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A/CONF.62/L.50

Report of the Chairman of the Third Committee

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)*

- (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.62/62,¹ 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.

¹*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.62/62.¹ 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-

sistance rendered to the Committee throughout all the sessions of this Conference.

ANNEX

Proposals emerging from the informal negotiations which have acquired widespread support as to provide substantially improved prospect of a consensus

Article 242. Promotion of international co-operation

1. States and competent international organizations shall, in accordance with the principle of respect for sovereignty and jurisdiction and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.

2. In this context, without prejudice to the rights and duties of States under this Convention, a State in the application of this Part shall provide as appropriate other States with a reasonable opportunity to obtain from it, or with its co-operation, information necessary to prevent and control damage to the health and safety of persons and the environment.

Article 246. Marine scientific research in the exclusive economic zone and on the continental shelf

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.

2. Marine scientific research activities in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.

3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

4. Normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State for the purposes of applying paragraph 3.

5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:

(a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;

(b) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;

(c) involves the construction, operation or use of artificial islands, installations and structures as referred to in articles 60 and 80;

(d) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.

6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (a) of the above-mentioned paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of Part XIII of this Convention outside those specific areas of the continental shelf, beyond 200 miles from the baselines from which the breadth of the territorial sea is measured, which coastal States may at any time publicly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.

7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77 of this Convention.

8. Marine scientific research activities referred to in this article shall not unjustifiably interfere with activities undertaken by coastal States in

accordance with their sovereign rights and jurisdiction as provided for in this Convention.

Article 247. Research project under the auspices of, or undertaken by, international organizations

A coastal State which is a member of a regional or global inter-governmental organization or has a bilateral agreement with such an organization, and in whose exclusive economic zone or on whose continental shelf the organization wants to carry out a marine scientific research project, shall be deemed to have authorized the project to be carried out in conformity with the agreed specifications if that State approved the detailed project when the decision was made by the organization for the undertaking of the project, or is willing to participate in it, and has not expressed any objection within four months of notification of the project by the organization to the coastal State.

Article 249. Duty to comply with certain conditions

1. States and competent international organizations when undertaking marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall comply with the following conditions:

(a) Ensure the rights of the coastal State, if it so desires, to participate or be represented in the research project, especially on board research vessels and other craft or installations, when practicable, without payment of any remuneration to the scientists of the coastal State and without obligation to contribute towards the costs of the research project;

(b) Provide the coastal State, at its request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;

(c) Undertake to provide access for the coastal State, at its request, to all data and samples derived from the research project and likewise to furnish it with data which may be copied and samples which may be divided without detriment to their scientific value;

(d) If requested, provide the coastal State with an assessment of such data, samples, and research results or provide assistance in their assessment or interpretation;

(e) Ensure, subject to paragraph 2 of this article, that the research results are made internationally available through appropriate national or international channels, as soon as feasible;

(f) Inform the coastal State immediately of any major change in the research programme;

(g) Unless otherwise agreed remove the scientific installations or equipment once the research is completed.

2. This article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to paragraph 5 of article 246, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

Article 253. Suspension or cessation of research activities

1. Coastal States shall have the right to require the suspension of any research activities in progress within its exclusive economic zone or on its continental shelf if:

(a) The research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or

(b) The State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the project.

2. Coastal States shall have the right to require the cessation of any research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. Coastal States may also require cessation of research activities if any of the situations contemplated in paragraph 1 of this article are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct research activities shall terminate the research activities that are subject of such a notification.

5. An order of suspension under paragraph 1 of this article shall be lifted by the coastal State and the research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

*Article 254. Rights of neighbouring land-locked and geographically disadvantaged States**

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research as referred to in paragraph 3 of article 246, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project. Those States or competent international organizations shall notify the coastal State of such notice given to the land-locked and geographically disadvantaged States.

2. After the consent has been given for such proposed research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this Convention, States and competent international organizations undertaking such marine scientific research project, shall provide the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, with relevant information as specified in article 248 and paragraph 1 (f) of article 249.

3. The neighbouring land-locked and geographically disadvantaged States referred to above, shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed research project through qualified experts appointed by them and not objected to by the coastal State, in accordance with the conditions governing the research project as agreed upon, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 of this article, shall provide the above-mentioned land-locked and geographically disadvantaged States, at their request, the

*The terms "geographically disadvantaged States" and "States with special geographic characteristics" (used in article 70), should be harmonized by the Conference.

information and assistance specified in paragraph 1 (d) of article 249, subject to the provisions of paragraph 2 of article 249.

Article 255. Measures to facilitate marine scientific research and assist research vessels

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific activities, conducted in accordance with this Convention, beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their internal law, access to their harbours and promote assistance for marine scientific research vessels, which comply with the relevant provisions of this Part.

Article 264. Settlement of disputes

1. Unless otherwise agreed or settled by the parties concerned, disputes relating to the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2 of Part XV, except that the coastal State shall not be obliged to submit to such settlement any dispute arising out of:

(a) the exercise by the coastal State of a right or discretion in accordance with article 246; or

(b) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.

2. Disputes arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with the provisions of this Convention shall be submitted, at the request of either party and notwithstanding paragraphs of article 284, to the conciliation procedure described in annex IV, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in paragraph 6 of article 246 or of its discretion to withhold consent in accordance with paragraph 5 of article 246.

DOCUMENT A/CONF.62/L.51*

Report of the Chairman of the Second Committee

[Original: Spanish]
[29 March 1980]

1. Negotiating groups 6 and 7, which deal with issues that are either entirely or partially within the competence of the Second Committee, held consultations and a number of meetings during the first part of the ninth session.

2. The Second Committee, for its part, devoted six informal meetings to the consideration of various informal suggestions for amendments to various articles of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1).

3. This report covers all those activities and contains my recommendations based on the outcome of the consultations, negotiations and discussions which have been held.

I. NEGOTIATING GROUP 6

4. Negotiating group 6, of which I am Chairman, deals with the definition of the outer limit of the continental shelf and with the question of payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles or the question of revenue-sharing.

5. The work of the group was carried out primarily in consultations with small groups of delegations in an effort to stimulate dialogue among those delegations most directly interested in the outstanding issues. At this rather late stage in the negotiations, debates can at times be repetitious and sterile. I therefore employed my good offices in seeking compromise solutions. In that connexion, the results obtained in negotiating group 6 with respect to various outstanding questions can be considered encouraging.

6. I shall refer to each of these issues below.

(a) *Submarine ridges*

This point, referred to in a foot-note to paragraph 3 of article 76 was the subject of particularly intense consultations and negotiations. In conjunction with these efforts, I submitted for

the consideration of the group at its informal meeting on 28 March 1980 a compromise formula worded as follows:

Amend the last sentence in paragraph 3 of article 76 to read as follows:

"It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof."

Add a new paragraph 5 *bis* to read as follows:

"Notwithstanding the provisions of paragraph 5, on submarine ridges the outer limit of the continental shelf shall not exceed 350 miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs."

(b) *Commission on the limits of the continental shelf*

At the same meeting on 28 March I put forward the proposal to replace the words "taking into account" by "on the basis of" in paragraph 7 of article 76.

(c) *Annex relating to a commission on the limits of the continental shelf*

At its meeting on 21 March 1980, an informal proposal (NG6/20) was presented to the group, which, according to what was said by various delegations at that meeting, had been drawn up following a series of consultations among various interested countries. In the light of comments made during the discussion of that document, I proposed a number of changes at the meeting on 28 March, as follows: to shorten the term of office of the members of the commission from 10 to 5 years and

*Incorporating document A/CONF.62/L.51/Corr.1 of 3 April 1980.