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125th Plenary meeting

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nesday morning, depending on whether or not the First Committee had completed its work. The Conference should agree to the recommendation of the Special Committee that statements in the plenary discussion should be limited to 10 minutes each and that the resumed session in Geneva should start with the general debate.

11. If he heard no objection, he would take it that the Conference agreed to those suggestions.

It was so decided.

The meeting rose at 12.45 p.m.

125th meeting

Wednesday, 2 April 1980, at 11.15 a.m.

President: Mr. H. S. AMERASINGHE

Tribute to the memory of Mr. Ton Duc Thang, President of the Socialist Republic of Viet Nam

On the proposal of the President, the representatives observed a minute of silence in tribute to the memory of Mr. Ton Duc Thang, President of the Socialist Republic of Viet Nam.

Organization of work

1. The PRESIDENT suggested that the list of speakers should be closed at 4 p.m. that afternoon.

It was so decided.

Report of the First Committee

2. Mr. ENGO (United Republic of Cameroon), speaking as Chairman of the First Committee, made a statement reporting on the work of that Committee (see A/CONF.62/L.54).

Statements on the second revision of the informal composite negotiating text

3. Mr. ARIAS SCHREIBER (Peru) said that the decision to restrict the general discussion to comments on the formulas resulting from negotiations in the first part of the session and to impose a time-limit of 10 minutes on statements prevented his delegation from expressing its views on questions which, in its opinion, were of equal or greater importance and which had not been satisfactorily resolved. It regretted the fact that the informal text was again to be revised without any documented evaluation of the "package agreement". The informality of the negotiations on substantive articles, in which there was no record of delegations' arguments, had prevented reasoned consideration of the problems involved and of alternative solutions, while the submission of partial amendments, with brief comments, did little to remedy the situation. All those factors conspired against proper interpretation of the provisions of the convention, and a repetition of the situation should be avoided in the future.

4. He congratulated the President on the new text proposed for the preamble to the convention (A/CONF.62/L.49) and suggested that the text could be further improved by deleting from the first paragraph the words "as an important contribution to the maintenance of peace, justice and progress for all the peoples of the world", since the concept was restated in the seventh paragraph, and by replacing, in the sixth paragraph, the word "develop" by, possibly, the words "incorporate and put into practice". His delegation would be opposed to the use of the words "give effect", since, as was well known, the principles in question had had full legal effect since their adoption by consensus in 1970.

5. With regard to the proposal made by 10 delegations on the peaceful uses of the seas, referred to in paragraph 1 of document A/CONF.62/L.53, he expressed the hope that the consultations suggested by the President would make it possible to arrive at a consensus on the inclusion of the article in question in the text and that a decision of the Conference

would not have to be sought through recourse to the rules of procedure. It would be disconcerting for world public opinion to learn that certain Governments were refusing to honour one of the basic principles of the Charter of the United Nations and were opposed to the inclusion in the convention on the law of the sea of the obligation of all States to refrain from the threat or use of force against the territorial integrity or political independence of any State.

6. He thanked the Chairman of the Second Committee for giving delegations the opportunity to consider new proposals for amendments to articles which were still giving rise to difficulties. He expressed regret that in that Committee there had not been the time, the will or the procedure necessary to enable efforts to be made to resolve other differences through counter-proposals and compromise formulas: his delegation regretted the lack of a spirit of negotiation shown by certain delegations in their refusal to discuss issues which they incorrectly supposed to have been resolved, despite the objections of other delegations. That revealed a discriminatory interpretation of what was understood by promoting consensus, and, if the situation was not remedied with respect for the principle of the equality of States, it would be necessary to have recourse to the rules of procedure, which would involve a more serious threat to the success of the Conference. Those comments aside, his delegation was in agreement with the recommendations contained in the report of the Chairman of the Second Committee (A/CONF.62/L.51) and was particularly pleased to support the formula proposed for article 65 concerning the protection of marine mammals.

7. He congratulated the Chairman of the Third Committee on having completed the negotiations on marine scientific research (see A/CONF.62/L.50). His delegation was prepared to accept the amendments within a compromise agreement covering other parts of the text. It retained its objection to the title of article 254, believing that what was at issue was not the rights of States but rather an obligation on the part of States and international organizations which were proposing to conduct scientific research, namely the obligation to inform the States in question of projects and to permit their participation when feasible in accordance with the conditions agreed upon with the respective coastal State, which was the only one entitled to authorize such activities. Consequently, the title of the article should begin with the word "Participation". Furthermore, his delegation found the concept of "geographically disadvantaged States" unacceptable for reasons which it had previously explained, and it believed that the phrase should be replaced by the formula agreed upon in negotiations in the Second Committee, namely "States with special geographical characteristics".

8. He expressed his delegation's appreciation of the report of the Chairman of the group of legal experts on final clauses (FC/20) and of the Chairman's personal recommendations. On the whole, they offered a good basis for continuing and finalizing negotiations.

9. He pointed out that the views he had expressed on the formulas produced at the ninth session did not signify implicit acceptance of the revised negotiating text. Although his country's final decision on the text would have to be taken by a new Government and submitted to domestic organs for approval and ratification in the event that the Conference adopted the convention, the Conference was familiar with the objections to the text repeatedly expressed by his delegation. Its views on the text as a whole would be expressed in the formal debate at Geneva. In conclusion, he appealed to all delegations to co-operate in resolving remaining differences so as to facilitate an agreement which would ensure the universality of the future convention.

10. Mr. BHATT (Nepal) said that certain of the compromise solutions found on outstanding issues did not fully satisfy his delegation. One of the most difficult issues before the Conference had been the question of the continental shelf. His delegation's position on the issue was well known, and Nepal maintained its view that any extension of the national jurisdiction of the coastal State with respect to the exploitation and exploration of the natural resources of the continental shelf beyond 200 nautical miles reduced the area of the common heritage of mankind. The gradual erosion of the concept of the common heritage of mankind had been a matter of deep concern to his delegation. At the seventh session, it had submitted a proposal (A/CONF.62/65)¹ that a common heritage fund should be made an integral part of the convention on the law of the sea, and the purpose of that proposal had been to revive the lofty principle that had inspired the convening of the Conference, namely, the principle that the oceans and their resources were the common heritage of mankind. Under his delegation's proposal, coastal States would be required to contribute a certain portion of their net revenue from the exploitation of the non-living resources of the exclusive economic zone. Disbursements would be used to assist third world development and for other international purposes, such as the protection of the marine environment, fostering the transfer of marine technology, assisting the work of the United Nations in those fields and helping to finance the Enterprise.

11. A convention on the law of the sea could not be viewed in isolation from efforts towards the establishment of a new international economic order. Given the urgency of the needs of poor countries for development finance, it was his delegation's firm belief that some sharing of the immense mineral resources exploitable in the exclusive economic zone was in keeping with the concept of the new international economic order. In fact, the establishment of a common heritage fund would go a long way towards creating the new international economic and political order which was essential if future generations were to live together in peace and justice and in a healthy and prosperous world. At the resumed eighth session, nine delegations had submitted two informal proposals which were shorter and much simpler than the proposal originally introduced by his delegation. Those proposals did not spell out the rates of contribution or of disbursement, leaving such matters to the Council and the Assembly of the Authority. The proposed amendments were worded so as not to raise difficulties in connexion with other matters already agreed upon by the Conference, especially the exclusive economic zone. Although some delegations had expressed the view that the proposal to incorporate the idea of "generous sharing" into the convention was too late or too idealistic, other delegations had believed that the proposal not only was timely and worthwhile on its own terms but would restore balance to a convention which was currently heavily weighted in favour of coastal States.

12. His delegation had consistently taken the view that the

convention on the law of the sea should respect and accommodate the concerns and interests of all States participating in the Conference. The sponsors of the proposal concerning the common heritage fund urged that their proposal be incorporated into the second revision of the negotiating text. Those who championed the ideals of equity and justice should welcome and support such proposals. In conclusion, he informed the Conference that the proposal's sponsors were prepared to consider any suggestion that would improve it and make it generally acceptable.

13. Mr. BALLAH (Trinidad and Tobago) said that his delegation supported the consensus of the Group of 77 in that it could accept a second revision of the negotiating text as the result of the Conference's work at the end of the first part of the ninth session. He pointed out, however, that in making any such revision the Conference should be guided by the decision contained in paragraph 10 of document A/CONF.62/62.² The only proper interpretation of that paragraph was that any proposed or suggested revisions or modifications of the existing text should, in the plenary, receive positive vocal support that was widespread and substantial. The silence of any delegation could not, therefore, be interpreted to mean support for any proposed or suggested revision or modification; that was particularly true in cases where several such proposed modifications had emerged from either restricted consultations or limited negotiating groups. It was only on the basis of such positive vocal and widespread support that the collegium could properly evaluate any proposed amendments and determine whether they offered a substantially improved prospect of a consensus and so merited inclusion in a second revision of the negotiating text.

14. He had not yet seen A/CONF.62/C.1/L.27/Add.1 but, if the new proposals overcame some of his delegation's reservations, Trinidad and Tobago would be prepared to accept them. The changes proposed with regard to the financing of the Enterprise, financial terms of contracts for the exploration and exploitation of deep-sea minerals, and the orientation of the Enterprise's operations (see A/CONF.62/L.51) did represent an improvement on the revised negotiating text and would form a better basis for consensus. However, on the issue of a shortfall in the capital necessary to enable the Enterprise to carry out the activities outlined in article 170, his delegation felt that the approach suggested, although constructive, might inflict hardship on most developing countries. He therefore suggested that further thought should be given to the possibility of having the Conference adopt, as one of its final acts, a resolution which would serve as the legal basis for ensuring financial contributions to the capital of the Enterprise by all the participants in the Conference. All States, whether or not participants, had a duty to contribute to the financing of the Enterprise because, in accordance with the common heritage concept, they were all entitled to participate in the benefits.

15. With regard to the transfer of technology and the review conference, the proposals made in the First Committee presented some improvements over corresponding provisions in the revised negotiating text, but it could not be said that negotiations on those issues had been definitively concluded. In order that the provisions on the transfer of technology might constitute a better basis for consensus, the suggested text should be improved in such a way as to state explicitly that the technology referred to in article 5 was technology covering all the activities listed in article 170. Moreover, the text should empower the Authority to impose sanctions on a third party supplier of technology who dishonoured his assurances and also on a contractor who failed to obtain a legal right to transfer technology received from a third party supplier with whom he had a corporate relationship.

16. With regard to negotiations on the Council's composition,

¹See *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).

²*Ibid.*, vol. X (United Nations publication, Sales No. E. 79, V. 4).

procedure and voting, he noted that no changes were being suggested for article 161. While appreciating the concerns of States whose nationals were likely to become major investors in deep-sea mining as well as those of States which were likely to become importers of deep-sea minerals, and while understanding the need of those States to protect what they considered to be their essential interests, his delegation wished to stress that the trend towards concurrent voting described in the report was disconcerting, since such an approach would negate any management role for the majority of States in the decision-making process of the Council and would impair the latter's efficient functioning.

17. His delegation could go along with the compromise formulas on marine scientific research contained in document A/CONF.62/L.50 and in particular with the proposed paragraph 2 of article 249. In addition, it could support the draft preamble contained in document A/CONF.62/L.49. However, it would wish to see the principles enunciated in General Assembly resolution 2749 (XXV) elaborated in the convention; in the view of his delegation, those principles, including that of the common heritage of mankind, were positive rules that were declaratory of existing law.

18. Mr. BEESLEY (Canada) said that he associated himself entirely with the remarks made by the representative of Trinidad and Tobago concerning the application of the decision taken by the Conference in document A/CONF.62/62 concerning modifications to the informal composite negotiating text. It was vital that that decision be applied in such a way as to protect against either the tyranny of the majority or the veto of the minority.

19. Generally speaking, the new texts proposed by the Chairmen of the various groups provided an adequate basis for discussion; his delegation would circulate such reservations as it might have at a later stage. There was, however, one proposal regarding article 151 on which it had not been possible to find an acceptable solution. The Chairman of the Group of 77 had made it clear at the 47th meeting of the First Committee that, unless substantial changes were made either in the floor figure contained in the new proposal or in the percentage figure in the clause intended as a safeguard, the proposal would not be acceptable to that Group. He himself had stated that, unless both kinds of changes were made, the proposal would not be acceptable to his delegation. The proposal required clarification before the precise effect of the provision intended as a safeguard could be determined with certainty. Accordingly, he believed that the proposal should not go forward as it was. If the proposal did go forward, then no specific figures should be given for the floor or for the percentage for the so-called safeguard clause, since fundamental objections had been raised to both; however, even that solution would represent a very major concession.

20. Turning to the report of the Chairman of the Second Committee which had dealt with article 76 and related questions on the continental shelf limits, he said that, as had been pointed out before, Canada was maintaining its position that it was entitled to exercise sovereign rights over the continental margin beyond 200 miles out to the edge of the margin. However, it was prepared to explore the possibility of financial contributions related to the net revenues derived from the resources of the continental shelf beyond 200 miles from shore. It was clear that any revenue sharing must benefit the developing countries and must not impose a burden on the coastal States. His delegation would not object to the text going forward as it was. However, it would have to reserve its position on article 76, paragraph 8, which contained a change concerning the proposed commission on the limits of the continental shelf.

21. With regard to the Argentine proposal concerning article 63 (C.2/Informal Meeting/54), to which the Chairman of the

Second Committee had referred and which had been supported by 30 States, his delegation wished to avail itself of the procedure followed at the last session at Geneva when agreement had been reached in plenary for the inclusion of written new texts which had not emerged in the usual way from negotiating groups; it would be circulating a compromise proposal which would give coastal States better recognition of their interests in fish stocks overlapping the 200 mile limit.

22. With regard to the report of the Chairman of the Third Committee, his delegation had been assured by the Chairman that the régime for the conduct of marine scientific research envisaged in article 246, paragraph 6, would not erode the sovereign rights of coastal States. On that basis, his delegation was prepared to give serious consideration to the proposal but would have to reserve its position pending consultations with its experts. His delegation's other comments would be reflected in the written statement to be circulated as a separate document.

23. Mr. MAZILU (Romania) said that the right of access to living resources by geographically disadvantaged States in regions or subregions poor in biological resources was not appropriately dealt with in article 70 of the revised informal composite negotiating text. At the current session, his delegation had proposed (C.2/Informal Meeting/51) the addition of a paragraph to that article, which had been supported by a significant number of delegations. Pending settlement of the matter, there would be no consensus on the problem of fisheries.

24. The provisions in the revised negotiating text concerning the settlement of disputes arising from the delimitation of territorial seas were unacceptable to his delegation, which could, however, accept compulsory conciliation. The basic elements to be considered in delimiting territorial seas should be agreement between the States concerned and the principle of equality; uninhabited islets without their own economic life should not negatively affect maritime spaces belonging to the main coasts of States. The parties to a dispute should not, pending agreement, take any unilateral measures which might jeopardize a final settlement.

25. The innocent passage of foreign warships through territorial waters must be subject to prior authorization by or notification to the coastal State. A proposal to that effect had received widespread support in the Second Committee. It was understood that such a provision would not affect navigation through international straits.

26. In Romania's view, the extension of the continental shelf beyond 200 miles, as permitted in article 76 of the revised negotiating text and the new amendment thereto proposed during the current session was unreasonably long, and the revenue-sharing arrangements would not compensate for the large losses of the international community as a whole.

27. Mr. DREHER (Federal Republic of Germany) said that his delegation viewed the reports now before the plenary with great concern.

28. The Federal Republic of Germany was a geographically disadvantaged State with traditionally strong interests in all kinds of uses of the sea, and incurred severe disadvantage from the extension of coastal jurisdiction. As an industrialized State it had vital interests at stake with respect to the sea-bed régime.

29. The Conference aimed at the modification of the traditional freedom of the sea, a principle which over the centuries has governed all uses of the sea. It was essential not to lose sight of the nature of this process, from which followed that, wherever the new law of the sea would have to be interpreted and applied, this had to be done in favour of the pre-existent and inherent principle of the freedom of the sea.

30. His delegation reserved its position regarding those provisions of the revised informal composite negotiating text

that were not covered by the reports currently before the Committee.

31. Turning to the report of the Chairman of the Second Committee (A/CONF.62/L.51), he said that the new proposal contained in article 76, paragraph 6, did not provide the necessary precise criteria for determining the outer limits of the continental shelf. Indeed, it complicated the application of the criteria given in paragraph 5. If coastal States were given rights up to the outermost edge of the margin, then, in return, third States' access to the outer shelf should be facilitated. Because of the need for the boundary commission's findings to be given maximum force, his delegation supported the wording "on the basis of" near the end of article 76, paragraph 8. Moreover, his country was willing to participate in the commission.

32. It was to be regretted that no compromise had so far emerged from negotiating group 7 (see A/CONF.62/L.47). His delegation hoped that the informal negotiations would continue and regarded the "international law" element introduced in the Chairman's proposals with regard to articles 74 and 83 as an improvement. In that connexion, he referred to the amendments which his delegation had submitted in documents A/CONF.62/C.2/L.94³ and A/CONF.62/C.2/Informal Meeting/35, 61 and 62.

33. While conceding that the set of articles recommended by the Chairman of the Third Committee (see A/CONF.62/L.50) contained some improvements over the revised negotiating text, further improvements were required in articles 248, 249 and 253. Moreover, if the continental shelf was extended beyond 200 nautical miles the régime of research in that part of the shelf must be made more liberal. As it stood, article 246, paragraph 6, did not satisfactorily spell out the prerequisites for designation by a coastal State. His delegation had submitted proposals designed to meet those concerns, and it would not agree to any further attempts to dilute those prerequisites.

34. His delegation continued to insist on a compulsory judicial dispute settlement procedure. Even a compulsory conciliation procedure for important parts of research regulations would be accepted only with reluctance. His delegation had additional difficulty with the proposal that the coastal State's discretionary power to withhold consent in certain cases be exempted from the conciliation procedure. An exemption of designation of areas under article 246, paragraph 6, seemed difficult to accept, and for that reason his delegation would oppose reference to designation in article 264, paragraph 2.

35. Turning to First Committee matters, he said that these were of paramount interest to his country because of the need of its industries for a continuous supply of raw materials, because of its efforts in the field of deep-sea mining technology and because of his Government's consistent policy of promoting a free and equitable system of world trade for the benefit of all, particularly the developing countries. These principles had been underlined by the resolution unanimously adopted by the German Bundestag on 24 June 1977. Therefore it was a matter of crucial importance for his country to secure assured access to sea-bed resources without discrimination and on economic terms. The financial and other burdens placed on industrialized countries must be in reasonable proportion to the economic benefits they derived from the resources. Moreover, institutional arrangements must safeguard the vital interests of investors and consumers alike.

36. Having said that, he pointed out that, while many of the new suggestions contained in the report of the co-ordinators of the working group of 21 to the First Committee (A/CONF.62/C.1/L.27 and Add.1) reflected practical realism, some fundamental problems remained. Article 150, for example, was not properly balanced, and his delegation could not accept the idea that the supply and demand of world com-

modity markets should be regulated by deep sea-bed mining. It was extremely disappointed that the sentence in article 151 empowering the Authority to represent all production from the area in commodity agreements had not been deleted. It continued to experience difficulties with the concept of production limitation. In the final analysis, an important criterion would be whether the guarantee of assured access was rendered meaningless because of the small number of mine sites available. In the view of his delegation, the extension to transfers to the developing countries of the obligation relating to the transfer of technology would go far beyond the idea of a balanced parallel system. His delegation regretted the fact that the proposals on ways of defining more clearly the notion of fair and reasonable commercial terms and conditions had not been reflected in the report. The new proposal on the subject which had been presented that morning was not acceptable.

37. In connexion with the review conference, while his delegation was gratified at the fact that the idea of a moratorium had been abandoned, the new proposal contained in article 155, paragraph 6, raised new legal problems, and his delegation could not accept the proposal which had been made that morning. As to the voting system of the Council, a satisfactory solution was still to be reached and would be an indispensable part of the final package deal. Financial payments were still too heavy a burden on the contractor, and his delegation regretted that its proposals for alleviating that burden had not been incorporated into the report. Combined with the obligation to transfer technology together with the banking system and the production limitation, these payments might discourage investments. It felt that the financing of the Enterprise was part of the parallel system package and was not linked to the financial terms of contracts.

38. Finally, he said that, despite those problems, the proposed texts were slightly more positive in a number of respects than the existing negotiating text and could form a better basis for further discussions. Accordingly, he requested that all the negotiating forums be given the opportunity to engage in further informal negotiations. In conclusion, he underlined once again the paramount importance which his delegation attached to the European Economic Community participation clause.

39. Mr. RIPHAGEN (Netherlands) said that his delegation supported the inclusion in a second revision of the negotiating text, of the proposals contained in the report of the co-ordinators of the working group of 21. His delegation's final evaluation of those proposals would largely depend on the outcome of negotiations on the composition of and decision-making process in the Council, and on the financial obligations of States parties.

40. In view of the unique character of the Enterprise, the Netherlands would accept the inclusion in the convention of a requirement that the operator undertake to make technology available to the Enterprise on fair and reasonable commercial terms and conditions, but such undertakings could be effectively implemented only if flexibility was left for national legislative constraints to be accommodated. The wording of the provisions on the transfer of technology should be brought more into line with that currently under discussion in the United Nations Conference on Trade and Development (UNCTAD).

41. Exploitation of the international area must produce the mineral resources needed by the world's consumers. Any limitation of sea-bed production could run counter to that objective, especially if the limitation did not stem from world-wide arrangements between consumers and producers of the minerals in question. Any system of limitations should therefore be transitional, lasting until such world-wide arrangements were in place, and should afford reasonable opportunities for producing sea-bed minerals. His delegation's position in that

³Ibid., vol. VI (United Nations publication, Sales No. E. 77. V. 2).

respect was based on the need for an international commodity policy pursuant to UNCTAD resolution 93 (IV).

42. In general, his delegation welcomed the new proposals for the statute of the Enterprise. It attached great importance to solving the question of financing the Enterprise; it was of the utmost importance that, before ratifying the convention, States parties should have a precise picture of their financial obligations.

43. It was regrettable that no final solution to the problem of delimiting the exclusive economic zone or the continental shelf between adjacent or opposite States had been reached on the basis of the proposals advanced in the report of the Chairman of the Second Committee. His delegation had constantly stressed the need for a compulsory dispute settlement procedure, feeling that, in solving sea boundary disputes, adjacent or opposite States needed the advice and help of an impartial body of persons. If no agreement could be reached in that manner, each party to the dispute should have the right to request a final and binding determination by an international tribunal. The convention, moreover, should not restrict its application to disputes arising after its entry into force.

44. Regarding the negotiations in the Third Committee, his delegation could accept the proposed formulations for articles 246, 253 and 264 only as elements of a package deal. It could not accept any further diminution of the freedom of marine scientific research by amendments to article 246, paragraph 6, and it still felt that the words "as referred to" in article 264, paragraph 2, should be replaced by the phrase "in accordance with". It would not compromise further and would feel free to revert to its original positions if negotiations on any of those articles were reopened.

45. The time had come to promote the support necessary to strengthen national capacities for marine science, including the development of scientific infrastructures. Governments and the United Nations agencies concerned should be urged to accord high priority to training and assistance activities in marine science and ocean services. Developing States would thus be enabled to solve their own problems in the field of marine science and to participate fully in regional and global research programmes in which they had a fundamental interest.

46. Lastly, a clause on the participation of the European Economic Community in the convention on the law of the sea was a prerequisite for reaching a consensus on the issues he had raised.

47. Mr. GOERNER (German Democratic Republic) said that his delegation would agree to the incorporation of the preamble in its current wording (A/CONF.62/L.49) into the second revision of the negotiating text. The successful conclusion of the Conference would depend essentially on whether the arrangements adopted on the as yet unresolved issues relating to the exploration and exploitation of the sea-bed outside the limits of national jurisdiction took due account of the rights and legitimate interests of all groups of States and of different political and social systems; the texts submitted on the report of the co-ordinators of the working group of 21 in document A/CONF.62/C.1/L.27 and Add. 1 formed a package to which his delegation could agree on the explicit condition that, for the voting mechanism in the Council, a solution would be found that took due account of the interests of all groups represented.

48. The future convention must contain an arrangement precluding any monopolization of the exploration and exploitation of the sea-bed in both reserved and non-reserved areas. His delegation could support the modification of article 6, paragraph 3 (d), in annex II contained in part II of the report only with reservations, and it considered it necessary to preclude any monopolization of the reserved sites. It did not oppose the proposed production limit on sea-bed mining, but such a limitation must not obstruct sea-bed mining activities

and must take due account of the interests of commodity importers. His delegation also favoured an arrangement providing for a reasonable increase in sea-bed mining. It could accept the joint-venture system envisaged in article 10 of annex II on condition that the contributions to be paid by States parties would really be used for the first mine site to be exploited by the Enterprise; it had no misgivings, however, about forming joint ventures once the Enterprise was self-supporting. On the other hand, the proposals regarding the financing of the first mine site to be exploited by the Enterprise did give rise to difficulties, since States could not estimate what their financial obligations would be if they signed the convention.

49. The issue of the voting mechanism within the Council of the sea-bed authority was a crucial one, and the solution reached would be one factor affecting his country's decision whether to ratify the convention. As a matter of political principle, his delegation could agree only to an arrangement under which the legitimate interests of all political and social systems were taken into account in the Council; consequently, it supported the compromise formula submitted by the Mongolian delegation at the 47th meeting of the First Committee. The principles embodied in part IV of the report provided a realistic basis for a compromise formula to be worked out at the resumed session at Geneva.

50. His delegation could also agree to the recommendations contained in the report of the Second Committee, although its agreement to the proposals concerning marine research was subject to the condition that the broad-margin States would, in the final negotiations on matters affecting the land-locked and geographically disadvantaged States, also display true generosity and readiness for compromise. In addition, it would support the recommendations of negotiating group 7, particularly those concerning the settlement of delimitation disputes. In that context, the proposal to amend article 298, paragraph 1 (a), was the only solution acceptable to his delegation, which maintained that the compulsory settlement of disputes would be permissible only if all the States involved in a dispute explicitly consented to such a procedure.

51. His delegation could generally accept the proposals of the Third Committee concerning marine scientific research. It regretted that discussion on the rights and interests of land-locked and geographically disadvantaged States with regard to research had been reopened; the text of article 254 was still *further removed than that contained in the revised negotiating text*, from the needs of the land-locked and geographically disadvantaged States.

52. The fundamental working principle according to which the Conference settled substantive matters by way of consensus had again proved effective at the current session. It was essential to continue to adhere strictly to that principle in the final phase of the Conference.

53. Mr. LARES (Finland) said that the new texts on sea-bed mining (see A/CONF.62/C.1/L.27 and Add.1) considerably improved the chances of a consensus, ensuring a viable international Enterprise while at the same time providing assured access to resources and security of investments under reasonable terms and conditions. That was particularly true of the proposal contained in article 5 of annex II and article 155, paragraph 6. His delegation also supported the proposals of the chairman of negotiating group 2 relating to the compromise package consisting of the financing of the Enterprise and the financial terms of contracts.

54. While aware of the extreme complexity of the issue of the composition of the Council and of the need to maintain a balance between the various interests involved, his delegation feared that small- and medium-sized industrialized countries would be excluded from membership in the Council for excessive periods because they did not qualify under any of the special interest categories. The interests and policies of such

countries regarding the common heritage of mankind might not always be represented by the major industrialized countries.

55. As far as the matters discussed in the Second Committee were concerned, his delegation felt that questions forming part of the over-all package deal which had already been formally agreed upon should not be taken up again. The chairman of negotiating group 6 had proposed a compromise formula for article 76 on the definition of the outer limits of the continental shelf, which appeared to offer improved prospects of a consensus, but the Arab States had not been able to support that formula. Efforts to reach a solution acceptable to all delegations must continue at Geneva. That was equally true of the

question of revenue-sharing, which had not received sufficient consideration.

56. Although the new proposals arising out of the work of the Third Committee did not meet its preferences in every detail, Finland was prepared to support their incorporation into the second revision of the negotiating text.

57. His delegation was pleased at the progress achieved at the current session, including the work on the final clauses, the preamble and the establishment of a preparatory commission, and it looked forward with confidence to the continuation of the session at Geneva.

The meeting rose at 1.10 p.m.

126th meeting

Wednesday, 2 April 1980, at 3.25 p.m.

President: Mr. H. S. AMERASINGHE

Statements on the second revision of the informal composite negotiating text (*continued*)

1. Mr. CHAO (Singapore) said that, with respect to the reports touching on matters raised in the First Committee, his delegation was in favour of incorporating the amendments proposed by the co-ordinators of the working group of 21 (A/CONF.62/C.1/L.27 and Add.1) in their entirety in a second revision of the informal composite negotiating text, on the understanding that further negotiations would be held in Geneva if there were still difficulties. In his delegation's view, the texts proposed by the five Chairmen, as compared with those in the negotiating text, did offer a substantially improved basis for negotiations towards a consensus.

2. With regard to the report of the Chairman of the Second Committee on the question of the continental shelf (See A/CONF.62/L.51), his delegation had certain difficulties which were both procedural and substantive. In particular, the procedure adopted for consultation and negotiation left much to be desired. Consultations had taken place primarily among the margineers (broad-margin States) and between the margineers and the two super-Powers, and had in any case been insufficient to gauge the reactions of other delegations to the addition of a new paragraph 6 to article 76 and to the amendment to paragraph 3 of the same article. Delegations had had only a matter of hours to examine and comment on provisions of a highly technical nature, and questions had been asked to which no satisfactory answers had been forthcoming. Article 76 of the revised negotiating text (A/CONF.62/WP.10/Rev.1) was itself already complex, and, unless the sponsors of the amendments could provide clear answers to the questions raised, greater confusion would be added to the text of the article.

3. The proposed text for annex II setting out the composition of the commission on the limits of the continental shelf was also unsatisfactory in that it based election to the commission entirely on the principle of equitable geographical distribution. That would not preclude the possibility that the commission might be dominated by nationals of the broad-margin States and those sympathetic to their views. It was essential that nationals of the relevant interest groups should be fairly represented in the commission in order to ensure that its integrity was not open to question.

4. Finally, no real efforts had been made to bring the two opposing sides to negotiate on the revenue-sharing formula in article 82. That was still an outstanding issue, and the rate of contribution specified in the article was decidedly low.

5. For all the foregoing reasons, his delegation opposed any piecemeal attempt to resolve the issues concerning the continental shelf question. It must be emphasized that a satisfactory compromise could only be worked out by a group in which opposing or different views were adequately represented.

6. His delegation believed that it was of the utmost importance that the Conference should decide on a definition of the continental shelf which was clear and simple to apply. The exploitability criterion in the 1958 Convention on the Continental Shelf¹ had led to creeping jurisdiction over the last 20 years, and had posed immense problems for the current Conference. With that experience in mind, the Conference should refrain from adopting a new formula which would be infected by the same disease of uncertainty. Unfortunately, however, the definition contained in the revised negotiating text gave his delegation serious cause for concern.

7. In view of the vast expanse of resources which the revised negotiating text accorded to coastal States and the broad-margin States, it seemed to his delegation that the Conference was spending an inordinate amount of time elaborating a régime and institutions to exploit the wealth of the deep sea-bed. That wealth paled in comparison with the resources of the continental shelf, which would be given to the coastal States and the broad-margin States. His delegation therefore welcomed and supported the proposal, first made by Nepal in 1978, for a common heritage fund.² Such a proposal would benefit all countries, particularly the developing countries and he hoped that the Conference would have the vision to rectify the inequity inherent in the revised negotiating text by adopting it.

8. It was to be noted from the report of the Third Committee (A/CONF.62/L.50) that the Committee had adopted compromise proposals on all the outstanding points concerning marine scientific research, and his delegation recommended their incorporation in the second revision. It was also prepared to accept the compromise solution for article 254 on the understanding that, in accordance with the principle of good faith, the power given to the coastal State in the new paragraph 3 to object to the appointment by a land-locked or geographically disadvantaged State of experts to participate in marine scientific research should only be exercised on good and sufficient grounds and that the coastal State was not entitled to exercise that power capriciously.

¹United Nations, *Treaty Series*, vol. 499, No. 7302, p. 311.

²*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) document A/CONF.62/65.