

# **Third United Nations Conference on the Law of the Sea**

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**A/CONF.62/L.37**

## **Compromise suggestions by the Chairman of negotiating group 6**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XI (Summary Records, Plenary, General Committee, First, Second and Third Committees, as well as Documents of the Conference, Eighth Session)*

However, article 159 will have to take its turn in the list of outstanding issues in spite of my stated opinion that the issues involved are, indeed, ripe for resolution.

#### LEGAL ISSUES (GROUP OF LEGAL EXPERTS)

The deliberations of the group of legal experts were fully reported by Mr. Wünsche at the 45th meeting of the First Committee and I do not have much to add because of its clarity on the issues. However, he has informed me of a desirable amendment to his suggestions under article 188, relating to the submission of disputes to *ad hoc* chambers of the Sea-Bed Disputes Chamber and to binding arbitration. I would invite the plenary Conference to amend paragraph 1 by deletion in the last line of the words "any party" and substitute therefor "the parties".

With regard to the suggestions from the group of legal experts, I am satisfied from consultations that there is widespread feeling that they offer excellent prospects for consensus or at least a much better basis for further negotiations than does the informal composite negotiating text.

I wish to draw attention to a document which has been issued as WG21/1. I should like to point out that as such it in no way attempts or relates to a revision of the informal composite negotiating text. As I explained in the working group of 21 and indicated in the First Committee, the idea is merely to give delegations a picture of how the suggestions from the Chairmen of the various negotiating fora dealing with First Committee matters would, if adopted, fit into the scheme of things proposed by the informal composite negotiating text. It assembles all the suggestions in a common document and gets rid of multifarious numbering systems. It is also my

view that it will aid the negotiating efforts in the First Committee and will ease the revision of part XI in areas where a revision is considered by the plenary Conference to be necessary.

I sincerely hope that in spite of the length of this report I have managed to give you a full account of the deliberations in the First Committee during this session and in a way that enables the plenary Conference to take the vital decisions incumbent on it. My opinions cannot attract more weight than the consensus of all the distinguished representatives of sovereign States assembled here. What must dominate our thinking is the will to resolve problems and to attain a viable universal treaty in which all of mankind will gain.

I should like, in closing, to express my profound gratitude to the delegations who have worked so hard to achieve progress in the First Committee. As I said at the beginning, I have no doubt that they have demonstrated greater political will at this session than at any other.

I should also like, once again, to express the tremendous satisfaction I have had in observing the continuing co-operation of my good friends, Mr. Njenga, Mr. Koh and Mr. Wünsche. The reports they have submitted testify to their dedication and capacity for hard work. It is not as a matter of mere formality that I express my profound gratitude to the representative of the Secretary-General and his able staff who loyally serve us and whose presence in our official life makes the burden of office far less difficult than it otherwise could have been.

I should also like to thank all the others, the interpreters, the secretaries, the précis writers, etc., who have, as always, made a very valuable contribution to our success.

### DOCUMENT A/CONF.62/L.37

#### Compromise suggestions by the Chairman of negotiating group 6

[Original: English]  
[26 April 1979]

#### Article 76. Definition of the continental shelf

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

1 *bis*. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 3 and 3 *bis* below.

2. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor nor the subsoil thereof.<sup>36</sup>

3. For the purpose of the present Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

(a) A line delineated in accordance with paragraph 4 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the

shortest distance from such point to the foot of the continental slope; or,

(b) A line delineated in accordance with paragraph 4 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.<sup>37</sup>

In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

3 *bis*. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 3(a) and (b), shall not exceed 350 miles from the baseline from which the breadth of the territorial sea is measured or shall not exceed 100 miles from the 2,500 metre isobath, which is a line, connecting the depth of 2,500 metres.

4. The coastal State shall delineate the seaward boundary of its continental shelf where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured by straight lines not exceeding 60 nautical miles in length, connecting fixed points, such points to be defined by co-ordinates of latitude and longitude.

5. Information on the limits of the continental shelf beyond the 200-mile economic zone shall be submitted by the

<sup>36</sup>General understanding has been reached to the effect that on the question of underwater oceanic ridges there will be additional discussion and that a mutually acceptable formulation to be included in article 76 will be drawn up.

<sup>37</sup>The suggestion of the delegation of Sri Lanka for an additional method of delimitation applicable to its geological and geomorphological conditions received widespread sympathy. However, the matter has been left for negotiation at the forthcoming session of the Conference.

coastal State to the Commission on the Limits of the Continental Shelf set up under annex . . . on the basis of equitable geographic representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State taking into account these recommendations shall be final and binding.

6. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

7. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between opposite or adjacent States.

*Article 78 bis. Exercise of the rights  
of the coastal State*

The exercise of the rights of the coastal State over the continental shelf must not infringe, or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in the present Convention.

*Article 82. Payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles*

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connexion with exploitation.

3. A developing country which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to the present Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of developing countries, particularly the least developed and the land-locked amongst them.

DOCUMENT A/CONF.62/L.38

Report of the Chairman of the Second Committee

[Original: Spanish]  
[27 April 1979]

1. Three of the negotiating groups established in accordance with the organization of work adopted by the Conference (ACONF.62/62)<sup>38</sup> deal with issues falling wholly or partly within the mandate of the Second Committee. They are negotiating groups 4, 6 and 7.

2. Negotiating group 4, under the chairmanship of Mr. Nandan, of Fiji, deals with the right of access of land-locked States and certain developing coastal States in a subregion or region—or geographically disadvantaged States—to the living resources of the exclusive economic zone.

3. Negotiating group 7, under the chairmanship of Mr. Manner, of Finland, deals with the definition of maritime boundaries between adjacent and opposite States—a Second Committee issue—and settlement of disputes thereon, which is dealt with by the plenary Conference.

4. Negotiating group 6, under my chairmanship, deals with the definition of the outer limit of the continental shelf and the question of payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles, and with the question of revenue sharing.

5. At its 57th and 58th meetings, on 24 April 1979, the Second Committee heard the reports from the Chairmen of the three negotiating groups relating to their work during the eighth session.

6. In the case of negotiating group 4, the debate focused on the question whether the Chairman's proposals (document NG4/9/Rev.2)<sup>39</sup> concerning article 62, paragraph 2, article 69 and article 70 met the requirement laid down in document A/CONF.62/62, recommendation 10, by offering a substantially improved prospect of a consensus. The debate

showed that the general feeling in the Committee was that they did, and I would accordingly recommend their inclusion in any revision or modification of the informal composite negotiating text.<sup>40</sup> The comments on and objections voiced with regard to the compromise proposals of the Chairman of negotiating group 4 are, of course, reported in the summary records of the meeting.

7. The report of the Chairman of negotiating group 7 on the work of that group is contained in document NG7/39. As stated there, except for two drafting amendments to article 15, none of the proposals for revision of the informal composite negotiating text offered a substantially improved prospect of a consensus.

8. I wish to place on record my gratitude to Mr. Nandan and Mr. Manner for their dedication and their contribution to the Committee's work.

9. With regard to negotiating group 6, I shall not repeat here my report to the Second Committee, which appears in document A/CONF.62/C.2/L.100. As I said in the closing paragraph of that report, I have held intensive consultations over the last few days with a number of delegations which have been most active in the group's discussions. The results of these efforts to achieve what may be a decisive breakthrough resolving Second Committee issues, and perhaps issues of the Conference itself, are set out in document A/CONF.62/L.37. I know that there are delegations which will have reservations or objections to my suggestions, but I hope they understand that the negotiations are open-ended and that they will have an opportunity to put forward their own views in our future negotiations. The suggestions I am making for inclusion in any revision of the composite negotiating text are self-explanatory. I am convinced that

<sup>38</sup>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).

<sup>39</sup>*Ibid.*, p. 93.

<sup>40</sup>*Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).