

# **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/L.49 and Add.1-2**

## **Report of the President on the work of the informal plenary meeting of the Conference on the preamble**

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

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the exclusive economic zone shall be determined in accordance with the provisions of that agreement.

*Article 83*

1. The delimitation of the continental shelf between States with opposite or adjacent coasts shall be effected by agreement in conformity with international law. Such an agreement shall be in accordance with equitable principles, employing the median or equidistance line, where appropriate, and taking account of all circumstances prevailing in the area concerned.

2. If no agreement can be reached within a reasonable period of time, the States concerned shall resort to the procedures provided for in Part XV.

3. Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and co-operation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation.

4. Where there is an agreement in force between the States concerned, questions relating to the delimitation of the continental shelf shall be determined in accordance with the provisions of that agreement.

*Article 298*

1. Without prejudice to the obligations arising under section 1, a State Party when signing, ratifying or otherwise expressing its consent to be bound by the present Convention, or at any time thereafter, may

declare that it does not accept any one or more of the procedures for the settlement of disputes specified in the present Convention with respect to one or more of the following categories of disputes:

- (a)(i) Disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles, provided that the State having made such a declaration shall, when such a dispute arises subsequent to the entry into force of this Convention and where no agreement within a reasonable period of time is reached in negotiations between the parties, at the request of any party to the dispute, and notwithstanding article 284, paragraph 3, accept submission of the matter to conciliation provided for in annex IV, and provided further that there shall be excluded from such submission any dispute that necessarily involves the concurrent consideration of any unsettled dispute concerning sovereignty or other rights over continental or insular land territory;
- (ii) After the Conciliation Commission has presented its report, which shall state the reasons on which it is based, the parties shall negotiate an agreement on the basis of that report; if these negotiations do not result in an agreement, the parties shall, by mutual consent, submit the question to one of the procedures provided for in section 2 of part XV, unless the parties otherwise agree;
- (iii) The provisions of this subparagraph shall not apply to any sea boundary dispute finally settled by an arrangement between the parties, or to any such dispute which is to be settled in accordance with a bilateral or multilateral agreement binding upon those parties.

DOCUMENT A/CONF.62/L.48/REV.1

Draft decision sponsored by the representatives of the Philippines, the United Arab Emirates and Greece as respective Chairmen of the group of Asian States, the group of Arab States and the group of Western European and other States

[Original: English]  
[31 March 1980]

*The Conference.*

*Noting* that the question of the seat of the International Sea-Bed Authority has yet to be considered by it in all its aspects.

*Having regard* to the request made by the group of Asian States, the group of Arab States and the group of Western European and other States, as contained in documents A/CONF.62/73, A/CONF.62/75 and A/CONF.62/76,<sup>2</sup> that all the candidates, namely, Fiji, Jamaica and Malta, for the seat of the International Sea-Bed Authority should be considered on an equal basis.

*Decides* that Fiji, Jamaica and Malta should be treated on an equal basis as candidates for the seat of the International Sea-Bed Authority until such time as the Conference has considered and decided upon that question;

*Requests* that the Presidential Collegium should list these candidates accordingly in the relevant article of the revised informal composite negotiating text.

<sup>2</sup> *Ibid.*, vol. XI.

DOCUMENTS A/CONF.62/L.49 AND ADD.1 AND 2

**Report of the President on the work of the informal plenary meeting of the Conference on the preamble**

**DOCUMENT A/CONF.62/L.49**

**Text of the preamble prepared by the President as the recommendation of the informal plenary meeting of the Conference**

[Original: English]  
[27 March 1980]

*The States parties to the present Convention.*

*Prompted* by the desire to settle, in a spirit of mutual under-

standing and co-operation, all issues relating to the law of the sea and aware of the historic significance of the present Convention as an important contribution to the maintenance of peace, justice and progress for all the peoples of the world,

*Noting* that the developments that have occurred since the Geneva Conferences of 1958 and 1960 have accentuated the need for a new and generally acceptable Convention on the law of the sea.

*Conscious* that the problems of ocean space are closely interrelated and need to be considered as a whole:

*Recognizing* the desirability of establishing, through the present Convention, and with due regard for the sovereignty of all States, a legal order for the seas and oceans which would facilitate international communication and promote their peaceful uses, the equitable and efficient utilization of their resources, the study, protection and preservation of the marine environment and the conservation of the living resources thereof.

*Bearing in mind* that the achievement of such goals will contribute to the realization of a just and equitable international economic order which would take into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or land-locked.

*Desiring* by the present Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 in which the General Assembly solemnly declared *inter alia* that the area of the sea-bed and ocean floor and the subsoil thereof, beyond the limits of national jurisdiction, as well as its resources, was the common heritage of mankind, the exploration and exploitation of which should be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States.

*Believing* that the codification and progressive development of the law of the sea achieved in the present Convention will contribute to the strengthening of peace, security, co-operation and friendly relations among all nations in conformity with the principles of justice and equal rights and promote the economic and social advancement of all peoples of the world, in accordance with the Purposes and Principles of the United Nations as set forth in its Charter.

*Affirming* that matters not regulated by the present Convention continue to be governed by the rules and principles of general international law.

#### DOCUMENT A/CONF.62/L.49/ADD.1

##### Note by the President

[Original: English]  
[29 March 1980]

The sixth preambular paragraph begins with the words "Desiring by the present Convention to develop the principles embodied in resolution 2749 (XXV) of 17 December 1970 . . .".

The word "develop" has replaced the words "give effect to" which appear in document Preamble/1/Rev.1 of 24 March 1980.

To avoid any doubts as to the interpretation of the word "develop" the President wishes to place on record the reasons for the use of the word "develop" in place of the words "give effect to".

Many delegations were of the opinion that the Declaration of Principles contained in resolution 2749 (XXV) had from the moment of the adoption of that resolution acquired a definite juridical status, and that the present Convention was not required in order to invest them with such juridical status as they already possessed.

It must be made clear that an expression had to be used which, while not affecting the question of the juridical status of those Principles, would express the desire and intent of the Conference to provide for the application of the concept of the common heritage of mankind by establishing through the present Convention the institutional and legal framework and machinery to give the concept practical shape and form.

#### DOCUMENT A/CONF.62/L.49/ADD.2

##### Report of the President on the work of the informal plenary meeting of the Conference on the preamble

[Original: English]  
[29 March 1980]

1. Commencing on 10 March 1980, the informal plenary considered the question of a draft preamble at six meetings.

2. At the outset, the President drew the attention of the meeting to the relevant documents, which included the following: the report of the Secretary-General, document A/CONF.62/L.13;<sup>9</sup> the proposal of the Group of 77, A/CONF.62/L.33;<sup>10</sup> and the text of the preamble appearing in the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1), as well as proposals of individual delegations.

3. The discussions centred around these documents and, while some delegations were content with the provisions in the revised negotiating text, it appeared that the majority of delegations favoured the Group of 77 draft. It seemed clear that the preamble should be brief, non-controversial and non-polemical. It should not be excessively brief or devoid of political content but should be sufficiently substantive as to cover the essential objectives and at the same time avoid controversial issues. The preamble would have to refer to the genesis of the Conference and its principle objectives, without dealing with the operative part of it.

4. Consequent upon these initial discussions, the President conducted consultations to enable him to prepare a first draft. Document Preamble/1 of 14 March was prepared accordingly, taking into consideration the essential elements referred to above and also the tenor of the discussions and the concerns expressed at his informal consultations.

5. This first draft was considered by the informal plenary on 20 March. The President in introducing the text, explained the contents as follows:

(a) The first and second paragraphs set out the reasons for convening the Conference and its genesis;

(b) The third paragraph was intended as a comprehensive statement of the purposes of the Third United Nations Conference on the Law of the Sea, referring specially to the principle of peaceful uses of ocean space. He clarified this paragraph further by explaining that it did not affect the sovereignty or sovereign rights of coastal States in regard to the use of special maritime zones for other purposes;

(c) The fourth paragraph was intended to express the hope that this Convention would "contribute" to the realization of a just and equitable economic order, as it was not possible to assure anything but merely to express a hope;

(d) The fifth paragraph made specific reference to the Declaration of Principles in resolution 2749 (XXV) and set out the essence of the solemn declaration therein and in particular the new concept of the Common Heritage of Mankind. Special emphasis had to be given to this resolution which provided the impetus for the Conference;

(e) The sixth paragraph expressed the main objectives of the Convention, it being considered appropriate to adhere to the wording of the Charter of the United Nations;

(f) The seventh paragraph was drawn from the Vienna Convention on the Law of Treaties with certain changes.

6. The negotiations that followed disclosed the need for a revised draft, and accordingly, the President prepared a first revision—document Preamble/1/Rev.1 dated 24 March 1980. The principal changes were the following:

<sup>9</sup>*Ibid.*, vol. VI (United Nations publication, Sales No. E.77. V.2).

<sup>10</sup>*Ibid.*, vol. IX.

- (a) the transposition of the two first paragraphs;
- (b) a reference to the marine environment in the third paragraph;
- (c) the inclusion of a reference to "mankind as a whole" being taken into account in the realization of a just and equitable economic order;
- (d) the deletion in the seventh paragraph of the references to rules of international law "not incompatible" with the Convention and also the reference to matters not "expressly" regulated.

7. The discussion of this draft preamble led to its further revision as Preamble/1/Rev.2 dated 26 March 1980. In this text, in response to several delegations who felt that the previous drafts started on too pedestrian a note, a new first paragraph was incorporated which provided a "more grandiloquent beginning". This emphasized the importance and historic significance of the Convention. Other changes included the reference to "conservation of the living resources of the seas and oceans" in the third paragraph and the rationalization of the use of the terms "seas" and "oceans". The study of the marine environment was also included.

8. The sixth preambular paragraph in Preamble/1/Rev.2 changed the formulation and instead of the words "to give effect to" the Declaration of Principles, the concept of "developing" the principles in that declaration was included.

The reasons for this change and the understanding on which it was made are to be found in the Note by the President dated 27 March 1980, document Preamble/2.

9. The eighth preambular paragraph was reformulated for purposes of clarity with the inclusion of the word "principles" after the reference to rules of international law, as this found support in article 38 of the Statute of the International Court of Justice.

10. On consideration by the informal plenary, Preamble/1/Rev.2 was only changed in the seventh paragraph by substituting the word "strengthening" for the word "maintenance" in relation to peace, security, co-operation and friendly relations.

11. With this slight change, Preamble/1/Rev.2 was found to receive the necessary degree of acceptance as required by document A/CONF.62/62, paragraph 10, for inclusion in the second revision of the informal composite negotiating text, and there was agreement that it should be submitted to the plenary on that basis.

12. The President presented in document A/CONF.62/L.49 an agreed text for a preamble together with an explanatory note.

*"Ibid.*, vol. X.

## DOCUMENT A/CONF.62/L.50

### Report of the Chairman of the Third Committee

[Original: English]  
[28 March 1980]

1. I have the honour, in accordance with the decisions of the Conference with regard to the tasks assigned to the Third Committee during the first stage of this ninth session, to submit for consideration by the Conference, the report on the work of the Third Committee. The programme of work for the ninth session approved by the Conference as contained in document A/CONF.62/L.46 placed as an important objective the conducting of necessary consultations involving all delegations in order to the extent possible to reach compromise solutions on outstanding issues.

2. In complying with this requirement, the Third Committee concentrated its work on a number of pending issues relating to Part XIII (Marine Scientific Research) of the informal composite negotiating text which remained unsettled from the previous sessions of the Conference. The main problem area was the régime for the conduct of marine scientific research on the continental shelf beyond 200 miles, the conditions for suspension or cessation of marine scientific research. Another issue which was subject to further consideration was the draft article relating to the rights of land-locked and geographically disadvantaged States with regard to marine scientific research activities. There were also some questions of a drafting nature pertaining to other provisions.

3. Following the well-established method of work in the Third Committee, the negotiations during this session were carried out mostly in informal meetings of the Third Committee as a whole. At this session, even more than before, all delegations were able to be fully involved in the negotiating process. However, when the need arose, the negotiations and informal consultations were carried out in several smaller groups which made a very positive contribution indeed to the work of the Committee. The results of their endeavours were always brought to the attention of the Committee for its approval. The main objective in all cases was to improve further the grounds for reaching a compromise which would substantially improve the prospect of a consensus.

4. I am pleased to report that at this session as in the previous sessions, the Third Committee made substantial progress. On some of the outstanding issues, the negotiations resulted in compromise proposals on which consensus was achieved. This is the case with articles 242, 247, 249 and 255. With respect to articles 246, 253, 254 and 264, the Committee had very intensive negotiations which, step by step, brought the negotiating process to positive results. On these articles, namely, paragraphs 4, 6 and 7 of article 246, articles 253, 254, and paragraph 2 of article 264, compromise formulae have emerged which offered better prospects for agreement. At the same time, it should be pointed out that there were some reservations and objections on substance or of a drafting nature but it is my considered view that from the widespread support prevailing in the Committee, they were found to provide a substantially improved prospect of a consensus as required by paragraph 10 of document A/CONF.62/62." Therefore, I propose that all the revised articles contained in the annex to this report, should be incorporated in the second revision of the negotiating text.

5. With the solution of the above-mentioned pending issues, the Third Committee has, in my view, successfully completed the consideration of Part XIII. Having in mind that negotiations and the drafting of Part XII (Protection and Preservation of Marine Environment), as well as Part XIV (Development and Transfer of Marine Technology) were completed at the previous session, I am now pleased to report that the Third Committee has accomplished its tasks at this stage of the Conference. This is not only an outstanding achievement in the endeavours of all the delegations involved in the work but I believe that it could be considered a very significant development of the Conference as a whole.

6. Finally, I should like to take this opportunity to express my most sincere thanks and appreciation to all the delegations for their understanding and co-operation, and to the secretariat, for their competence, dedication, and most valuable as-