contribute to the cost of implementing Agenda 21 and the Agendas for Peace and Development;
- early reconsideration by the Council and the Assembly of the International Seabed Authority, of the "initial functions" of that Authority, to implement the "evolutionary approach", contribute to cost-effectiveness and make the Authority immediately useful to the international community and, in particular, to developing countries;
- a request to the International Law Commission for an elaboration and development of the concept of reservation for peaceful purposes and the harmonization and integration of the Seabed Disarmament Treaty, the Law of the Sea Convention;
- the establishment of a Federation of Ocean Universities to enhance interdisciplinary (comprising the natural as well as the social sciences) international cooperation in ocean affairs;
- the establishment of Regional Commissions for Comprehensive Security and Sustainable Development as executive bodies for Regional Seas Programmes, as a step in the process of bringing them up to date, "moving them from Stockholm to Rio";
- the implementation of articles 276 and 277 of the Law of the Sea Convention by establishing Regional Centres for Technology Cooperation, based on the EUREKA system of public private regional cooperation;
- the establishment of proper linkages between the new type of interdepartmental mechanisms for EEZ and coastal management, strengthened regional organisations, and the UN system.

The point was raised that the concept of Common Heritage and sovereignty are often politically influenced whereby the south was often the "victim" of unequal application of these concepts.

There was the need to ensure the process of harmonization between the different conventions and legal instruments; this could be one of the roles of the World Commission on the Oceans which could, *inter-alia*, monitor and coordinate the implementation of UNCLOS.

ANNEX 1 - LIST OF EXPERTS

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3 - 5 October, Malta.*

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PART II - UN RESTRUCTURING AND OCEAN AFFAIRS.

Prof E. Maria Berges: *"Analysis of the UN Convention on the Law of the Sea"*

Dr. D. Nelso: *"The Evolution and Potential of the International Seabed Authority."*

Dr. P. Payoyo: *"Power in Maribus, UNCLOS and UNCED: Integrating Institutional Mechanisms for Ocean Governance."*

Dr. R. Hubert: *"Agenda for Peace and Law of the Sea - Summary of Post IOJ Work."*

Prof. S. Buzza: *"The Future of the Mediterranean: The Case for a Mediterranean Commission for Sustainable Development."*

ANNEX 2 - LIST OF PAPERS PRESENTED

*The UN Second Generation - Experts Meeting
3 - 5 October, Malta.*

KEYNOTE PRESENTATION:

HE Prof G. De Marco: *"The Second Generation United Nations."*

PART I - GENERAL PROBLEMS OF UN RESTRUCTURING

Prof M.M. Puri: *"Geopolitical Dimension to Restructuring the United Nations."*

Mr. S.Borg: *"The Maltese Experience at the United Nations."*

Dr. D. Archibughi: *"The Constitutional Reform of the United Nations."*

PART II - UN RESTRUCTURING AND OCEAN AFFAIRS.

Prof E Mann Borgese: *"Analysis of the UN Convention on the Law of the Sea."*

Dr.D. Nelson: *"The Evolution and Potential of the International Seabed Authority."*

Dr. P. Payoyo: *"Pacem in Maribus, UNCLOS and UNCED:
Integrating Institutional Mechanisms for Ocean Governance."*

Dr. R. Huebert: *"Agenda for Peace and Law of the Sea
- Summary of Post IOI Work."*

Prof. S. Busuttill: *"The Future of the Mediterranean:
The Case for a Mediterranean Commission
for Sustainable Development."*

ANNEX 3 - PROGRAMME OF THE MEETING

The UN Second Generation - Experts Meeting

3 - 5 October, Malta.

Monday, 3rd October:

9.30 Inauguration of *The UN Second Generation - The Experts' Meeting*
Welcome of participants.

Prof S. Busuttil - Foundation for International Studies.

Prof E. Mann Borgese - International Ocean Institute.

Keynote Presentation by:

His Excellency Professor Guido De Marco,

Deputy Prime Minister of Malta, Minister for Foreign Affairs, Malta

“The Second Generation United Nations.”

10.30 **Coffee Break.**

PART I - GENERAL PROBLEMS OF UN RESTRUCTURING

Chairperson: Prof S. Busuttil

Rapporteur: Dr. James Calleja

11.00 **Prof M.M. Puri:**

“Geopolitical Dimension to Restructuring the United Nations.”

11.45 **Mr. Saviour Borg:**

“The Maltese Experience at the United Nations.”

13.00 **Lunch**

Chairperson: Dr. Krishan Saigal

14.30 **Dr. Daniele Archibugi**

“The Constitutional Reform of the United Nations.”

Discussion arising from the proposals and presentations given throughout the day.

16.30 **End**

19.00 Reception at the Speranza Holiday Complex.

Wednesday, 5th October:

Tuesday, 4th October:

PART II - UN RESTRUCTURING AND OCEAN AFFAIRS.

9.30 - Chairperson: Dr. Gunnar Kullenberg

Rapporteurs: Ms. Antonella Vassallo/ Mr. Anton Micallef

9.00 Prof. E. Mann Borgese:

11.30 Discussion "Analysis of the UN Convention on the Law of the Sea."

Discussion and general reactions arising from the proposals put forward by Prof. E. Mann Borgese.

10.30 Coffee Break.

11.00 Dr. Dolliver Nelson:

"The Evolution and Potential of the International Seabed Authority."

12.00 Dr. Peter Payoyo:

"Pacem in Maribus, UNCLOS and UNCED:
Integrating Institutional Mechanisms for Ocean Governance."

13.15 Lunch at Ministry for Foreign Affairs.

Chairperson: Prof David Attard.

14.30 Dr. Rob Huebert:

"Agenda for Peace and Law of the Sea - Summary of Post IOI Work."

15.15 The participants are invited to discuss the papers submitted by H.E. C. Pinto:

"Some thoughts on the 1982 Convention as the Basis for Confidence Building at Sea."

"International Court of justice - Aspects of its Power and Composition."

15.45 Prof. S. Busuttil:

"The Future of the Mediterranean: The Case for a Mediterranean
Commission for Sustainable Development."

16.00 Discussion.

16.30 End

21.00 Dinner

Wednesday, 5th October.

PART II - UN RESTRUCTURING AND OCEAN AFFAIRS. Contd.

9.30 - 11.30 Coordinated by Dr. Krishan Saigal.

Preparation of a Draft Report on the Proceedings of the Meeting.

11.30 Distribution of the Draft Report and discussion of its contents. The participants are invited to contribute elements towards the compilation of the Final Report. The Chairperson will close the meeting by 12.45, Wednesday, 5th October.

13.00 Lunch at the Valletta Yacht Club; to be followed by a cultural excursion in the afternoon.