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Report by the Chairman of the Third Committee

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DOCUMENT A/CONF.62/78
Report of the Credentials Committee

[Original: English]
[26 April 1979]

1. The Credentials Committee held its 9th and 10th meetings on 25 and 26 April 1979. Representatives of all the members of the Committee except Chad were present.

2. The Committee had before it a memorandum by the Executive Secretary of the Conference, dated 23 April 1979, indicating that as of that date communications had been received concerning 139 States participating in the session.

3. Credentials in the form provided for by rule 3 of the rules of procedure of the Conference had been submitted to the Executive Secretary by the following 113 States: Albania, Algeria, Angola, Argentina, Australia, Bahamas, Bahrain, Barbados, Belgium, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chile, China, Congo, Czechoslovakia, Democratic Kampuchea, Democratic People's Republic of Korea, Democratic Yemen, Denmark, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Guatemala, Guinea-Bissau, Guyana, Holy See, Hungary, Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kuwait, Lebanon, Lesotho, Liberia, Malaysia, Maldives, Malta, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Sao Tomé and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen and Zaire.

4. The appointment of the representatives of five States: Dominica, Mauritius, San Marino, Upper Volta and Zambia has been communicated to the Executive Secretary by telegram from the Ministry for Foreign Affairs concerned.

5. The appointment of the representatives of the following 19 countries had been communicated to the Executive

Secretary by letter, cable or note verbale: Austria, Bangladesh, Burundi, Colombia, Costa Rica, Cuba, Cyprus, Dominican Republic, Ecuador, Honduras, Ivory Coast, Jordan, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Mali, Nicaragua, Panama and Yugoslavia.

6. The Executive Secretary informed the Committee that, subsequent to the preparation of his memorandum, credentials in due form had been received from Austria, Fiji and Yugoslavia, and a cable had been received from the Central African Empire.

7. The Chairman proposed that, in the light of past practice, the Committee should accept the credentials referred to in paragraphs 3 and 4 above and that, as an exceptional measure and subject to later validation, it accept the communications referred to in paragraph 5 above in lieu of formal credentials.

8. The representative of Hungary recorded his delegation's objection to the acceptance of the credentials of the delegation of Democratic Kampuchea, stating that, in the view of the Hungarian delegation, these credentials were null and void.

9. The representative of China objected to the statement by the representative of Hungary, stating that, in the view of the Chinese delegation, the credentials of Democratic Kampuchea were valid.

10. The Chairman noted that the views and reservations expressed would be reflected in the report of the Committee. Subject to these views and reservations, summarized in paragraphs 8 and 9 above, the Committee decided to approve the following draft resolution:

"The Credentials Committee,

"Taking into account the views expressed during the debate;

"Accepts the formal credentials of the representatives that have been received;

"Accepts as an exceptional measure and subject to later validation, the communications referred to in paragraph 6 of the Executive Secretary's memorandum of 23 April 1979 in lieu of formal credentials."

DOCUMENT A/CONF.62/L.34
Report by the Chairman of the Third Committee

[Original: English]
[26 April 1979]

**RESULTS OF NEGOTIATIONS ON PARTS XIII AND XIV OF
THE INFORMAL COMPOSITE NEGOTIATING TEXT¹**

1. I have the honour to submit for your consideration this report on the work of the Third Committee during this session. The report was considered at the 40th meeting of the Committee held on 23 April. But, bearing in mind the stage of the Conference, this report indeed reflects the results which have been achieved until now. We have opted, since Caracas, for negotiating fairly in open-ended meetings with the flexible use of all available means of negotiation, but always on the condition that the results should be brought to the attention of the Committee as a whole. The negotiations and discussions which took place during this session were concentrated on the main pending issues in all parts within the mandate of the Third Committee, namely, part XII (Protection and preservation of the marine environment), part XIII (Marine scientific research) and part XIV (Development

and transfer of technology) of the informal composite negotiating text.

2. During the 1st meeting of the Third Committee at this session of the Conference, held on 2 April, I reviewed the outstanding issues, enumerating all the pending informal proposals. Although most of them have been the subject of extensive consideration at the previous sessions, we agreed to provide the sponsors with an additional opportunity to present them to the Committee and hear the reactions of the interested delegations. This was to allow the Committee to assess the chances of acceptability and enable the sponsors to consider how to pursue matters of special interest to them in the future. We agreed also to provide adequate opportunity to discuss those informal proposals which, owing to lack of time during previous sessions, were not thoroughly examined so that they could be taken up again and negotiated at this session.

3. In the course of the present session the Third Committee held 10 meetings in which we heard over 220 interventions. Since during the previous session priority was accorded to discussions and negotiations on matters pertaining to the protection and preservation of the marine environment, this time we made an effort to also give some priority to the pending issues within part XIII.

4. A number of meetings were scheduled to discuss marine scientific research and to provide to the sponsors an opportunity to present their informal proposals and also to give a chance to the members of the Committee to comment on those proposals. It was my belief that a further consideration of them would help us to ascertain the possibilities of broadening the area of agreement.

5. Sensing the feeling in the Committee during this session of wishing to conclude the discussion of part XII, it was agreed that I would chair meetings on some of the pending amendments on the protection and preservation of the marine environment which were considered during the previous informal negotiations under the chairmanship of Mr. José Luis Vallarta (Mexico), as well as all the meetings on marine scientific research.

RESULTS OF NEGOTIATIONS ON PART XII

6. As already stated, some of the meetings on this part were chaired by me and the others, as agreed during our meeting on the organization of work, by Mr. Vallarta. The basic aim of these negotiations and the procedure followed was to broaden the area of compromise and to try to retain and improve those texts and amendments which after prolonged and exhaustive negotiations have proved to command a substantially improved prospect of consensus, thus alleviating the need to repeatedly come back to the same proposals.

7. I wish to point out further that the present report follows the general lines of the same pattern of reporting as the previous reports submitted to you during the past sessions. However, in view of document A/CONF.62/62,⁵ recommendation 10, document A/CONF.62/69,⁵ paragraph 7 and document A/CONF.62/BUR.11/Rev.1, recommendations 6 and 7, and taking into account the requirements contained therein, we have to try at this stage to incorporate in the document reflecting the results of the session those provisions which have emerged from intensive negotiations and which offer substantially improved prospects of consensus compared to the informal composite negotiating text.

8. Under my chairmanship, the Committee discussed the Brazilian proposal on article 209,⁶ paragraphs 1 and 5, the informal proposals of the Bahamas, Barbados, Canada, Iceland, Kenya, New Zealand, Philippines, Portugal, Somalia, Spain and Trinidad and Tobago on article 212,⁷ paragraph 3; the informal proposal of Spain on article 234;⁸ the informal proposals submitted by the United Republic of Tanzania on article 212, paragraph 5, article 229, and a general proposal for the substitution of the expression "competent international organization" by the expression "competent international organizations"⁹ wherever it appears in the text. The Committee also addressed itself to the French proposal as contained in informal document MP/29 related to article 231, paragraph 1.

9. These negotiations, in my personal view, were exhaustive, and under the existing guidelines as contained in document A/CONF.62/62 those informal proposals could not

be considered as commanding a widespread and substantial support to offer an improved prospect of consensus.

10. Under the chairmanship of Mr. Vallarta, the Committee held four informal meetings trying to amalgamate the provisions contained in article 236 with those contained in document MP/18/Rev.1 as proposed by several of the Arab delegations and Portugal. I am pleased to inform you that negotiations were successful and due to the able and flexible chairmanship of Mr. Vallarta, and the sense of co-operation and moderation demonstrated by the sponsors of the amendment to article 236 a revision has been successfully agreed upon. The new text of article 236 thus will read as follows:

"Article 236. Responsibility and liability

"1. States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment. They shall be liable in accordance with international law.

"2. States shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief in respect of damage caused by pollution of the marine environment by natural or juridical persons under their jurisdiction.

"3. With the objective of assuring prompt and adequate compensation in respect of all damage caused by pollution of the marine environment, States shall cooperate in the implementation of existing international law and the further development of international law relating to responsibility and liability for the assessment of and compensation for damage and the settlement of related disputes, as well as, where appropriate, development of criteria and procedures for payment of adequate compensation such as compulsory insurance or compensation funds."

11. The only remaining proposal on this part is the proposal submitted by the Soviet Union, for a new "Part XIV *bis*. General safeguards".¹⁰ From my personal contacts with various interested delegations and from the discussions on the proposals held during the last session, I got the feeling that the Committee would prefer not to discuss this matter in this Committee because of the close link existing between the Soviet proposal and matters pertaining to the Second Committee. In these circumstances, the Committee entrusted me to discuss the matter with the Chairman of the Second Committee and jointly to agree as to the best procedure to be suggested for dealing with the Soviet proposal.

12. In view of the progress of the negotiations made during this session, and the very important positive results that were achieved, I would venture to state that the substantive negotiations on part XII could be considered completed.

In this connexion, I wish to reiterate the assessment contained in my report on 13 September 1978 that "with respect to matters relating to the protection and preservation of the marine environment, we have reached a stage where the informal composite negotiating text thus constitutes a good basis for a consensus. This does not mean that there is no room for further negotiations aiming at improving the texts. But, at the same time, we should take into account the fact that we have reached a balance which should not be disturbed".¹¹

RESULTS OF NEGOTIATIONS ON PART XIII

13. A substantial time of our negotiations was devoted to marine scientific research at this session. As all of us are well aware, some differences of opinion as to the régime of marine scientific research still persist. The Committee

⁵ *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. X (United Nations publication, Sales No. E.79.V.4).

⁶ *Ibid.*, p. 182.

⁷ *Ibid.*, p. 183.

⁸ *Ibid.*, p. 185.

⁹ *Ibid.*, p. 184.

¹⁰ *Ibid.*, p. 186.

¹¹ *Ibid.*, p. 175.

addressed itself to the revised version of the proposals presented by the United States delegation as contained in document MSR/2/Rev.1. During the discussion two new proposals were tabled: by the Soviet Union on article 256 as contained in document MSR/3, and by France on article 248 as contained in document MSR/4.

14. The discussions were exhaustive although in the view of several delegations they could not be considered as conclusive. I felt that there was substantial support for the negotiating text, and for the maintenance of the delicate balance achieved so far in the overall package with regard to part XIII. However, it is well known that several delegations maintained that they should have the opportunity to continue the negotiations on this vitally important issue considering that all efforts to reach a compromise on some of the outstanding questions in this part have not been exhausted.

15. More than 50 interventions were made on the United States proposals—some of them opposing any change in the negotiating text, others advocating the need for certain drafting, stylistic or substantive modifications which would improve the text. It is my submission and without prejudice to the interpretation given by the sponsors, that some of the United States proposals—especially those referring to the conduct of marine scientific research on the continental shelf—were of a substantive nature while others entailed drafting modifications, further clarification of existing provisions or their interpretation. Therefore, it is my personal view that at the later stage of our negotiations and in the light of negotiations in the other committees, we might at an appropriate time try to broaden the basis for agreement on those other pending issues. I would then venture to conclude that, since we have not attained all the required elements to enable us to proceed to a revision of this part I consider that it is very important that we do not preclude the option for another attempt to improve the prospect for a consensus.

16. We had a proposal on this part referring to article 264 submitted by a number of Arab States and Portugal.¹² In the light of the results reached on article 236, no modification of article 264 is needed since paragraph 3 of this article contains an explicit reference to article 236. At the meeting of the Third Committee, the sponsors of the proposal on article 264 agreed with my assumption and withdrew their proposal.

RESULTS OF NEGOTIATIONS ON PART XIV

17. As you will recall during a previous session, Pakistan submitted an informal proposal for the inclusion in the negotiating text of a new article 275 *bis*.¹³ We had an exhaustive discussion on this part during this session and my impression was that Pakistan's proposal was overwhelmingly supported. There were some suggestions for changes which were favourably considered by the Committee on the basis of those proposals and the comments which were made. I would suggest therefore to include in part XIV the following article as amended:

"Section 3. National and regional marine scientific and technological centres

"Article 275 bis. Establishment of national centres

"1. States, through competent international organiza-

tions and the Authority shall, individually or jointly, promote the establishment, especially in developing coastal States, of national marine scientific and technological research centres and strengthening of the existing national centres, in order to stimulate and advance the conduct of marine scientific research by developing coastal States and for strengthening their national capabilities to utilize and preserve their marine resources for their economic benefit.

"2. States, through competent international organizations and the Authority shall give adequate support to facilitate the establishment and strengthening of such national centres for the provision of advance training facilities and necessary equipment, skills and know-how as well as provide technical experts to such States which may need and request such assistance."

18. During the seventh session, the delegation of the United States of America submitted a set of informal suggestions which contained revisions to articles 274 and 276. When submitting the revised version of their amendments, contained in informal document MSR/2/Rev.1, those articles did not appear and I got the impression that the United States delegation would not insist on maintaining those proposals. In this case the negotiations on part XIV could also be considered as completed.

19. In conclusion, I would like to reiterate my understanding that with regard to the provisions of the negotiating text within the terms of reference of the Third Committee, further progress has been made to broaden the areas of agreement and that the basis for a reasonable compromise offering us substantially improved prospects of consensus has been set.

20. I should like to add for the record that this report was considered at the 40th meeting of the Third Committee. I am pleased to inform you that the report as well as my conclusions were received with general approval by the Committee. I will go even further and say that the support expressed by the members of the Committee was so significant and clear that I would venture to consider this report not only as a mere information on our work, but as an important summing up of our deliberations which have taken place until now and also as a collective assessment of the results of the negotiations which have been achieved so far. Although I would refrain from saying that we had completed our mandate since there are some pending proposals on part XIII, nevertheless it should be assumed that the considerations of parts XII and XIV have been concluded. Accordingly I would suggest that all provisions on which consensus was reached or emerged from intensive negotiations during the seventh and the present session and which offer a substantially improved prospect of consensus, be incorporated in a revised edition of the negotiating text as agreed by the Conference.

21. Finally, I should like once again to express my most sincere thanks and appreciation to all members of the Committee for their co-operation and sense of goodwill which enabled us to arrive at a successful conclusion of our work at this session. I should also like to pay special tribute to the secretariat for their dedication, competence and most valuable assistance to this Committee in fulfilling its mandate.

¹²*Ibid.*, p. 188.

¹³*Ibid.*, p. 195.