

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

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

**A/CONF.62/SR.116**

## **116<sup>th</sup> Plenary meeting**

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tigate the training facilities which could be made available or devised to meet those needs and to co-ordinate the arrangements for placing students.

31. His delegation wished to make the specific suggestion that, immediately following the signature of a convention, a provisional training fund should be established to finance training awards for qualified students in the disciplines identified as being relevant to the needs of the Authority and the Enterprise. He envisaged such a fund as being financed by voluntary contributions pledged by States and administered on a multilateral basis. It would be complementary to the resources of existing technical training funds and of the States themselves, and would give priority to assistance to students from the poorer developing countries, providing a source of training funds until the Authority itself was established. Such a fund would be a very practical means of promoting and encouraging the training of personnel from developing countries to provide a pool of specialist managerial and technical expertise that could be drawn upon. Thus the Authority would not be handicapped in its recruitment, and developing countries would benefit generally. He hoped that the body administering the fund would be able to call upon existing sources of expertise to provide the training required.

32. If the suggestions just made met with a sympathetic response, it would clearly be necessary to go more deeply into

the question of funding and also of administration. At the present stage he could already say that, if agreement could be reached on the establishment of such an interim training fund on a multilateral basis, the United Kingdom would expect to be able to make an appropriate financial contribution to its resources in the light of the needs of the developing countries to which, as mentioned earlier, it was already providing assistance in other ways.

33. The suggestion made by the Chairman of the First Committee, which the United Kingdom delegation had taken up with enthusiasm, offered an opportunity to turn words into deeds. The United Kingdom believed that deep sea-bed mining should be a co-operative effort between the developed and the developing worlds. It was not without experience in the fields involved and was prepared to help make that co-operative effort a reality. He hoped that other delegations would join his own in taking those proposals further, perhaps at the resumed session in New York.

34. Mr. DIOP (Senegal) suggested that, in view of their great importance, the texts of the last two statements should be circulated to the delegations in full.

35. The PRESIDENT said that the statements would be reproduced *in extenso* in the record of the meeting.

*The meeting rose at 1.20 p.m.*

## 116th meeting

Friday, 27 April 1979, at 3.45 p.m.

Chairman: Mr. H. S. AMERASINGHE.

### **Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the final act of the Conference (concluded)**

#### REPORT OF THE CHAIRMAN OF THE FIRST COMMITTEE (concluded)

1. Mr. DE LACHARRIÈRE (France) said that the French delegation was fully aware of the need for developing countries to have qualified personnel so that they could participate fully in the exploration and exploitation of the sea-bed, since that was the only way to give full meaning to the concept of the common heritage of mankind.

2. France already had some experience in training research workers in all branches of oceanology, especially geophysics and the industrial development techniques relating to marine exploration and different types of new energy, and it was ready to take an effective part in activities that would help developing countries to establish the necessary infrastructures, such as oceanological institutes, to implement a rational policy for the exploration and exploitation of the resources of their economic zones and the management of their coastal areas, to carry out studies on environmental impact, and to take part in the exploration of the international area of the sea-bed and the exploitation of its resources.

3. The National Centre for Ocean Exploration, which in France was the main training centre together with a number of other French institutions, engineering schools and laboratories, was preparing a medium-term programme of action covering both international co-operation and national activities. In addition, France would be ready, on request, to discuss and elaborate joint projects for campaigns of special

interest to a particular country, group of countries or region. In its sea-going expeditions, a list of which was published every year and communicated to the Intergovernmental Oceanographic Commission, France would also be able, if sufficient advance notice was given, to reserve places for research personnel from developing countries and even to provide them with short courses in laboratories concerned before embarking for the expedition. The States members of the European Economic Community were also prepared to take part in such training, as was clear from the seminar on sea-bed exploration and exploitation which they had organized at Brussels in 1977.

4. Training projects would evidently call for a sustained effort and organization and, in his view, the first objective should be to define requirements, so that they could be met in a consistent and orderly manner, with all available resources and means being used as efficiently as possible.

5. Mr. WOLFF (Federal Republic of Germany) said that he welcomed the plan prepared by the Chairman of the First Committee for the training of personnel. That was a most important question since one essential requirement for technology transfer was that recipients should be able to make use of the technology they received. The Federal Republic of Germany would support any programme elaborated by the Conference in that connexion.

6. Mr. RICHARDSON (United States of America) reaffirmed the willingness of his Government to support the plan proposed by the Chairman of the First Committee aimed at generating a pool of trained personnel from developing countries who would comprise important segments of the staff of the Authority and the Enterprise. He added that the training

of these future staff members could present a problem unless initiated at an early stage. Programmes currently sponsored by the United States could be employed as elements in a multilateral programme of training for the prospective staff of the Authority and the Enterprise. He noted that Mr. Zuleta had observed that there were a number of education and training programmes under the sponsorship of United Nations organizations and bodies which could also be relevant to the proposal of the Chairman of the First Committee. He acknowledged that any such programme required the resources of the developed countries and especially those having large mining industries and those developing sea-bed mining technology.

7. He pledged support for the efforts that were to be made during the coming months by the Secretariat to collect information from various sources on the nature and scope of future sea-bed exploration and exploitation activities, and to prepare a preliminary assessment of the knowledge and qualifications that would be needed.

8. Mr. KOROMA (Sierra Leone) said that his delegation was particularly gratified by the positive reaction to the resolution of the Organization of African Unity on the question of transfer of technology. As some delegations had pointed out, certain initiatives were already in progress at the non-governmental level to respond without delay to the urgent needs of developing countries to prepare for participation in the utilization of the common heritage of mankind. Among them, he wished to mention particularly the initiative taken by the International Ocean Institute, which was organizing a programme for training personnel from developing countries in areas such as sea-bed mining technologies, economics, administration and law that fully met the requirements of developing countries.

9. Mr. KOZYREV (Union of Soviet Socialist Republics), referring to the report of the Chairman of the First Committee, stated once again that the Soviet delegation supported the position of the developing countries regarding the transfer of technology and the training of management and other personnel from those countries to apply the technology received. His delegation attached great importance to the training of specialists from developing countries who could contribute to the effective operation of the Authority and the Enterprise. It was indispensable to provide the developing countries with the help they needed in order to be able to take an active part in the work of those two organs as soon as they were established. Such help could be provided to them in the context of the technical assistance they were already receiving, or in other ways; the USSR was providing the developing countries with considerable assistance on a bilateral basis in training personnel. In future negotiations, it was ready to play an active part in the consideration of that question, which would have to be settled in conjunction with the issue of technology transfer.

10. Mr. BAMBA (Upper Volta) said that the favourable response to Mr. Engo's project was gratifying and most encouraging for the developing countries. The African countries were particularly glad that the views of the Council of Ministers of the Organization of African Unity had received such a positive response, though they did not underestimate what was already being done on a bilateral basis. He felt sure that the Conference would see to it that the project was effectively realized.

11. Mr. ZULETA (Special Representative of the Secretary-General) thanked the delegations of the United Kingdom, France, the Federal Republic of Germany, the United States of America and the Union of Soviet Socialist Republics for their offers of collaboration. The Secretariat would take full advantage of those offers.

12. Mr. ENGO (Cameroon), Chairman of the First Committee, said that the main effort with regard to his project was still to be made. He hoped that, in his final report, he would be

able to submit specific proposals for a plan that would command the Conference's support.

#### REPORT OF THE CHAIRMAN OF THE SECOND COMMITTEE

13. Mr. AGUILAR (Venezuela), Chairman of the Second Committee, observed that, in accordance with the decisions of the Conference on the organization of work (A/CONF.62/62),<sup>1</sup> three negotiating groups—Groups 4, 6 and 7—had been set up to consider Second Committee issues.

14. The Second Committee, at its 57th and 58th meetings, had considered the report of the Chairman of Negotiating Group 4 on the question of the right of access of land-locked States and certain developing coastal States to the living resources of the exclusive economic zone. The discussions had been concentrated mainly on the question whether the proposals of the Chairman of the Group (NG4/9/Rev.2)<sup>2</sup> on article 62, paragraph 2, article 69 and article 70 met the requirements stated in paragraph 10 of document A/CONF.62/62, in other words, whether they offered a substantially improved prospect of consensus. Most of the participants took the view that they did, and recommended their inclusion in any revision or amendment of the informal composite negotiating text.<sup>3</sup>

15. The Chairman of Negotiating Group 7, on the delimitation of maritime boundaries between adjacent and opposite States, had stated in his report (NG7/39) that the proposals for the revision of the negotiating text did not at that stage offer a substantially improved prospect of consensus, with the exception of two amendments to the wording of article 15.

16. Negotiating Group 6, of which he himself was the Chairman, had held frequent consultations, as he had indicated in his report to the Second Committee (A/CONF.62/C.2/L.100). The Group's work had resulted in the compromise proposals that he had submitted in document A/CONF.62/L.37. In that connexion, he drew the Conference's attention to a mistake in the English text of those proposals. In article 76, paragraph 3 *bis*, fourth line, the words "or not to exceed 100 miles" should be replaced by the words "or shall not exceed 100 miles" to make the text identical in the four language versions. The proposals in question were self-explanatory and he would restrict himself to two remarks. First, the determination of the base line from which the distances given in paragraph 3 *bis* were to be measured was still a controversial matter which might require further negotiations. Secondly, it emerged clearly from the negotiations and discussions on the continental shelf that the question of scientific research was an important element in an over-all compromise on the jurisdiction of the coastal State vis-à-vis other States. In his opinion, acceptance of his proposals would depend upon the settlement of that issue.

17. He repeated the recommendation that he had made in paragraph 13 of the report he had submitted to the plenary at the seventh session,<sup>4</sup> i.e., that a number of suggestions that had received widespread support should be included in the revised negotiating text. Among those suggestions, he now wished to include a Belgian proposal to add the words "or for the safety of ships" at the end of the first sentence of article 25, paragraph 3.

18. On the subject of marine mammals, discussions had continued with a view to providing better protection for those species.

19. Mr. ATEIGA (Libyan Arab Jamahiriya) said that his delegation was unable to accept the compromise proposals by the Chairman of Negotiating Group 6 (A/CONF.62/L.37), which were contrary to his delegation's position. He was, however, ready to take part in negotiations on the definition of the con-

<sup>1</sup> See *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>2</sup> *Ibid.*, p. 93.

<sup>3</sup> *Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4)

<sup>4</sup> *Ibid.*, vol. X, p.85.

tinental shelf at the next session, on condition that certain principles were respected. They had not been respected in the compromise proposals which, in fact, were not a compromise.

20. Mr. ATAÍDE (Portugal) said that he thought that the proposals of the Chairman of Negotiating Group 6 (A/CONF.62/L.37) provided a satisfactory basis for considering the complex problem of defining the outer limits of the continental shelf. The Chairman of the Group had taken into account all the documents submitted with a view to reaching a compromise, and also documents emanating from the Intergovernmental Oceanographic Commission. The Portuguese delegation believed that, between sessions, delegations might usefully contact oceanographic and hydrographic institutions in the hope of finally reaching a decision that would be in keeping with existing practice on the matter. It was wrong to rely on theoretical concepts that were sometimes vague.

21. Mr. SHERMAN (Liberia) pointed out that a paper of such importance as document A/CONF.62/L.37 should have been submitted to the Second Committee for consideration, and not at the last moment to the plenary meeting. That document was mainly based on the Irish formula which would lead to an encroachment on the international area and was contrary to the position of the Organization of African Unity on the delimitation of the continental shelf. The Liberian delegation therefore regarded that compromise formula as unacceptable.

22. Mr. HAYES (Ireland) said that when the delegation of the Soviet Union had introduced its informal proposal (NG6/8) in Negotiating Group 6, the Irish delegation had displayed a spirit of compromise by accepting an amendment to its own amendment to article 76 (NG6/1 (see A/CONF.62/C.2/L.99, annex II)), and many other delegations had encouraged exploration of a compromise on the basis of that approach.

23. With regard to the compromise proposals by the Chairman of Negotiating Group 6 (A/CONF.62/L.37), his delegation's position on the issue was well known. Despite the shortcomings in the compromise proposals, however, the incorporation of those texts in a revision of the negotiating text would offer a substantially improved prospect of a consensus. Moreover, a revision incorporating both those texts and the proposals emanating from Negotiating Group 4 would facilitate the adoption of a widely acceptable convention.

24. With regard to the work of Negotiating Group 7, the Irish delegation believed that the Chairman's report accurately reflected the trend of the debate, and also the fact that no text had commanded sufficiently broad agreement to justify a revision of the negotiating text.

25. The Irish delegation would welcome the incorporation in the revised negotiating text of an agreed provision on anadromous species, following consultations on that subject in which it had been pleased to participate.

26. Mr. MHLANGA (Zambia) said that on the whole his delegation approved the report submitted by the Chairman of the Second Committee but had a few observations to make on certain points.

27. The text which had been finally accepted as a compromise formula by Negotiating Group 4 (NG4/9/Rev.2) was merely a less unsatisfactory solution than the wording of the negotiating text; it had not really obtained the agreement of a large majority of delegations. Also, in the proposal concerning article 69 there were certain omissions which would have to be remedied in the course of further negotiations. In particular, the article should refer to both living and non-living resources. Furthermore, the "surplus" concept was unsatisfactory since there might in fact be no surplus at all and the land-locked States would then be entitled only to a portion whose definition would be left entirely to the discretion of the coastal States. His delegation had often renewed its proposal (see in

particular A/CONF.62/C.2/L.97)<sup>5</sup> that, if the convention were to provide for an extension of rights beyond the territorial seas of coastal States, such an extension should be regional and should confer genuine rights on all countries of the region concerned.

28. With regard to the new formula concerning the continental shelf proposed by the Chairman of Negotiating Group 6 (A/CONF.62/L.37), the Zambian delegation had expressed a number of objections at the informal meetings, and considered that any compromise on the issue of limits should take into account the report of the Secretary-General on marine resources,<sup>6</sup> since the main purpose of the future convention was to bring about an equitable redistribution of the rights of countries to the resources which formed the common heritage of mankind.

29. Mr. PINTO (Sri Lanka) said that his delegation had submitted an amendment (NG6/5) to the Irish formula in order to ensure that, if a text on the lines of the Irish formula were to be adopted, its application to Sri Lanka's continental margin would not affect the sovereign rights of Sri Lanka over the resources of the margin or its exclusive right to explore and exploit those resources. Since then, the Foreign Minister of Sri Lanka, Mr. Hameed, and the members of its delegation had carried out wide-ranging consultations with delegations which supported the Irish formula, and also with groups that advocated the adoption of other formulas, in order to persuade them of the injustice that would result from the application of the Irish formula to Sri Lanka's continental shelf. His delegation was grateful for the understanding and encouragement it had received from every quarter without exception, and for the offers to place at its disposal the supplementary technical expertise that it might need in the presentation and clarification of its position. That spirit of solidarity should ensure the eventual adoption of a mutually acceptable text.

30. The delegation of Sri Lanka wished to reaffirm its resolute support for the view of the Chairman of the Second Committee that the recognition of the rights invoked by States whose continental shelf extended more than 200 nautical miles, together with the system of payments and contributions provided for in article 82 of the negotiating text and an accommodation of the aspirations of the land-locked and the geographically disadvantaged States, constituted essential elements of the general agreement on the matters referred to the Second Committee. His delegation regretted that the amendment which it had submitted to article 82 (NG6/6) with a view to an equitable accommodation of the interests involved did not appear in document A/CONF.62/L.37, but it recognized that negotiations on the amendment had not yet reached an appropriate stage, and in the meantime it had no objection to the incorporation of document A/CONF.62/L.37 in a revised version of the negotiating text.

31. Mr. ARIAS SCHREIBER (Peru) said that if one wished all countries to participate in an agreement on the delimitation of the continental shelf, it was essential to adopt a realistic attitude. Peru, whose continental shelf was very narrow, had adopted such an attitude and had taken into account the situation of countries whose continental shelf extended beyond 200 nautical miles. Despite the reservations expressed by certain countries, the Peruvian delegation considered that the formula proposed by the Chairman of the Second Committee (A/CONF.62/L.37) offered greater prospects of consensus than the negotiating text, since it provided more specific criteria for the determination of limits. In that connexion, he pointed out that the concept of the common heritage of mankind applied to the zone beyond the limits of national jurisdiction, i.e., beyond the continental shelf and not merely beyond territorial

<sup>5</sup> *Ibid.*, vol. VII (United Nations publication, Sales No. E.78.V.3).

<sup>6</sup> A/AC.138/87.

waters, as certain speakers had wrongly stated on a number of occasions.

32. His delegation was in favour of including the proposed compromise texts in the revised negotiating text, on the understanding that negotiations on the subject would be continued, but it thought that the Second Committee had not exhausted the list of issues referred to it. Although priority had been given to the issues before Negotiating Groups 4, 5, 6 and 7, certain provisions in the negotiating text raised serious problems for many delegations, and he hoped that they could be examined when the session was resumed.

33. Mr. KHOURY (Syrian Arab Republic) objected to the fact that document A/CONF.62/L.37 had been submitted to and was being considered in a plenary meeting. It should have been considered by Negotiating Group 6. The Chairman of that Group had stated in his report (A/CONF.62/C.2/L.100, para. 5) that the discussion had shed new light on various proposals and that he had attempted without success to form a smaller group to consider a compromise text. However, contrary to the good intentions expressed in the last paragraph of the report, the Chairman had not consulted all delegations and had not complied with the Conference's decisions relating to the organization of work (A/CONF.62/62) which required, *inter alia*, that any modifications to be made in the negotiating text should emerge from the negotiations themselves and should not be introduced on the initiative of any single person. Also, rule 33 of the rules of procedure provided that no proposal should be discussed unless it had been circulated in writing on the previous day. The delegation of the Syrian Arab Republic therefore had serious reservations with regard to the procedure adopted in circulating document A/CONF.62/L.37 and it would prefer to keep to the formula proposed by the group of Arab countries (NG6/2 (see A/CONF.62/C.2/L.99, annex I)).

34. The PRESIDENT said that, at the current stage, only the provisions of document A/CONF.62/62 were to be taken into consideration. It was not for any one delegation to decide how a document should be circulated.

35. Mr. WISNOEMOERTI (Indonesia) said that his delegation welcomed the compromise suggestions made by the Chairman of the Second Committee in document A/CONF.62/L.37 and considered that they represented a positive step forward towards a consensus. The proposed articles should be incorporated in any revised negotiating text and should be the subject of further negotiations at the beginning of the following session.

36. Mr. BEESLEY (Canada) said that the compromise proposals for article 76 (A/CONF.62/L.37) represented a major turning point in the negotiations and, in spite of the reservations he might have on certain aspects, greatly strengthened the prospects of reaching consensus on a formula for defining the outer edge of the continental margin.

37. In general, the Canadian delegation associated itself with the views expressed by the representative of Ireland. It was especially pleased that the proposed text was based on the Irish formula which, with many other delegations, it had actively supported. With the incorporation of that formula, the compromise text had the merit of offering objective criteria directly related to the physical characteristics of the margin, while embodying the concept of the seaward extension of the land territory and still providing effective safeguards against exaggerated claims by coastal States.

38. His delegation thanked the delegations of the USSR and the United Kingdom for their contribution to the compromise reached. The new text established limits which bore a closer relationship to the physical characteristics of the continental slope and rise in various parts of the world than any of the other formulations proposed. The text offered a substantially improved basis for compromise by comparison with the ear-

lier formulas, and the Canadian delegation therefore accepted it in spite of the considerable sacrifices which its application would involve for Canada.

39. The same document also contained a proposed amendment to article 82 which would increase the rate of contribution in the revenue-sharing scheme from 5 to 7 per cent. The Canadian delegation had been the first to propose a revenue-sharing system which it regarded as an essential element in any over-all compromise on the definition of the outer edge of the continental margin; but any revenue-sharing system must be without prejudice to the sovereign rights of coastal States in respect of the resources of the continental margin beyond 200 miles. His delegation therefore reserved its position on that part of the text since the proposed rate could make it uneconomic for Canada to explore and exploit its continental margin. Any revenue-sharing scheme to be adopted must be viable. That question must be discussed afresh at the subsequent sessions, but at the present stage of negotiations the Canadian delegation was able to agree that the text should be kept as it was, and that the proposals presented in document A/CONF.62/L.37 should be incorporated in any revised version of the negotiating text.

40. Mr. BENCHIKH (Algeria) said that, in spite of the reservations that his delegation might have concerning the proposals of the Chairman of Negotiating Group 4, it considered that document NG4/9/Rev.2 constituted a better basis for negotiation than the negotiating text and should be included in the revised version of that text.

41. With regard to Negotiating Group 6, he pointed out that at the 58th meeting of the Second Committee it had been stated that none of the texts submitted would improve the prospects of consensus and the Chairman of the Committee had suggested that negotiations on the basis of the same texts should be continued at the beginning of the next session in a smaller negotiating group which it had not been possible to establish at the current session because of difficulties in regard to its composition. Now, however, the Conference had before it a new proposal by the Chairman of the Committee (A/CONF.62/L.37) which was satisfactory only to the supporters of the Irish formula and which could not therefore be said to offer an improved basis for a consensus. In view of the study undertaken by the Intergovernmental Oceanographic Commission, he hoped that it might be possible to formulate a better proposal than that contained in the above-mentioned document, which distorted the Soviet proposal and completely ignored the Arab proposal and could therefore only slow down the negotiations.

42. Mr. VILLADSEN (Denmark) said that his delegation was in agreement with the implied conclusion of the Chairman of the Second Committee concerning the work of Negotiating Group 6, namely, that none of the proposals had gained sufficient support to justify inclusion in a revised negotiating text. The new formula (A/CONF.62/L.37) produced by the Chairman of the Committee in a last effort to accommodate the different viewpoints had not been discussed enough to warrant its acceptance. The Danish delegation hoped that further negotiations would be held on that formula and on other proposals before Negotiating Group 6, in particular the formula proposed by the Danish delegation (NG6/4) in an effort to avoid ambiguity in the wording of the Irish proposal.

43. Mr. AL-MOR (United Arab Emirates), speaking on behalf of the group of Arab States, said that the latest proposal by the Chairman of the Second Committee on article 76 would not contribute to the desired solution, which was to achieve a consensus. Instead of taking into consideration the interests and the positions of all States, the Chairman had reflected only one viewpoint and had produced a marginal and ill-balanced proposal which might at best constitute a working document for the next session, but not a compromise proposal. His delegation had already indicated that it was ready to take into con-

sideration the interests of the coastal States, and it asked those States to bear in mind the interests of other States. The Chairman of the Committee had not consulted the Arab States, and his proposal was unacceptable both in substance and in form, since it gave advantages to certain States to the detriment of others. The Soviet proposal (NG6/8) was better balanced.

44. Mr. NGUYEN THUONG (Viet Nam) said that he agreed with the Chairman of the Second Committee's assessment of the work accomplished and the tasks still to be faced.

45. With regard to the work of Negotiating Group 4, his delegation could accept document NG4/9/Rev.2 as a basis for compromise and hoped that its provision would be incorporated in any revision of the negotiating text.

46. On the subject of article 76 concerning the definition of the continental shelf, his delegation supported the USSR proposal (NG6/8) but could agree with the Irish formula, though reserving its final decision on the provisions of document A/CONF.62/L.37 and especially on the figures in article 76, paragraph 3 *bis*. All those various formulas were useful contributions for further negotiations, but required more detailed study before being incorporated in any revision of the negotiating text.

47. His delegation believed that the problem of the delimitation of maritime boundaries between opposite or adjacent States should be settled in accordance with the principles of equality and mutual respect. It was firmly opposed to any compulsory procedure for the settlement of disputes on that subject by a third party, but would give further thought to the formula proposed in the report of the Chairman of Negotiating Group 7 (NG7/39). At present, however, it would be premature to include that proposal in any revision of the negotiating text. A compromise on that issue, based on the progress made during the last few weeks, would no doubt be possible when the Conference resumed its work.

48. Mr. DE LA GUARDIA (Argentina) said that the formulations proposed by the Chairman of the Second Committee on the subject of the continental shelf deserved careful study since they were the only proposals that seemed likely to lead to an over-all compromise.

49. The Argentine delegation wished however to express certain reservations, particularly with regard to the figures in article 76, paragraph 3 *bis*. The proposal of the USSR delegation was an important contribution for further negotiations, but the limits of the continental shelf should not be at variance with the principle of natural prolongation and the USSR proposal might involve a sacrifice that was difficult to accept. With regard to the revenue-sharing contribution payable for exploitation beyond 200 miles (article 82), his delegation considered that a detailed study was required before changing the figures in the negotiating text, since any change might adversely affect the possibilities of exploiting that zone.

50. On the clear understanding that negotiations would be continued on the various Second Committee issues, the Argentine delegation was able to agree that the proposals by the Chairman of the Committee should be incorporated in any revision of the negotiating text.

51. Mr. KOZYREV (Union of Soviet Socialist Republics) said that the proposals made by the Chairman of the Second Committee in document A/CONF.62/L.37 constituted a considerable step forward in the negotiations on the outer limit of the continental shelf and on the legal régime of the shelf beyond the 200-mile limit. That document would serve as a basis for future negotiations and seemed likely to lead to a compromise, in particular on article 76. Unfortunately, however, the text proposed by the Chairman contained no reference to a number of important elements which should be an integral part of any final solution. In document NG6/8, the USSR delegation had put forward a proposal which had been

supported by a number of countries concerning the rights of other States to undertake certain forms of non-revenue-producing activities on the continental shelf beyond the 200-mile limit. It was essential to regulate once and for all the legal status of that zone, and the USSR delegation was convinced that the whole problem of the continental shelf could be settled only by way of a compromise. Further negotiations would be required at later sessions, as had been pointed out in the report of the Chairman of the Committee.

52. The USSR delegation regretted that the question of the settlement of disputes would also require further negotiation, as would other outstanding issues. For instance, the régime of the economic zone could not be assimilated to that of the territorial sea. A proposal on that point was contained in document C.2/Informal Meeting/35.

53. With regard to the question of disputes concerning living resources, the USSR delegation pointed out that on several occasions it had expressed its objection to the formula proposed (see, for example, 106th meeting,<sup>7</sup> para. 7, and 109th meeting,<sup>7</sup> para. 13).

*The meeting was suspended at 6.15 p.m. and resumed at 7.50 p.m.*

54. Mr. PERIŠIĆ (Yugoslavia) said that his delegation did not think that the compromise formulation submitted by the Chairman of Negotiating Group 6 (A/CONF.62/L.37) could be used as a basis for negotiations during the resumed eighth session of the Conference.

55. Article 76 in the compromise suggestions seemed to represent an amalgamation of various proposals submitted by broad-margin States which was not capable of fully satisfying all the States that supported the 200-mile limit for the continental shelf, as measured from the baselines used for measuring the breadth of the territorial sea, a formula supported by his own delegation.

56. Article 82 in the compromise suggestions represented a slight modification of the corresponding article in the negotiating text. In view of the various proposals to amend that article that had been submitted during the session, it did not seem likely that the compromise would satisfy many participants.

57. Consequently, his delegation felt that the contents of document A/CONF.62/L.37 could not really be regarded as a compromise solution suitable for incorporation in the revised negotiating text.

58. Mr. KRISHADASAN (Swaziland) said that one of the most controversial problems facing the Conference was the question of the delimitation of the continental shelf or continental margin. While not wishing to enter into the substance of the compromise suggestions contained in document A/CONF.62/L.37, his delegation did not feel that either the complete text of that document or any of its elements should be incorporated in ICNT/Rev.1 without in-depth discussion and negotiations between the parties concerned. It would be appropriate for such negotiations on the document in question and on other proposals which had been advanced to take place in a small negotiating group at the beginning of the resumed session.

59. Mr. BRENNAN (Australia) said that the Chairman of Negotiating Group 6 had rightly indicated the various elements that would have to be included in a text delimiting the continental shelf. The first essential element was the principle of prolongation; in previous reports, the Chairman of the Group had expressed the view that that principle would be found necessary for any consensus. The second essential element was a clear and geomorphologically-based delineation of the outer edge of the margin. Thirdly, it was desirable that, at

<sup>7</sup> See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. IX (United Nations publication, Sales No. E.79.V.3)

the time the convention was signed, States parties should be in a position to know that there was a line they could draw on a map beyond which there would be no assertion of coastal State jurisdiction.

60. His delegation felt that the compromise suggestions in document A/CONF.62/L.37 provided a better basis for negotiation than the formulation in the existing negotiating text, for the simple reason that article 76 would give a coastal State vastly greater areas of continental margin than any other proposal under consideration. The Chairman of the Group had also stated that the discussions in the Group had led him to believe that the percentage for revenue sharing specified in article 82 should be increased. In the view of many delegations, that again would provide a better basis for discussion than article 82 as it stood.

61. It was quite clear that future negotiations on the subject would be based on the Chairman's compromise suggestions, rather than on the existing version of the negotiating text, and it thus appeared logical to insert those suggestions in the revised text.

62. Mr. RICHARDSON (United States of America) said that his delegation considered the compromise suggestions by the Chairman of Negotiating Group 6 to be seriously deficient in at least three respects.

63. In the first place, there was no proposal to lift the onerous and unnecessary restrictions on marine scientific research that would apply to the enormous area of the continental shelf, beyond the exclusive economic zone, embraced by the proposed text. He wished to emphasize that no aspect of that question could reach final resolution in the absence of a satisfactory accommodation of the proposals and concerns of the United States regarding the conduct of marine scientific research. He asked the broad-margin States to consider once again why it was necessary to impose severe restrictions on the conduct of marine scientific research, not entailing any drilling, in vast areas that would remain undeveloped and unused for decades to come. Obviously, the texts must be drafted in a way that made it clear that the proposed liberalization of the régime of marine scientific research applied only to the continental shelf beyond the exclusive economic zone and not within the zone. There was no incompatibility between satisfying the desire of the vast majority of coastal States to maintain the substance of the current text within the exclusive economic zone and the desire of a few broad-margin States to draft the new scientific research provisions in a manner consistent with their views regarding the theory of natural prolongation. If the resource interests of broad-margin States were substantially accommodated by the proposed limits, his delegation failed to see any further practical or theoretical impediments to rapid agreement on new texts on scientific research.

64. His second objection related to the determination of the limits of the continental shelf by reference to distance formulas. That objection could not be withdrawn unless the States benefiting from such distance formulas withdrew their objection to a reasonable accommodation of his delegation's concerns on the question of marine scientific research.

65. His third objection was to article 82, paragraph 3, the practical effect of which would be to exempt from the obligation to share revenues those developing coastal States with broad continental margins that had industrialized to the point where they were consuming more petroleum and gas than they produced, in other words, the most developed of the developing coastal States. Such a proposal could hardly be supported by the Conference. However, his delegation's objection could readily be met by deleting article 82, paragraph 3. If that were done, his delegation could agree to the amendment of article 82, paragraph 4, to ensure that the distribution of revenues would take into account the contributions made by developing countries. If paragraph 3 of article 82 were not de-

leted, however, his delegation might be forced to consider the alternative of applying the exception contained in the text of that paragraph to all coastal States, and not merely to developing coastal States.

66. He also wished to recall his delegation's strong objection to the proposed amendment to article 25, paragraph 3, which was so broad in its sweep that it could not be said to offer a greater basis for consensus. However, during the interim period before the resumed eighth session, he would be prepared to consider ways in which the concern underlying that amendment could be addressed in a less sweeping manner.

67. If at the resumed session the Conference proceeded without delay to consider the points he had just made, the recommendations of the Chairman of Negotiating Group 6 might lead to ultimate resolution of the problem. It was only on such an understanding that his delegation could stop short of objecting to the incorporation of those recommendations in a revised negotiating text.

68. Mr. GAYAN (Mauritius) said that the statement he was about to make reflected the views not only of his own delegation but also of the delegation of the Seychelles, which was unfortunately unable to attend the current meeting.

69. The texts elaborated by Negotiating Groups 4 and 5 formed an excellent basis for compromise formulas on the very important issues involved. He also welcomed the compromise suggestions by the Chairman of Negotiating Group 6 on the definition of the outer edge of the continental margin, suggestions which represented a serious attempt to solve a very complex issue. The document in question contained all the elements needed for an acceptable formula: it established very clear criteria for the delimitation of the outer edge of the continental shelf and provided for a system of contributions and payments with respect to the exploitation of the continental shelf beyond the 200-mile limit. In that connexion, he hoped that an acceptable formula would be arrived at, in the framework of the new text, for the delimitation of the continental shelf of Sri Lanka, which had some very special characteristics.

70. While his delegation was not entirely satisfied with all the provisions of the compromise suggestions of the Chairman of Negotiating Group 6, particularly with regard to the revenue-sharing rates, it considered that the text should nevertheless be incorporated in the revised negotiating text.

71. Mr. CASTAÑEDA (Mexico) said that he found the compromise suggestions particularly satisfying in that they were based on the assumption that the rights of a coastal State applied over the natural prolongation of its land territory to the outer edge of the continental margin although there was, of course, a limit beyond which sovereign rights could not be exercised even if, geologically speaking, the prolongation continued further.

72. The important feature of the text submitted by the Chairman of Negotiating Group 6 was that it envisaged a single régime for the whole continental shelf up to that limit, rather than the unacceptable division into two distinct régimes which was to be found in other proposals.

73. On the assumption that it was necessary to establish a limit beyond which the coastal State had no jurisdiction, the criteria for establishing that limit as set forth in the compromise suggestions were, he thought, generally acceptable to the Conference or, at any rate, to the great majority of participants.

74. On the matter of revenue sharing, the formula contained in the compromise suggestions seemed to be generous towards States not having a broad continental margin. The distribution of benefits according to that formula would not be just symbolic but substantial and significant, particularly for developing countries.

75. As he had said, proposals that the continental shelf within the jurisdiction of the coastal State should be divided into two areas, each having a different régime, were unacceptable to his delegation. However, the series of proposals submitted by the United States of America had nothing to do with that question but related exclusively to scientific research. In that connexion, he thought that the Chairman of Negotiating Group 6 had been wise not to include proposals concerning scientific research in his compromise text. It would be an error to involve the question of scientific research in the problems relating to the continental shelf, since the inevitable result would be impairment of the freedom of scientific research. It was clearly preferable to discuss scientific research in another form and in a calmer atmosphere.

76. All in all, his delegation strongly recommended that the compromise suggestions by the Chairman of Negotiating Group 6 should be incorporated in the revised negotiating text.

77. Ms. OSODE (United Nations Council for Namibia) said that the interest of the United Nations Council for Namibia in the Conference was motivated by its strong belief in and support for justice and equity. Those principles had been upheld by many speakers and she hoped that they would be reflected in the future convention.

78. Namibia was a coastal developing State which, it was hoped, would soon become independent. Accordingly, the Council for Namibia was anxious that the future convention should bring some benefits to Namibia and its people. In that connexion, it was pleased to note that the negotiating text included certain provisions which would prevent the Government of South Africa from further usurping the rights of the Namibian people.

79. Although some interesting and important proposals had been submitted to the Conference at its eighth session and a certain amount of momentum had been generated, her delegation felt that the progress towards consensus was slow. It should not be forgotten that the Conference had been given the task of providing, in conventional form, for the exploitation of the common heritage of mankind, including ocean space and its resources. It was essential that that principle should not be undermined at any stage in the negotiations.

80. Mr. AN ZHIYUAN (China) said that, if some of the negotiating groups had not reached their anticipated goals, that was due mainly to the extremely important and complex nature of the issues to be resolved. Nevertheless, in the light of the negotiations which had taken place at the current session and of the amount of work remaining to be done at the resumed session, his delegation believed that the outstanding issues would be solved in a positive manner.

81. The question of the continental shelf had always been a key issue for the Second Committee, and must be solved if the Committee was to accomplish its mission. Unfortunately, agreement on that issue had not yet been reached, despite lengthy consideration and negotiations based on a variety of proposals. His own delegation had consistently taken the view that the delimitation of the continental shelf of a coastal State should be based on the principle of the natural prolongation of its land territory rather than mechanically on certain distance criteria. Consequently, it had supported the two methods of calculating the outer limits of the continental shelf contained in the Irish formula, but had also accepted, without prejudice to the principle of natural prolongation, that the continental shelf of a State might extend to 200 nautical miles where it currently fell short of that distance. It had also listened with sympathy to the Sri Lankan amendment, which should be given positive consideration by the Conference.

82. Accordingly, his delegation had noted with satisfaction the compromise text for article 76 submitted by the Chairman of Negotiating Group 6, which included the principle of natu-

ral prolongation and adopted the two calculation methods contained in the Irish formula. Since, in addition, the compromise suggestions contained concrete proposals regarding revenue sharing, they seemed to provide a sound basis for further negotiations. Nevertheless, the text in question had been submitted very recently and his delegation would prefer that it should be retained for further consideration at the resumed session. It would not, however, object to its inclusion in the revised negotiating text.

83. Mr. FREER JIMÉNEZ (Costa Rica) said that his delegation had constantly supported a strictly geomorphological approach to the delimitation of the continental shelf as the natural prolongation of the coastal State and had thus supported the Irish formula as against proposals based on the distance criterion.

84. The compromise suggestions submitted by the Chairman of Negotiating Group 6 seemed to offer an improved basis for reaching a consensus and thus deserved to be included in the revised negotiating text, particularly as they would entail an increase in the percentage of revenue accruing to the international community.

85. Mr. CALERO RODRIGUES (Brazil) said that his delegation agreed that the results of the work of Negotiating Group 4 should be included in a revised negotiating text and that Negotiating Group 7 had not produced results that could be included in such a revised text. His delegation welcomed the compromise suggestion contained in document A/CONF.62/L.37, which provided a better basis for negotiations aimed at consensus than the existing formulation in the negotiating text and should, therefore, be included in the revised text. He deplored the insensitivity of delegations which had opposed the maintenance of the provision set forth in article 82, paragraph 3, for the benefit of developing countries.

86. Mr. TAHINDRO (Madagascar) expressed his delegation's satisfaction with the informal proposal on article 76 put forward by the delegation of the USSR (NG6/8). Any definition of the continental shelf must state that the continental margin was the natural prolongation of the land territory of the coastal State and that the coastal State could, therefore, claim resources up to the outer margin of its continental shelf. However, out of respect for the concept of the common heritage of mankind, his delegation was prepared to examine any clear and precise compromise formula, including an improved version of the USSR proposal, that would safeguard the interests both of coastal States and of mankind as a whole.

87. In conclusion, he drew attention to the reference made in document A/CONF.62/62 to the questions of the régime of islands and enclosed or semi-enclosed seas, and said that at its resumed eighth session the Conference should embark on intense negotiations on those questions.

89. His delegation had no objection to the procedure followed in the submission of the formula for article 76 contained in document A/CONF.62/L.37, a procedure which was in keeping with the provisions of paragraph 10 of document A/CONF.62/62. The objective of the negotiations had been to arrive at a formula that would acknowledge the rights acquired by many States as a result of their geographical position, and was equitable and legally incontrovertible. The formula proposed by the Chairman of the Committee went a long way towards achieving that objective. It represented a compromise between the various viewpoints expressed and offered the best prospects for achieving a consensus on the question. It should, therefore, be included in the revised negotiating text, without prejudice to the continuation of negotiations on the matter.

88. Mr. LUPINACCI (Uruguay) said that his delegation fully endorsed the conclusions reached by the Chairman of the Second Committee concerning the progress of work in the various negotiating groups of the Committee.



90. Mr. LOHANI (Nepal), referring to the compromise suggestion by the Chairman of Negotiating Group 4, said that it would be unfair to include in the convention any provision whereby decisions concerning the distribution of the resources of the economic zone could be made unilaterally by coastal States. The reference in article 69, paragraph 2, to land-locked States which were participating or were entitled to participate under existing agreements in the exploitation of the living resources of the exclusive economic zone of the coastal State was also unfair to newly independent States which, for historical reasons, had been hitherto unable to participate in such exploitation.

91. Referring to the compromise suggestions by the Chairman of Negotiating Group 6 on the question of the outer limit of the continental shelf, he said that 200 nautical miles should be the cut-off point.

92. He recalled that at the seventh session, his delegation had introduced a proposal (A/CONF.62/65)<sup>8</sup> for a common heritage fund. There had been a great deal of informal discussion on that proposal. The criticisms levelled against the proposal had been most helpful, but it was a source of satisfaction to his delegation that an international committee—Common Heritage International—had been established to support the idea of the Common Heritage Fund. An integral part of his delegation's proposal was its provision for graduated sharing of the \$30 trillion worth of oil and gas within the 200-mile exclusive economic zone.

93. The Conference had been urged to concentrate on certain hard-core issues; the poverty and misery of 800 million human beings was a hard-core issue about which the Conference must do something meaningful. His delegation hoped that the Conference would discuss its proposal and improve it. The establishment of the Common Heritage Fund would contribute to the achievement of the aims of the Conference and would go a long way towards creating the new international economic and political order which was essential if, now and in future, peoples were to live together in peace and justice in a healthy and prosperous world.

94. Mr. MANANSALA (Philippines) said that, at the 58th meeting of the Second Committee, his delegation had agreed that the compromise reached in Negotiating Group 4, as reflected in document NG4/9/Rev.2, offered a substantially improved prospect of a consensus. It was to be regretted that Negotiating Group 7 had failed to produce a compromise formula on the delimitation of maritime boundaries; it was to be hoped that the Group would be able to solve that problem at the resumed session.

95. The new compromise proposal on the continental shelf (A/CONF.62/L.37) represented a step towards the solution of one of the most difficult problems facing the Conference and could be included in a revised negotiating text as the basis for future discussion and negotiation.

96. Mr. MANSFIELD (New Zealand) agreed with the Chairman of the Second Committee that it was clear from the tenor of the debates in that Committee that the compromise proposals which had emerged from Negotiating Group 4 offered a substantially improved prospect of consensus.

97. For lack of time, the compromise proposals put forward regarding the subject matter of Negotiating Group 6 had not been thoroughly studied; his delegation would examine them carefully before the resumed session was held in New York. Pending such examination, it shared some of the reservations expressed by other delegations on certain aspects of those proposals. However, the approach outlined in the proposals had received wide support during the session and the texts proposed would, therefore, seem to represent an improved basis for negotiation. Accordingly, his delegation endorsed the

suggestion that the compromise proposals by the Chairmen of Negotiating Groups 4 and 6 should be included in the revised negotiating text on the understandings expressed by the President of the Conference.

98. Mr. POP (Romania), referring to that part of the report of the Chairman of the Second Committee which dealt with Negotiating Group 4 matters, particularly the question of access by land-locked and geographically disadvantaged countries to the living resources of the economic zone, said that the compromise suggestions submitted by the Chairman of Negotiating Group 4 (NG4/9/Rev.2) marked a step towards consensus. However, those suggestions should be further improved, for example by the incorporation in article 62, paragraph 2, of the Romanian and Yugoslav proposal (C.2/ Informal Meeting/41), against which no fundamental objections had been raised.

99. The new formula on the outer limit of the continental shelf suggested by the Chairman of Negotiating Group 6 should be seriously examined at the resumed session, particularly in view of its implications for the concept of the common heritage of mankind. A decision on the question could not be taken at the present stage of the Conference and it would be wiser not to insist that the suggestions should be included in any revised negotiating text.

100. Turning to the work of the Second Committee on delimitation, he said that the proposals made by the Chairman of Negotiating Group 7 could form a basis for the negotiations to be conducted at the resumed session.

101. Mr. WOLF (Austria) said that many of the suggestions made in document A/CONF.62/L.37 could be regarded as improvements on the negotiating text. It was clear, however, that further negotiations on those suggestions should be started at the very beginning of the resumed session. At the previous meeting it had been decided that the first three weeks of the resumed session were to be devoted to First Committee matters. It seemed necessary, however, to provide for an immediate resumption of negotiations on other issues as well, particularly the issues now under discussion.

102. Mr. MONNIER (Switzerland) said that his delegation regarded the compromise suggestions submitted by the Chairman of Negotiating Group 6 as constructive and of a nature to enable the Conference to reach a generally acceptable compromise. The suggestions adopted the approach favoured by the Swiss delegation, even though they did not achieve the objectives desired by that delegation. Some delegations seemed to consider that the suggestions made in document A/CONF.62/L.37 had the same value as the results of the negotiations conducted in Negotiating Group 4. However, that was not the case. In the opinion of his delegation, the compromise suggestions by the Chairman of Negotiating Group 6 could not be given the same status as the compromise solutions reached by Negotiating Group 4. His delegation felt, therefore, that negotiations should be continued at the resumed session and that the compromise suggestions by the Chairman of Negotiating Group 6 could provide a basis for those negotiations.

103. Mr. JAYAKUMAR (Singapore) said that his delegation had mixed feelings about the suggestions put forward by the Chairman of the Second Committee in document A/CONF.62/L.37. In two respects, the suggestions represented an improvement on the negotiating text. In the first place, they set forth precise and clear delimitation criteria; and, secondly, they had increased the revenue-sharing figure. On the other hand it was a pity that, because the compromise suggestions had been submitted so late, they had not gone through the same process as the text of the proposals submitted by Negotiating Groups 4 or 5. It was, therefore, difficult to say that they had the same status as those documents. Nevertheless, his delegation was prepared to study the docu-

<sup>8</sup> *Ibid.*

ment further and would express its views on it at the resumed session.

104. Mr. ANDERSEN (Iceland) said that, on the understandings expressed by the President of the Conference, his delegation could agree that the texts under consideration should be included in the revised negotiating text.

105. Mr. DE LACHARRIÈRE (France) said that in general his delegation supported all the proposals put forward by the Chairman of the Second Committee. In particular, it supported the suggestions concerning the outer limit of the continental shelf, which constituted an excellent basis for negotiation.

106. Mr. GOERNER (German Democratic Republic), referring to the progress made in the negotiations in the Second Committee, said that special mention must be made of the compromise text which had emerged from Negotiating Group 4 on access by land-locked and geographically disadvantaged States to living resources in the economic zones of coastal States. That text needed to be improved in further negotiations, but it had received widespread support and could be included in the revised negotiating text.

107. The report of the Chairman of Negotiating Group 7 (NG7/39) represented a precise analysis of the stage reached in the negotiations in that Group. It also pointed to possible ways of achieving a compromise on the issues being dealt with by the Group. His delegation was prepared, on the basis of those proposals, to continue to make its contribution in future negotiations with a view to arriving at solutions acceptable to all.

108. The suggestions put forward by the Chairman of the Second Committee in document A/CONF.62/L.37 represented an improvement on the corresponding articles of the negotiating text. In particular, the inclusion of paragraph 3 *bis* in article 76 was a major step forward. The figures contained in that paragraph appeared, however, to represent a very large measure of accommodation in favour of the broad-margin States. Moreover, the provisions on the legal régime of the continental shelf also needed to be improved with a view to ensuring that the freedoms of the high seas would be preserved intact. In further negotiations on those matters, special attention should be given to the proposals by the USSR delegation in document NG6/8. Notwithstanding the shortcomings of the text contained in document A/CONF.62/L.37, which must be the subject of further negotiations, his delegation would not object to its inclusion in a revised negotiating text.

109. Mr. MAKEKA (Lesotho) said that his delegation failed to understand why the Chairman of Negotiating Group 6 had submitted the suggestions contained in document A/CONF.62/L.37 to the plenary meeting rather than to Negotiating Group 6. It hoped that the rule provided for in document A/CONF.62/62, paragraph 10, would be applied. The procedure adopted by the Chairman of Negotiating Group 6 constituted an attempt to impose the suggestions on the Conference. It seemed clear that, if the suggestions had been submitted to the Group, they would not have commanded widespread support. In his suggestions, the Chairman of the Group had failed to take account of other proposals, including the Arab proposal, that had been widely supported during the Conference. His delegation did not consider, therefore, that the suggestions in document A/CONF.62/L.37 in any way represented a compromise; they should not be incorporated in any revision of the negotiating text. His delegation would be prepared to discuss the merits of the suggestions in Negotiating Group 6 at the resumed session. It hoped that the Chairman of the Group would address himself to the proposals made by many delegations that he should set up a small negotiating group.

110. The PRESIDENT said that he did not regard the suggestions made by the Chairman of the Second Committee as an

attempt by one delegation to impose its will on others. All delegations that had been represented in Negotiating Group 6 were now represented in the plenary meeting, so there should be no difficulty in assessing the extent of the support commanded by the proposal.

111. Mr. BAMBA (Upper Volta) said that his delegation had no doubt that the suggestions concerning the continental shelf put forward in document A/CONF.62/L.37 were the outcome of consultations which the Chairman of Negotiating Group 6 had held on the matter; that was precisely why his delegation found them so disappointing.

112. As a land-locked country, the Upper Volta had accepted the compromise text proposed by the Chairman of Negotiating Group 4 because his Government linked the solution of the problems dealt with in that text with the solution of other problems, including that of the common heritage of mankind. His delegation would, therefore, have great difficulty in accepting any formula which tended to place part of the common heritage under the national jurisdiction of coastal States. It believed that, in relation to the Conference's objectives, namely the achievement of equity and justice, the proposed formula on the continental shelf was too extreme to constitute a compromise which would serve as a basis for future negotiations.

113. Mr. ARCULUS (United Kingdom) said that the Conference had to choose between continued frustration and lack of progress on one hand, and the possibility of taking advantage of the initiative of the Chairman of the Second Committee on the other, without committing any delegation and without prejudice to future debate on substance. The question of marine scientific research on the continental shelf had not been mentioned in document A/CONF.62/L.37, but the Chairman of the Second Committee had referred to it in his report. His delegation agreed that further work on that subject should be undertaken in the Third Committee.

114. In conclusion, he said that a positive decision on the question of the continental shelf at the current meeting would do much to reassure public opinion that the Conference could hope to solve the problems facing it. Such a decision would also facilitate the Conference's work on the rest of the convention.

115. Mr. TORRAS DE LA LUZ (Cuba) said that the recommendation by the Chairman of the Second Committee to include in the revision of the negotiating text the suggestions submitted by the Chairman of Negotiating Group 4 (NG4/9/Rev.2) would alone have merited the gratitude of the Conference, since those suggestions related to one of the problems that had led to the greatest divisions within the Conference. Naturally, the gratitude of all delegations should also be expressed to Mr. Nandan, Chairman of the Group.

116. His delegation would have preferred an outer limit of 200 nautical miles for the continental shelf, but, in view of the impossibility of arriving at a consensus on that basis, it was ready to agree to a negotiating formula that took account of two fundamental requirements, namely, the need for a precise definition of the limit, and the need to make provision for a substantial payment for exploitation on all parts of the shelf beyond 200 nautical miles. The compromise suggestions submitted by the Chairman of Negotiating Group 6 met those two requirements and could therefore be included in a revision of the negotiating text, on the understanding that they constituted simply a basis for future negotiations.

117. Lastly, his delegation supported the proposal made by Romania and Yugoslavia concerning article 62, paragraph 2 (C.2/Informal Meeting/41), which was designed to benefit the developing countries.

118. Mr. NANDAN (Fiji) said that considerable efforts had been made to arrive at an agreed solution to the question of the definition of the continental shelf. Such a solution had

been difficult to achieve, with the result that the text originally formulated in the single negotiating text of 1975, which had itself reflected the basic elements of the 1958 Convention on the Continental Shelf,<sup>9</sup> was still unchanged. For a number of years the Conference had also considered the question of a definition of the outer limit of the continental margin. Delegations could now be grateful to the Chairman of Negotiating Group 6 for presenting a formula which took into consideration all the existing views. Naturally, the formula could not meet the demands of everybody, but it took account of the realities of the situation. In particular, the formulation provided a clear definition of the outer limit of the continental shelf and it was therefore a marked improvement over the negotiating text. Again, the revenue-sharing provision established a rate of 7 per cent, as compared with 5 per cent in the negotiating text, and it was an important trade-off for extended jurisdiction over the continental shelf.

119. Apparently, some aspects of the compromise suggestions, such as those relating to oceanic ridges and marine scientific research, together with the proposal by Sri Lanka, might be subject to further negotiations; but the suggestions included other improvements, e.g., the formulation of article 78 *bis*, and they should therefore be retained in the revised text so as to form the basis for continued negotiations at the resumed session. Obviously, such a course would in no way preclude consideration of views that had not been reflected in the compromise suggestions.

120. Mr. MARSIT (Tunisia) said that his delegation had reservations with regard to the compromise suggestions concerning the limits of the continental shelf beyond the 200-mile economic zone. Nevertheless, it was ready to continue negotiations on the matter at a later stage in order to find a solution that would be acceptable to all parties concerned and would take account of their interests and of the concept of the common heritage of mankind.

121. Mr. JAGOTA (India) said that the compromise suggestions submitted by the Chairman of Negotiating Group 6 had been put forward as a result of extensive consultations following negotiations within the Group that had not proved conclusive. The concept of the continental shelf was not a new one and had been under consideration by the Conference since 1974. The definition of the continental shelf had been included in each of the negotiating texts—most recently in the informal composite negotiating text of 1977. Under the definition contained in that text, the continental shelf extended throughout the natural prolongation of the land territory of the coastal State to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines where the outer edge of the continental margin did not extend up to that distance. The question of the outer limit of the continental shelf had been further considered at recent sessions, and the technical aspects of the question had been explained by several expert bodies, such as the Lamont-Doherty observatory of Columbia University, the Intergovernmental Oceanographic Commission and the International Hydrographic Organization. Consequently, the compromise suggestions had an adequate technical background.

122. The question of the outer limit of the continental shelf was an important matter not only for a large number of coastal States but also for the world community of States as a whole. The compromise suggestions submitted by the Chairman of Negotiating Group 6 included a reference to the proposal by Sri Lanka, a friendly neighbour of India, and they would be considered by his Government with all the care they deserved. His delegation should be in a position to offer comments thereon at the resumed session of the Conference. Meanwhile, it had no objection to inclusion of the suggestions in a revised negotiating text as a basis for further negotiations.

123. Mr. VARVESI (Italy) said that the compromise suggestions submitted by the Chairman of Negotiating Group 6 would, in the opinion of his delegation, make for definite progress in arriving at a consensus. Accordingly, he was in favour of including them in the revised negotiating text.

124. Mr. EVENSEN (Norway) said it was clear that questions relating to the outer limit of the continental shelf were some of the most crucial issues outstanding in the negotiations. It must be recognized in all honesty that a large number of coastal States could not agree to an outer limit of 200 nautical miles. On the other hand, it was equally clear that the wide margin solution, according to which the coastal State would be given more or less complete discretion, would also be unacceptable. Therefore, it was essential to include in the revised negotiating text a reasonable compromise which, even if it did not command a consensus, could act as a point of departure for further negotiations at the resumed session. The proposal by the USSR, which was included with some refinements in the formula suggested by the Chairman of Negotiating Group 6, was eminently suitable for that purpose and he wholeheartedly supported the idea of including the compromise suggestions in the revised negotiating text.

125. Mr. MAHMOOD (Pakistan) said his delegation had been among those which had voiced strong objections to the text contained in document NG4/9/Rev.2, which the Chairman of the Second Committee had recommended for inclusion in a possible revision of the negotiating text. In particular, his delegation objected to the granting of a "right" to land-locked and geographically disadvantaged States to participate in exploitation of the living resources of the exclusive economic zone, since such a "right" would be irreconcilable with the sovereign rights of coastal States over those resources. In addition, his delegation objected to the peremptory character of article 69, paragraph 3, and article 70, paragraph 4.

126. A preliminary examination of the compromise suggestions by the Chairman of Negotiating Group 6 indicated that they formed a suitable synthesis of various proposals and should therefore be included in a revision of the negotiating text.

127. Lastly, he agreed with the conclusions reached by the Chairman of Negotiating Group 7, as contained in document NG7/39, that no proposal made during the work of the Group for modification or revision of the negotiating text had either secured a consensus within the Group or had seemed to offer a substantially improved prospect of consensus in the plenary meeting.

128. Mr. KAMANDA WA KAMANDA (Zaire) said that the compromise suggestions by the Chairman of Negotiating Group 6 were essentially an invitation, at that late stage in the proceedings, to engage once again in discussion of the substance of what was a very important problem. His delegation could not associate itself with such a procedure, nor with an approach which implied that all was well and that a text which settled each and every problem had now been worked out. The compromise suggestions were wide-ranging in scope and not enough time was available at that stage to discuss their implications. Obviously, the matter would have to be examined further at the resumed session, but it appeared that the suggestions failed to take sufficient account of considerations of equity. Moreover, the concept of the common heritage of mankind, which was essential to the current negotiations, had neither been spelled out nor confirmed. Hence articles 76, 78 *bis* and 82, as formulated in document A/CONF.62/L.37, set aside the legitimate interests of a large number of geographically disadvantaged States. It was quite evident that article 76, paragraph 7, and article 82, paragraph 3, did not exhaust the issues to which they referred. In addition, the lack of precision in the formulation of article 78 *bis* confirmed his delegation's impression that, at the very most, the text could only serve as a basis for further consideration at the resumed

<sup>9</sup>United Nations, *Treaty Series*, vol. 499, p. 311.

session. It should not therefore be included in the revised negotiating text.

129. It must not be forgotten that the work of the Conference should be set firmly within the context of the establishment of the new international economic order, which was based on the need for greater democratization of international relations. The present negotiations and any texts adopted at the Conference should never in any way challenge those fundamental concepts, either directly or indirectly.

130. Mr. ROBINSON (Jamaica) said that his delegation noted with appreciation the bold and imaginative initiative taken by the Chairman of Negotiating Group 6 in a proposal which should be commended for the approach adopted in marrying the geomorphological criteria of the Irish formula with the simple distance criteria favoured by many delegations, including his own. Nevertheless, he did not wish to comment at that juncture on the actual figures contained in the compromise suggestions with regard to distance and depth or to the percentage for revenue sharing, since they were essential elements that must form the subject of further negotiations at the resumed session, at which time his delegation would be fully prepared to join in efforts to arrive at a consensus on the basis of the compromise suggestions.

131. Mr. ADIO (Nigeria) said that the compromise suggestions contained in document A/CONF.62/L.37 required further examination. His delegation had always advocated an outer limit of 200 nautical miles for the continental shelf. However, as the possibility of further discussion of the issues involved was not pre-empted, he had no objection to inclusion of the suggestions in a revision of the negotiating text.

132. Mr. VELLA (Malta) said that, consonant with the principle of the common heritage of mankind, the position of his delegation had always been that the outer limit of national jurisdiction over the continental shelf should be set at 200 nautical miles. A preliminary perusal of the compromise suggestions by the Chairman of Negotiating Group 6 indicated that they were very controversial, and their inclusion in a revision of the negotiating text might not prove to be the best method of securing consensus. As his delegation had stated in the Group, it was not opposed to further negotiations on the matter, in the manner deemed most appropriate by the Chairman of the Group.

133. Mr. ATTYA SULEIMAN (Kuwait) said that his delegation had reservations regarding the compromise suggestions by the Chairman of Negotiating Group 6 and was opposed to including them in a revision of the negotiating text. It was unreasonable at the present stage to take a hasty decision on such a complex proposal, which required a great deal of clarification in view of its ambiguity, and delegations should be afforded an opportunity to discuss the matter freely. His delegation wished to add its voice to that of the representative of the United Arab Emirates, who had spoken on behalf of the Arab delegations at the Conference, and it was ready in a spirit of co-operation to discuss the suggestions at the resumed session in order to arrive at a compromise.

134. Mr. OLSZÓWKA (Poland) observed that the suggestions by the Chairman of Negotiating Group 6 were of a compromise character and his delegation had no objection whatsoever to their inclusion in a revision of the negotiating text. In addition, it believed that such an important issue should be the subject of continued negotiations at the resumed session.

135. Mr. ENKHSAIKHAN (Mongolia) said that his delegation was not opposed to the inclusion in a revised version of the negotiating text of the compromise suggestions by the Chairman of Negotiating Group 6.

136. Mr. SALEEM (Maldives) said that, as the compromise suggestions contained in document A/CONF.62/L.37 had not been discussed under the usual procedure, they could not be used as a basis for revising the negotiating text.

137. Mr. YANKOV (Bulgaria) said he realized that the compromise suggestions put forward by the Chairman of Negotiating Group 6 did not constitute a negotiated text. However, it was strange that delegations which were in favour of a narrow national jurisdiction over the continental shelf should not encourage a move which went further to meeting their concern. The Conference should be very appreciative of the strenuous efforts made by the Chairman of the Group to advance the negotiations. His own delegation supported that endeavour to bring the Conference to the consideration of a negotiating proposal which offered a better prospect of consensus than did the negotiating text in its present form.

138. Mr. SELVENTHIRANATHAN (Malaysia) said that the compromise suggestions contained in document A/CONF.62/L.37 were worthy of consideration and could well form the basis for further negotiations.

139. Mr. LOAIZA MARIACA (Bolivia) said that the compromise suggestions by the Chairman of Negotiating Group 6 should form the basis of further negotiations at the resumed session. Nevertheless, despite their obvious merits, it would be premature to regard them at the present time as suitable for inclusion in a revision of the negotiating text.

140. Mr. AL-SIARY (Saudi Arabia) said that his delegation could not agree to the compromise suggestions concerning the outer limit of the continental shelf, which did not reflect the majority view at the Conference.

#### Report of the President of the Conference on matters relating to the settlement of disputes

141. The PRESIDENT said that a number of items remained outstanding from the informal plenary meeting on the settlement of disputes. The informal proposal by the Netherlands and Switzerland (SD/1), concerning *ad hoc* chambers of the International Court of Justice (article 287 and annex V, article 16) and certain amendments regarding conciliation procedures (article 284 and annex IV), had been discussed but would require further consideration at informal meetings of the plenary in the course of the resumed session. Another informal proposal was that presented by Yugoslavia (SD/2), concerning the seat of the Law of the Sea Tribunal and consequential changes to annex V, a non-controversial proposal which had been approved by the informal plenary meeting. From the report of the Chairman of Negotiating Group 5 (NG5/16),<sup>10</sup> two issues were outstanding—namely, the question of marine scientific research (article 296, para. 3(a)) and a new informal proposal submitted orally by the United States of America which had involved a problem of translation. Both questions might be solved by a change in terminology but they too would have to be discussed at the resumed session. In addition, article 297, paragraph 1(b), on the question of military and law enforcement activities in the exclusive economic zone, would have to be co-ordinated with the terms of articles 296 and 296 *bis* as contained in the report of the Chairman of the Group.

142. With regard to matters arising from the formal plenary meeting, the discussion of the part of the report of the Chairman of Negotiating Group 7 (NG7/39) relating to settlement of disputes (article 297, para. 1(a)) had proved inconclusive. No proposal had emerged from the Group that would satisfy the requirements of document A/CONF.62/62 for the purposes of revision of the text, and further negotiations would therefore need to be conducted at the resumed session. The report of the Group of Legal Experts (A/CONF.62/C.1/L.25 and Add.1) on aspects relating to the settlement of disputes under part XI of the negotiating text had gone through the Committee stage and been adopted by the Chairman of the First Committee as an integral part of his own report, the whole of which had been

<sup>10</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), p. 120.

considered by the plenary meeting; it would not therefore have to be examined separately. Particular consideration would, however, have to be given to article 188 in document WG21/1, relating to *ad hoc* chambers of the Law of the Sea Tribunal and to the provision concerning arbitration contained in that article. Detailed provisions on the functioning of *ad hoc* chambers under the terms of annex V and on arbitration rules, would also have to be considered and dealt with at the resumed session in the same manner as at the present session. Consequently, no amendments could be made with regard to those two matters.

143. The report of the Chairman of Negotiating Group 5 had already been discussed by the plenary meeting. The spokesman of the group of coastal States and the spokesman of the group of land-locked and geographically disadvantaged States had expressed a willingness to accept the compromise formula for articles 296 and 296 *bis*. The formula could therefore be accepted as offering a better basis for negotiation than did the negotiating text, and it had been decided, without prejudice to the position of certain delegations which felt that there was a link between that matter and the issues before Negotiating Groups 4, 6 and 7, that the provisions in question should replace the existing formulation in the negotiating text.

144. If he heard no objection, he would take it that the plenary meeting agreed to accept the informal proposal submitted by Yugoslavia which he had mentioned earlier and also to take note of his report.

*It was so decided.*

*The meeting was suspended at 10.20 p.m. and resumed at 11.25 p.m.*

145. The PRESIDENT said that, through an unfortunate oversight, he had failed to call upon the Chairman of the Drafting Committee to present a report on the work of that Committee. The Chairman of the Drafting Committee had kindly agreed to present a report in writing which would, of course, be circulated to all delegations.

146. Some delegations had advised him that, owing to lack of opportunity, they had been unable to discuss certain matters. He had given them his assurance that those matters would be given the highest priority at the resumed session. In addition, in accordance with the terms of paragraphs 10 and 11 of document A/CONF.62/62, he would hold a meeting with the Chairman of the Committees, the Chairman of the Drafting Committee and the Rapporteur-General for the purposes of considering a revision of the negotiating text. Any revised version submitted to the Conference at the resumed session would be accompanied by an explanatory memorandum.

147. He thanked participants in the Conference for their strenuous efforts in the course of the negotiations, and expressed his sincere appreciation of the co-operation displayed by the Special Representative of the Secretary-General and the Executive Secretary, and of the assistance rendered by the Secretariat.

148. He declared the eighth session of the Conference suspended.

*The meeting rose at 11.30 p.m.*