

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/C.3/SR.42

42nd meeting of the Third Committee

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

the statement that negotiations would soon be concluded and that all the new texts in the report represented a broad basis for agreement. His delegation agreed with the proposed revisions of articles 242, 247 and 255, although it felt that the new texts involved fresh concessions from the coastal States. The remaining articles, as revised in the Chairman's report, had not been sufficiently negotiated in other committees, and his delegation reserved the right to comment on them later.

75. Mr. WULF (United States of America) said it was well known that his delegation would have preferred a régime for marine scientific research in the exclusive economic zone and on the continental shelf different from that currently reflected in document A/CONF.62/WP.10/Rev.1. The amendments in the Chairman's report were extremely modest in scope and did not entirely satisfy the aspirations of his delegation. However, they were the product of intensive negotiations and reflected the needs of other delegations. His delegation would therefore accept the proposals if others did.

76. With regard to article 246 *bis*, his delegation believed that it should appear as a separate article. Subparagraph (a) of that article did not raise the problem expressed by the representative of the United Republic of Tanzania. He shared the view of the representative of Uruguay that the phrase "does not necessarily mean" did allow for a circumstance wherein the absence of diplomatic relations could mean that normal circumstances did not exist. The point was in determining whether circumstances were normal. The over-all relationship between the researching State and the coastal State should be considered, not just the absence of diplomatic relations. The concerns expressed on that point might be met by clarification from the Chairman. His delegation could not agree with the interpretation given by the representative of Uruguay to article 246 *bis*, subparagraph (b).

77. Mr. VALLARTA (Mexico) said his delegation interpreted the Chairman's report to mean that if, after mature reflection, Governments wished in the future to renegotiate the text, the Third Committee would then be able to study the work done at the current session. His delegation therefore accepted the text as being the culmination of the work that had been done so far but as being held over for future study as well.

78. Referring to article 246 *bis*, he said that the system it embodied affected the principle of the unity of the continen-

tal shelf as it currently existed in international law. With regard to article 264, his delegation would have preferred that the system of peaceful settlement of disputes be applied to every case except those involving the discretion of the coastal State to withhold its consent and the termination of a project when the researching State failed to comply with its obligations. In his delegation's view, the text was unclear on that point.

79. Mr. GLOVER (United Kingdom) said that the provisions relating to marine scientific research contained in document A/CONF.62/WP.10/Rev.1 were the result of intensive negotiation and, although the text was balanced, it was imperfect. His delegation had repeatedly asserted that efforts should be made to reduce the imperfections but retain the fundamental balance, and it believed that part XIII of the document should contain an explicit consent régime to deal with resource-related research on the continental shelf. That important element must be retained in any changes made in the current text. The Chairman's proposals did not contradict that principle; the interests of the coastal States were protected, and at the same time marine scientific research beyond the exclusive economic zone could be conducted with a measure of freedom until the coastal State should wish actively to exploit its sovereign rights. With regard to article 255, his delegation had said often that it regarded that provision as unnecessary but was glad that the question of facilitating access to ports had been settled satisfactorily. The proposal on that had been amended to make clear, as all would be aware, that it might not always be appropriate to give access—for example, having regard to the nature, characteristics and uses of the harbour or port concerned. In conclusion, the report contained useful changes clarifying the text and did not upset the balance of the informal composite negotiating text.

80. Mr. HAFNER (Austria) said that the current text did not coincide with the original ideas of his delegation on how marine scientific research should be regulated. The revisions, however, represented a useful contribution and could serve as a basis for an over-all consensus on the regulation of marine scientific research.

81. The CHAIRMAN, replying to a question by the representative of Uruguay, said that the substantive comments made by delegations required further study and that for the time being he wished merely to take note of them.

The meeting rose at 6.30 p.m.

42nd meeting

Wednesday, 22 August 1979, at 8.20 p.m.

Chairman: Mr. A. YANKOV (Bulgaria)

Report by the Chairman (continued)

1. The CHAIRMAN invited the Committee to continue consideration of the proposals contained in his report (A/CONF.62/C.3/L.33) on the results of negotiations on part XIII of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1). It was encouraging to note that during the discussions the proposals concerning the main substantive issues had, in principle, received general support, despite strong objections from certain delegations with regard to some issues. Some drafting changes had also been suggested.

2. Mr. TIWARI (Singapore), commending the Chairman on his efforts, said that his delegation wished to offer its preliminary comments on the Chairman's proposals.

3. In article 242, the addition of a new sentence appeared to benefit all concerned, and should find general acceptance.

4. He agreed with the Chairman's suggestion that article 246 *bis* could form part of article 246. With regard to subparagraph (a), some delegations had suggested certain drafting changes, which could be incorporated. As to subparagraph (b), however, he felt that further consultations were necessary.

5. He had no difficulty with the drafting change proposed for article 247, but reserved his comments on article 249, on which there had been insufficient discussion.

6. While the new title proposed for article 253 caused no serious problems, the proposed new paragraph 2 might require further consideration.

7. He reserved his delegation's position on the proposed new article 255, which might be too far-reaching.
8. Lastly, he noted that the new paragraph 2 of article 264, while not an ideal solution, was probably the best compromise that could be achieved between coastal and re-searching States.
9. Mr. WALKATE (Netherlands) said that, since the Chairman's proposals represented a package, it was not appropriate to comment on all the articles separately. While some did not reflect his delegation's wishes, others seemed to improve part XIII, which laid down a régime with which his delegation could go along with only reluctantly. The package seemed to be worthy of serious study before the next session, when final decisions would have to be taken.
10. He had great difficulty with the new paragraph 2 of article 264. His delegation could go along with nothing less than the compulsory and binding settlement of disputes over the rights and obligations set forth in the convention. He noted in that connexion that the jurisdiction of the coastal State in respect of marine scientific research did not encompass sovereign rights; the system proposed in paragraph 2 was therefore extremely difficult to accept, based as it was on the assumption that sovereign rights were at stake. The fact was that the coastal State exercised no exclusive rights in the exclusive economic zone, as could be seen from a comparison of articles 245 and 246 of the revised negotiating text.
11. Although it did not underestimate the value of a good system of conciliation, his delegation regretted that new in-road into the system for dispute settlement provided for in part XV.
12. Mr. FERRER (Chile) said that he wished to put before the Committee his delegation's first impression with regard to the Chairman's proposals. Some of the amendments merited approval. With regard to others, however, his delegation agreed with the views expressed at the previous meeting by the representatives of Peru, Brazil, Uruguay and Spain. On the procedural aspect, his delegation agreed that the proposed text could not be regarded *a priori* as ready for inclusion in the new revision of the negotiating text. However, the effort had been useful in that it might facilitate achieving a final consensus at the next session. In that connexion, he noted that the coastal State had yielded some of its jurisdiction, making it easier to safeguard scientific research in its patrimonial sea.
13. He hoped that in future it would be possible to work on the basis of the balance achieved in the revised negotiating text with a view to reaching final agreement.
14. Mr. DIA MASSAMBA (Zaire) said that his country had legitimate ambitions to participate in marine and scientific research programmes for the purposes of development. Giving his delegation's preliminary comments on the Chairman's report, he said that the proposed addition to article 242 was acceptable, since it improved the text.
15. Article 246 *bis*, subparagraph (a), was difficult for his delegation to accept without further study; it might need to be reworded, in view of the practical difficulties that might arise in its implementation.
16. The proposed addition to article 247 was an improvement, and was therefore acceptable to his delegation.
17. Referring to article 253, he felt that a better compromise formula should be found.
18. His delegation supported the position of the Group of 77 to the effect that the revised negotiating text constituted a balanced text and that any proposal that might upset that balance was unacceptable.
19. Mr. BOHTE (Yugoslavia) said that, owing to lack of time to study the Chairman's proposals, his delegation could merely indicate its preliminary reaction to them. At first

glance, it would appear that they departed significantly from the position taken by the Group of 77, which had stated its support for the corresponding provisions of the revised negotiating text.

20. The proposals concerning articles 242 and 247 were acceptable to his delegation, which could also support the proposed new wording of article 255, provided the Peruvian amendment was accepted.

21. The other proposals, however, appeared to change the balance of the revised negotiating text. With regard to article 246 *bis*, his delegation was not sure whether the placing of that article should be left to the Drafting Committee, as the Chairman had suggested.

22. With reference to the régime for scientific research on the continental shelf, his country favoured a wider international area as being the common heritage of mankind, and felt that the International Sea-Bed Authority should have greater competence with regard to marine scientific research on the sea-bed beyond the 200-nautical-mile limit than that implied in the proposed article 246 *bis*, particularly subparagraph (b). Furthermore, that subparagraph entailed discrimination among States in terms of their stages of development.

23. Referring to article 253, he said his delegation had understood from the negotiations that the coastal State would be given a choice between suspension and cessation of research activities. However, under the new paragraph 2, cessation was dependent upon prior suspension and other conditions; those two procedures were not on the same footing. He agreed in that regard with the representatives of Peru and Spain.

24. As to article 264, he agreed with the representative of Peru that a reference to cessation should be included in the new paragraph 2.

25. Lastly, his delegation would like the opportunity to discuss the proposals in document MSR/5, which deserved support.

26. Mr. MARZIOTA DELGADO (Cuba) expressed regret that document A/CONF.62/C.3/L.33 had not been distributed in Spanish until just before the current meeting and fully supported the comments by the representative of Spain concerning the need to make documents available in good time in all the working languages.

27. His delegation agreed that the revised negotiating text represented a consensus reached after many years of negotiation, and supported the position of the Group of 77 in that regard. Offering preliminary comments on the Chairmen's proposals, he said that his delegation supported those which related to articles 242 and 247, as well as article 253, paragraph 1, provided the word "or" in the first line was replaced by the word "and". It could also accept the proposed re-drafting of article 255 either as it appeared in the Chairman's report or with the Peruvian amendment, on which there seemed to be a consensus.

28. However, his delegation found the proposed article 246 *bis* redundant, and supported the views expressed by the Tanzanian representative and other speakers; the matter should be left to the discretion of each State, which exercised sovereignty in that respect.

29. His delegation felt that some progress had been made, and hoped that the work would continue on the basis of a consensus.

30. Mr. TIKHONOV (Union of Soviet Socialist Republics) noted that the Chairman's proposals enjoyed fairly wide support. His delegation agreed that they were largely of a compromise nature and should make it easier to achieve a consensus on part XIII.

31. His delegation had no difficulty with article 242. However, with regard to article 246 *bis*, subparagraph (a), it saw

no pressing need for a special definition of the words "normal circumstances"; but if the majority of delegations did not object to the proposal, his delegation would not stand in the way of a consensus. In any case, the words "not necessarily" seemed to be more suitable than other proposals put forward. As to subparagraph (b), although his delegation was not entirely satisfied with the proposal, it recognized that the wording was the result of intensive negotiations in which diametrically opposed views had been expressed. It would therefore not object to the proposal, regarding it as a compromise on which the majority of delegations might be able to agree.

32. He had no objections to the proposals concerning articles 247, 249 and 253.

33. With reference to article 255, his delegation was satisfied that it represented a compromise position. He agreed, however, with the representatives of Peru and Spain concerning the need to include a reference to the fact that the research in question was research carried out in accordance with the convention. Lastly, the new paragraph 2 of article 264 would be accepted by his delegation in a spirit of compromise.

34. When the Chairman's proposals were considered in the plenary Conference, his delegation would be prepared to support them, with the proviso that part XIII, concerning marine scientific research, was part and parcel of the over-all package relating to the law of the sea, and his delegation's final position would depend on the outcome of the work in other organs and in the Conference as a whole. Since some questions remained pending in other Committees and groups, his delegation might find it necessary to revert to the question of marine scientific research.

35. Mr. DADA (Nigeria) noted that some progress had been made, largely as a result of the skillful way in which the Chairman had directed the negotiations. Improvements had been made in some provisions of the revised negotiating text, such as articles 242 and 247. However, his delegations felt that the revised negotiating text, as it stood, was more satisfactory in respect of certain issues relating to marine scientific research on the continental shelf beyond the 200-mile limit. With particular reference to article 246 *bis*, his delegation could not accept the concept of implied consent which it reflected.

36. His country favoured the conciliation procedure set forth in the revised negotiating text and opposed compulsory dispute settlement. While it appreciated that the new paragraph 2 of article 264 appeared to narrow the gap between two opposing views on dispute settlement, it nevertheless continued to maintain that any dispute arising from the conduct of research for peaceful purposes and in the interest of all mankind should be settled amicably, using a conciliatory procedure. It hoped that consideration would be given to that view before a final compromise formula was arrived at.

37. Mr. MANANSALA (Philippines) regretted that lack of time had prevented a thorough study of the Chairman's proposals. His delegation felt that the existing provisions on marine scientific research contained in the revised negotiating text were, by and large, acceptable, and that some of the new formulations upset the delicate balance which that text represented.

38. Stating his delegation's preliminary views on the proposals, he said that the compromise formula in article 246 *bis*, subparagraph (a), and the addition to article 247 could be considered improvements. The proposed redrafting of article 249 was also acceptable.

39. His delegation had reservations, however, about the new sentence proposed for article 242; it preferred the Cuban formulation set forth in document MSR/5 concerning the in-

formation necessary for the health and safety of persons and the environment.

40. It also had reservations concerning the new paragraph 2 of article 253 and the proposed redrafting of article 255.

41. Lastly, his delegation could not accept article 246 *bis*, subparagraph (b), and the new paragraph 2 of article 264.

42. Mr. CORDOVA (Ecuador), giving his preliminary comments on the Chairman's proposals, the Spanish version of which had only just been distributed, regretted that some of the formulae were unacceptable. He pointed out that the Chairman's report was the outcome of negotiations in small interest groups to which the large majority of delegations had not been invited.

43. His country had frequently expressed serious objections to part XIII of the revised negotiating text, having in mind the need to safeguard the rights of the coastal State. The revised text omitted what some countries regarded as vital rights. Consequently, his delegation had serious misgivings concerning the new formulae which, in the context of the existing imbalance in the revised negotiating text, further weakened the rights of the coastal States.

44. The proposed new paragraphs of articles 253 and 264 were cases in point; in that regard he supported the amendments proposed by Peru. The new paragraph 2 of article 253 omitted a reference to non-compliance with the convention resulting from a deliberate act which, if its consequences were harmful, would constitute an act of bad faith; that omission would prevent the coastal State, despite the gravity of the infraction, from requiring, in accordance with its rights and interests, the immediate cessation of research.

45. In his delegation's view, there were two forms of non-compliance with the convention: either negligence or a flagrant violation in bad faith in which the damage caused was the unequivocal result of an intention. It would be unjust and absurd to retain in the new paragraph wording which would benefit certain interests and omit wording which would benefit all interests. His comments also applied to the new paragraph 2 of article 264, under which the right of the coastal State to require cessation of research could not be questioned by the Conciliation Commission. The determination of non-compliance and of the motives underlying it fell within the exclusive jurisdiction of the coastal State. If the article was to have some degree of acceptability, it must be reworded in the light of the clarification proposed by the representative of Peru. Pertinent suggestions had been made by other delegations, especially that of Uruguay, which had referred to the scope of article 246 *bis*, subparagraph (b), vis-à-vis the implied consent provided for in article 252. That suggestion had his delegation's support.

46. However, some of the proposed new formulae aggravated the existing imbalance in the revised negotiating text to the detriment of the coastal State, to say nothing of the fact that the successive texts, by virtue of the *sui generis* procedures imposed, had systematically omitted reference to essential rights upheld and defended by many delegations, including his own, which had not been invited to participate in the interest groups and which had not been given sufficient time to analyse the proposals. His delegation objected to the progressive encroachment upon the rights of the coastal States — especially developing countries, which lacked economic, technological and military power — by small pressure groups which possessed a monopoly of economic and technological power and which sometimes even resorted to military threats.

47. His delegation therefore deeply deplored the outcome of the negotiating process. Although the current stage of the Committee's deliberations was about to be concluded, he wished to make it absolutely clear that the negotiations would continue in future in the open and cover the entire

complex package, and it was in that context that the proposals put forward, the proposals omitted and the proposals yet to be formulated should be considered.

48. Mr. BENTEIN (Belgium) said that, although his delegation had not yet grasped the precise import of all the amendments proposed by the Chairman, at first reading they appeared to be acceptable in that they made the revised negotiating text more balanced.

49. However, his delegation had difficulties with the new paragraph 2 of article 264, concerning the settlement of disputes, the tortuous style of which reflected the circumstances in which the text had been formulated. At a later stage it would be necessary to make a more detailed analysis of the situation with a view to finding a formula that was legally more defensible. The proposal sought to abandon the principle of compulsory dispute settlement under section 2 of part XV and to replace it by compulsory conciliation procedures. His delegation associated itself with the comments of the Netherlands representative in that regard. Actually, the revised negotiating text already provided for the possibility of conciliation, since article 264 began with the words "Unless otherwise agreed or settled by the parties concerned", and the vast majority of cases would be settled by means of conciliation. His delegation believed, however, that a binding judgement was more appropriate for the purposes of legal stability. His delegation could not support the initiative aimed at detracting from legal stability in favour of a rule which was perhaps dictated by political opportunism but which might prove in the distant future contrary to the interests of marine scientific research.

50. Therefore, while accepting the Chairman's proposals as a whole, his delegation could not at the current stage accept the proposed new paragraph 2 of article 264, since it would be difficult for his Government to depart from a fundamental rule which it had always followed. Furthermore, it would be necessary to calculate the price of that new concession. Attempts were being made to water down the scope of other articles of the revised negotiating text, including article 254, which concerned the rights of neighbouring land-locked and geographically disadvantaged States, and to which his delegation was strongly attached.

51. Mr. LADJIMI (Tunisia) said that the lack of time and other constraints of the Conference did not justify any change in the methods of work. The results of the negotiations should, in the usual way, have been placed before the Committee for discussion. Since, however, there had been no time to evaluate those results, it was difficult for delegations to state their views on the Chairman's report.

52. His delegation had no difficulties with the amendments to articles 242 and 247, nor with the proposed wording of article 255, provided the Peruvian proposal was adopted.

53. Other articles, however, gave rise to difficulties. With regard to article 246 *bis*, subparagraph (a), the question of diplomatic relations should be clarified through a change in the wording. In the case of subparagraph (b), his delegation agreed with that of Yugoslavia that the International Sea-Bed Authority should be associated in some way with the operations carried out beyond the 200-mile limit.

54. As to article 249, he felt that the procedure provided for in the proposed paragraph 1 (d) would not constitute the best means of assisting developing countries to develop their own capacity to assess data and samples. With regard to paragraph 2, he welcomed the Peruvian suggestion that the wording should read "and exploitation".

55. Referring to article 253, he agreed with the proposed change in the title. However, the discussions had indicated the need for a short, unambiguous article covering the rights of the coastal State, which would be the best judge in good faith of whether to suspend or require cessation of research.

56. With regard to article 255, his delegation supported the Peruvian addition of the words "conducted in accordance with the present Convention".

57. Lastly, he felt that it was premature to say that the Committee's work had ended. The work of the Conference constituted a package, and it was difficult for delegations to take final positions without knowing the outcome of negotiations in other committees and groups and before the Chairman's proposals had been fully discussed. It would be wise to re-examine at the next session all the new proposals now before the Committee.

58. Mr. APPLETON (Trinidad and Tobago), commenting on the proposed new sentence of article 242, said that, while his delegation agreed with its objectives, it was not sure whether that provision was not already set forth in article 240, subparagraph (d).

59. With regard to article 246 *bis*, although his country did not have a significant continental shelf beyond the 200-mile limit, it had always defended the integrity of the continental shelf concept. It therefore had reservations with regard to deferral of the exercise of the coastal State's discretion, as provided for in the proposed article 246 *bis*, subparagraph (b).

60. Turning to article 249, he agreed with the Brazilian representative that merely providing the coastal State with an assessment of data would not only stultify the development of its research capability but also limit its ability to monitor and evaluate the researching State's conclusions concerning the data.

61. Commenting on article 264, he agreed with the representative of Peru that, since article 253 had been amended to include the power of suspension, the words "or to demand the cessation of marine scientific research activities" should be included in the new paragraph 2, after the words "to withhold consent".

62. While his delegation generally agreed with most of the proposed amendments, it wished to have further time to study them.

63. Miss MARIANI (France), expressing regret concerning the delay in distributing the French text of the Chairman's proposals, said that her delegation appreciated the considerable work done to improve the revised negotiating text, which was generally satisfactory but needed amendment on certain points. Her delegation was able to accept the proposals concerning articles 242, 249 and 253.

64. With regard to article 255, her delegation still had difficulties with the proposed formula but, in a spirit of compromise, would not object to it. It wished, however, to clarify that it interpreted the words "as appropriate" in the way indicated by the United Kingdom representative, namely, to mean that access to harbours was not automatic.

65. Her delegation had serious difficulties with the existing article 247, and had submitted an important amendment which had been misinterpreted by certain delegations; it also regretted that an error had crept into the English translation. The fact was that the amendment, far from strengthening the concept of implicit consent in the existing text, was aimed at limiting the effects of it by permitting the coastal State to refuse consent by stating its objections only within a specified time-limit. Her delegation considered that its proposal merited more detailed study and therefore requested that it should be reproduced in the Chairman's report in the most appropriate manner so that it could be discussed at the next session.

66. Commenting on article 246 *bis*, she wondered whether there was a consensus on the version proposed. However, she felt that a suitable formula could be found.

67. As to article 264, she thought that the existing formula, subject to possible minor amendments, should meet with general acceptance.

68. In conclusion, she noted that substantial progress had been made under the Chairman's guidance, although some questions would need to be studied in greater depth with a view to reaching a consensus.

69. Mr. SREENIVASA RAO (India) said that the Chairman's proposals could be divided into those which consisted of drafting changes, those which still required a serious negotiating effort and those which were entirely new. His delegation, like the overwhelming majority of delegations, believed that the package presented by the Chairman required further study before a position could be taken on it.

70. Mr. GRÖNWALL (Sweden) said that, since some of the Chairman's proposals were new to his delegation, it would examine them and if necessary revert to them on a future occasion. It would try to determine to what extent the principle of granting the widest possible freedom for marine scientific research, to which it attached great importance, had been met.

71. Commenting on part XII of the revised negotiating text, concerning protection and preservation of the marine environment, he said that a number of serious oil tanker accidents had dramatically demonstrated the need to improve protection of the environment against oil spills. Public opinion in many countries was urging that measures should be taken to improve protection and reduce the risk of severe environmental damage. His delegation attached great importance to the articles of the convention which would prevent marine pollution by vessels or other sources.

72. He noted that, under the revised negotiating text, the coastal State might impose conditions on the entry of any vessel into its ports by requiring, for instance, that it should meet certain standards for protecting the marine environment.

73. With regard to innocent passage through the territorial sea, the coastal State had the power, albeit limited, of setting standards to protect the environment.

74. Within the exclusive economic zone, the coastal State had a certain degree of authority to introduce environmental protection measures. The rules in that regard should be understood as permitting the coastal State, even if it chose not to declare an economic zone, to exercise jurisdiction with regard to environmental standards in areas that could form part of such a zone. That jurisdiction would be exercised within the limits set for the economic zone by the rules of the convention.

75. His Government intended to invoke those provisions to the maximum in order to protect its shores and waters. It might be questioned, however, whether the rules were sufficient and whether the full scope of environmental problems had been accounted for in the revised negotiating text. While his delegation did not wish to disturb the delicate balance of the existing text, developments in that area occurred rapidly and the possibility could not be excluded that a review of the rules might be necessary in the not too distant future.

76. The CHAIRMAN reminded the Committee that the item on its agenda was the report on marine scientific research and requested speakers to confine their comments to that item.

77. Mr. LEGER (Canada) welcomed the Chairman's proposals, which his delegation was ready to examine in depth with a view to seeking a final consensus on Third Committee questions. He also welcomed the comments by the Swedish representative concerning the need for adequate international standards to meet the growing threat to the marine environment. His delegation had repeatedly pointed out that oil spills would continue to occur with increasing frequency

and seriousness unless more vigorous measures were taken by the international community. It had also expressed at a previous meeting its disappointment that more detailed provisions had not been incorporated in the revised negotiating text, especially with regard to the coastal State's rights in the territorial sea. His delegation would have preferred to have environmental problems discussed and settled within the framework of the Conference and the Third Committee. It had full confidence in the Chairman's ability to guide the Committee to a consensus on such urgent questions.

78. Canada accepted the Chairman's conclusions to the effect that his proposals had received a substantial degree of support. It maintained its support for the important provisions elaborated by the Committee, which would serve as a basis for establishing fundamental obligations in respect of protection of the marine environment, thereby filling a gap in international law.

79. Mr. PARK (Republic of Korea) said that, while his delegation had had insufficient time to study the Chairman's proposals, its initial response was positive, since they generally constituted improvements in the revised negotiating text and reflected a balance between coastal and researching States. His delegation had not been deeply involved in the negotiations leading to the Chairman's proposals but, in view of the importance which it attached to those issues, it wished to offer its preliminary comments.

80. Since the basic premise of the new sentence proposed for article 242 was to protect the health and safety of persons and the environment, his delegation strongly supported it. The replacement of the expression "coastal State" by the word "State" was an improvement in that it broadened the concept.

81. With regard to article 246 *bis*, subparagraph (a), his delegation supported it primarily because it felt that the absence of diplomatic relations should not affect scientific research conducted for peaceful purposes. As to subparagraph (b), the fundamental question was whether two different régimes could be accepted with respect to the continental shelf, over which the coastal State exercised sovereign rights. In his delegation's view, the implications of that provision should be considered in connexion with the continental shelf régime, as provided for in articles 76 and 77. Subparagraph (b) could be regarded as incompatible with the basic principle that the coastal State exercised sovereign rights over the continental shelf regardless of whether it extended up to the 200-mile limit or beyond that limit up to the outer edge of the natural prolongation of the land territory, and that, as stated in article 77, paragraph 3, those rights did not depend on occupation, effective or notional, or on any expressed proclamation. His delegation would therefore need to study that provision in greater depth in the context of other relevant articles.

82. His delegation had no difficulty with the proposed addition to article 247. However, with regard to article 249, paragraph 1 (d), it agreed with the view that the coastal State should be provided not only with an assessment of data and samples, but also with the data and samples as such. He therefore proposed that that paragraph should be redrafted to read "If requested, provide the coastal State with such data and an assessment thereof, samples and research results or assist in their interpretation". As to paragraph 2 of that article, he supported the Peruvian amendment regarding the word "or".

83. He could accept the new wording of the title of article 253 and of paragraph 1 thereof, which represented a reasonable compromise between the coastal and the researching States. However, he had some difficulty with the new paragraph 2, because of certain ambiguities and because of the words "reasonable period of time". That expression might

circumscribe the coastal State's right to invoke the provision even in a *prima facie* case where it must require cessation of the activities as quickly as possible.

84. As to article 255, his delegation supported the amendment put forward by the Peruvian representative, for the reasons he had given.

85. In the case of the new paragraph 2 of article 264, his

delegation was concerned with the type of dispute to be submitted to compulsory conciliation as well as with supporting the coastal State's discretion, which should not be called in question by the Conciliation Commission. However, for lack of time, his delegation was not in a position to make specific comments at the current stage.

The meeting rose at 10.10 p.m.

43rd meeting

Thursday, 23 August 1979, at 11.05 a.m.

Chairman: Mr. A. YANKOV (Bulgaria)

Report by the Chairman (*concluded*)

1. Mr. SUZUKI (Japan) said that his delegation found the compromise formulae contained in the report (A/CONF.62/C.3/L.33) generally acceptable and was in a position to support most of the views expressed therein. In particular, it had no difficulty in supporting the proposed amendments to articles 242, 246 *bis*, 247, 249 and 253. It could also support the proposed amendment to article 255, with the changes proposed by the Peruvian delegation (41st meeting). With regard to article 264, although his delegation in principle favoured a compulsory dispute settlement procedure, it was ready as a compromise to give serious consideration to the proposal in the report.

2. Mr. BRAUNE (German Democratic Republic) said that he welcomed the compromise formulae contained in the report under consideration. Regarding the question of marine scientific research on the continental shelf beyond the 200-nautical-mile limit, the German Democratic Republic, a geographically disadvantaged country, had no way of claiming such an extended continental shelf. Like the other socialist countries, it had actively supported the demand by the developing coastal States that marine scientific research within the exclusive economic zone of 200 nautical miles should be subject to the consent of the coastal State involved. In any case, his delegation had spoken, in the Second Committee, in favour of an outer limit of the continental shelf which would coincide with that of the economic zone. The effect of the current provisions of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1) would be to prevent free marine scientific research in a vast area beyond the 200-nautical-mile limit. For that reason, the German Democratic Republic favoured a more liberal régime of marine scientific research in that part of the continental shelf located beyond the 200-nautical-mile limit than in the exclusive economic zone. Although the proposed amendment to article 246 *bis* did not correspond to its wishes, his delegation was none the less prepared to accept it in a spirit of compromise.

3. Concerning article 255, his delegation, which had outlined at the Committee's last but one informal meeting the reasons why it was unable to support the current wording of the text of the revised negotiating text, considered acceptable the proposed compromise wording, as amended at the 41st meeting by Spain and Peru.

4. The German Democratic Republic thus supported the formulae contained in the report, which should, however, be considered within the over-all framework of the negotiations aimed at elaborating the convention envisaged.

5. Mr. CHANOCH (Israel) said that his delegation's final position on article 246 would depend on the provisions of part XV of the revised negotiating text and, more particu-

larly, of article 296 regarding the settlement of disputes arising from marine scientific research.

6. With regard to the new article 246 *bis*, his delegation wished to reserve its position on subparagraph (a). It was not satisfied that such a provision was needed nor, to the extent that it stated a presumption, that the presumption was correctly formulated.

7. With regard to article 252, his delegation also wished to reserve its position on the four-month period specified therein. The possibility of allowing for a slightly longer period should be considered.

8. Regarding article 260, his delegation, while accepting the principle involved, believed that the Drafting Committee should carefully scrutinize its formulation. The current wording contained ambiguities which might open the door to abuses by States deploying or using scientific research installations, whether mobile or stationary.

9. In the light of resolution 16 (Cg-VIII), adopted by the World Meteorological Organization at its eighth congress, his delegation believed that the scientific research referred to in part XIII should also embrace meteorological research over the sea. That aspect should therefore be considered at the following session, preferably with the assistance of the World Meteorological Organization.

10. As for the new paragraph 2 of article 264, it seemed partly to overlap—and to contradict—the current wording of that article. Furthermore, it would be necessary to bring the new paragraph 2 into line with article 296 and probably also article 297. Paragraph 2 of article 296, which negotiating group 5 had properly left untouched the preceding year, also dealt with scientific research and was clearly intended to be an exception to the general principle of compulsory settlement of disputes set forth in article 286. Those were two major issues which would have to be clarified before the final adoption of the text of the convention.

11. Another fundamental question was whether it was really necessary to include in part XIII a specific provision on the settlement of disputes. In whatever form, article 264 seemed to limit the general dispute settlement obligation arising from the application of article 286. It would thus seem logical to include it in articles 296 to 298, where the limits of applicability of the provisions on the subject were outlined. It remained for the Conference to consider, if necessary, the general question of the settlement of disputes once the committees had indicated their basic positions on it. Thus, the Third Committee would pronounce itself on the reservations to the general applicability of the procedures for settling disputes on questions within its competence, in that instance the questions covered by part XIII. His delegation accordingly wished to suggest that the Chairman of the Third Committee bring the matter to the attention of the Confer-