

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/SR.126

126th Plenary meeting

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)*

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.

9. Except for article 70, all the relevant articles in the revised negotiating text referred to the group of States to which his own country belonged as the "geographically disadvantaged States", that is, primarily those States which had an extremely limited claim to any meaningful economic zone by virtue of their geographical situation. He hoped that the second revision of the composite negotiating text would respect the right of that group of States to choose its own name. For his delegation the nomenclature was a matter of substance and not merely of drafting.

10. In conclusion he proposed that, with some further work in Geneva, the results achieved by the group of legal experts on final clauses (See FC/20) should be incorporated subsequently in the second revision of the text.

11. Mr. DANELIUS (Sweden), referring to the work of the First Committee, said his delegation considered that reasonable compromise texts had emerged from the negotiations on the system of exploration and exploitation, as also on financial matters. Those texts should therefore be incorporated in the second revision of the negotiating text. The provisions on production ceilings went a long way towards taking care of the interests of the producer States, and on the whole they constituted a maximum of what the consumer States could reasonably be expected to accept.

12. With regard to financial matters, including the Statute of the Enterprise, his delegation believed that the working group of 21 had achieved very constructive results. The new provisions regarding financial matters should therefore also be embodied in the second revision of the text. It should be pointed out, however, in connexion with the financing of the Enterprise, that article 10 of annex III did not indicate clearly what financial undertakings a State would make by becoming a party to the convention. It was important for each State to be able to assess the financial consequences of its accession to the convention, and his delegation therefore suggested that the matter be further clarified at the Geneva session.

13. With regard to transfer of technology, although a complete consensus on the text currently before the Conference had not so far been achieved, his delegation found it acceptable and hoped that it would be possible to find a generally acceptable solution on the basis of that text.

14. Commenting on the work of negotiating group 3, he said that his delegation had followed with great interest the consultations undertaken by the Chairman of the First Committee with regard to the system of decision-making in the Council. Unfortunately no solution had so far been found which might form a basis for a consensus in regard to the matter. Nevertheless, much valuable work had been done in defining the elements to be incorporated in a decision-making system acceptable to all parties concerned. Those elements included a protective blocking vote for special economic interests and for regional groups, and were in principle acceptable to his delegation. Although the blocking vote system was probably necessary in order to arrive at a consensus, it must not be used in such a way as to impede the effective functioning of the Council. His delegation therefore favoured the suggestion that matters falling within the competence of the Council should be divided into two groups, and that the blocking vote should only be applied to the group covering certain particularly sensitive issues.

15. In the working group of 21 his delegation had drawn attention to the fact that small and medium-sized industrialized countries would have very limited possibilities of representation on the Council if the current wording of the revised negotiating text were to be retained. A solution to the question of representation on the Council could be found by a slight increase in the membership and by ensuring that, under paragraph 1 (e) of article 161, a minimum of two seats was allotted to each regional group.

16. Turning to matters which fell within the scope of the Second Committee, his delegation felt that, with regard to the definition of the outer limit of the continental shelf, both the revised negotiating text and the revision appearing in the report of the Chairman of the Second Committee attributed too large a portion of the sea-bed to the coastal States, to the detriment of the area. Mankind had thereby been deprived of an extensive maritime space which ought to belong to its common heritage. Secondly, his delegation considered that a clear, simple and unambiguous formula should be used in defining the outer limit of the continental shelf: the new text contained in the Chairman's report did not, however, satisfy that requirement.

17. A new text had emerged from negotiating group 7 on the delimitation of maritime areas between States with opposite or adjacent coasts (see A/CONF.62/L.47). The new text had introduced a requirement that delimitation should be effected in conformity with international law and in accordance with equitable principles, employing the median or equidistance line, where appropriate, and taking account of all circumstances prevailing in the area concerned. He believed that such an approach was a step forward which, although by no means perfect, would provide a greater possibility of achieving consensus through further negotiations than would the existing negotiating text. The new formula should therefore be included in the second revision of the text.

18. In connexion with the question of marine scientific research, discussed in the report of the Chairman of the Third Committee, he reiterated his Government's position that such research in the economic zone and on the continental shelf beyond 200 miles should be subject to few restrictions. Neither the provisions of the revised composite negotiating text nor the proposed revision contained in the Chairman's report could be said to be fully representative of his Government's fundamental attitude on that issue. He recognized, however, that the new text had some positive elements compared with the existing negotiating text, and was therefore prepared to accept its incorporation into the revised version of that document.

19. Mr. WAPENYI (Uganda), speaking on behalf of the Group of 77, said that members of the Group had been dismayed at the previous meeting by the tone of certain statements indicating that particular passages of the revised negotiating text were totally unacceptable. Such expressions were at variance with the spirit of conciliation and compromise which had hitherto prevailed at the Conference and which, he hoped, would be restored so that a consensus might be reached. The revised negotiating text had been submitted for revision at the present stage, but the Group of 77 insisted that the second revision itself should not be final but should have the same status as the first revision of the text.

20. The Group of 77 had negotiated for some amendments to the proposed revision. In particular, the Group had suggested that, in order to provide an improved basis for negotiations, the majority required for entry into force (article 155, para. 5) should be reduced to two thirds. Secondly in article 151, paragraph 2 (b) (iii), the Group would press for a figure of 80 per cent in the growth in nickel consumption, as against the proposed figure of 100 per cent. Alternatively, it would be prepared to study ways of bringing about a reduction in the floor from 3 per cent to approximately 2½ per cent.

21. Thirdly, in annex II, paragraph 1 (b) of article 5 provided for a prohibition on the use of technology for which no written assurance had been given. That subparagraph should be restored pending revision, and subparagraph (a) should be made more explicit.

22. Finally, in the First Committee and other forums the Group had expressed dissatisfaction with the fiscal status of the Enterprise, and hoped that clarification could be achieved with regard to article 9 and paragraph 5 of article 12.

23. The Group realized that, when the needs of the majority

of developing countries were expressed to the industrialized and more developed countries, dialogue tended to become both protracted and also entangled in the question of a new and more balanced economic order. The Group had therefore tried to include in the preambular clauses the idea that such an order would be incorporated in the convention, and it would continue the negotiations at Geneva with that concern in mind.

24. Mr. IBÁÑEZ (Spain) said that on behalf of the sponsors of document NG7/2/Rev.2, he wished to make some comments regarding articles 74, 83 and 298, on delimitation between adjacent or opposite States. The sponsors regretted that it had not been possible to agree on acceptable texts. They had made every effort to assist the Chairman of negotiating group 7 in that difficult task. They took note of the conclusion in the Chairman's report according to which the present formulation of paragraph 1 of articles 74 and 83 in the revised negotiating text could not be considered a text on which consensus was possible. The sponsors felt that, despite their shortcomings, the new proposals concerning paragraph 1 of articles 74 and 83 provided a better basis for consensus through further negotiations.

25. They continued to hold the view that the three elements, namely, delimitation criteria, interim measures and settlement of delimitation disputes, were closely linked and constituted a package for negotiation. No satisfactory solution could be found unless the problems arising from those articles were dealt with as a whole.

26. Speaking for his own delegation, and turning to the report of the co-ordinators of the working group of 21 (A/CONF.62/C.1/L.27 and Add.1), he noted that paragraph 8 of part IV, on the Assembly and the Council, referred to the problem of medium-sized mainly western countries which considered that their chances of being elected to the Council with reasonable frequency were jeopardized by the current wording of article 161, paragraph 1. Spain was such a country and had requested that the Council should be expanded in order to ensure a minimum of two positions for each of the geographical regions mentioned in article 161, paragraph 1 (e). His delegation understood the reasoning given in the report to the effect that the issue could not fruitfully be considered until the issue of the decision-making system had been resolved, but it hoped that once that problem was solved, the Conference would agree to the just request of the medium-sized industrialized countries.

27. Referring to part III of the report, he reiterated his delegation's concern with the provisions relating to the financing of the Enterprise. If the Enterprise was financed on the basis of the scale of assessments to finance the regular budget of the United Nations, that would place an undue burden on the medium-sized industrialized States, which would not receive any direct and immediate benefit from the activities in the area. If the highly industrialized States were going to receive greater benefits from the exploitation of the resources of the area and if in order to have access to those resources they undertook to make the Enterprise viable, it was only fair that the bulk of the financing should be derived from the Authority's tax revenues from contracts for activities in the area.

28. His delegation noted with satisfaction the success of the negotiations mentioned in the report of the Third Committee. Although, with the exception of article 254, his delegation had been satisfied with the wording of Part XIII of the revised informal composite negotiating text, it was prepared to support the compromise proposal contained in the annex to that report. His delegation had already stated repeatedly that it saw no justification for the inclusion of article 254, particularly with reference to the so-called geographically disadvantaged States. On the one hand, efforts were being made to facilitate research activities and expedite the necessary steps and, on the other hand, difficult and totally illogical obligations were being im-

posed. Nevertheless, in a spirit of compromise, his delegation was prepared to accept the article, provided the heading contained the same wording as the heading of article 70.

29. As co-ordinator of the Spanish language group of the Drafting Committee, he wished to draw attention to the fact that his delegation had provided the secretariat of the Third Committee with a Spanish version of all the amended articles. Nevertheless, perhaps through an oversight, the version prepared by the Drafting Committee had not been incorporated as a whole in the annex to the report. He hoped that the secretariat would take the necessary steps to correct that shortcoming. Finally, he wished to stress a view which had already been outlined by the representative of Peru at the previous meeting. He was referring to the need for an effective and radical effort to ensure that the forthcoming session at Geneva provided a final negotiating opportunity where all delegations would be able to discuss matters which were of concern to them even though other delegations might think those matters had already been discussed. Also, it would be necessary at some juncture to consider reorganizing the work of the Conference in order to allow time for studies and stages that had already been established but on which work had been delayed.

Mr. Arias Schreiber (Peru), Vice-President, took the Chair.

30. Mr. CALDEIRA MARQUES (Cape Verde) said that he would confine his remarks to the matters raised in the Second Committee and in negotiating group 1. On the question of delimitation, one conclusion reached in the report of the Chairman of the negotiating group 7, was that, in view of the categorical refusal by a number of negotiators in the group to endorse paragraph 1 of articles 74 and 83 as currently worded, the existing text was unlikely to lead to a consensus on delimitation. The three matters discussed by the negotiating group were a package, and ought not to be split up. An objective criterion for the settlement of delimitation disputes should be arrived at as a preliminary step, and the flexibility of the system for settling disputes would be determined by the objectivity of the criterion itself.

31. Referring to the informal proposal on laws and regulations of the coastal State relating to innocent passage, mentioned in paragraph 12 of document A/CONF.62/L.51, he said that international practice had demonstrated that the innocent passage of warships through territorial seas was normally preceded by notification to the coastal State concerned. In that matter it was essential to progress from a *de facto* to a *de jure* situation.

32. The informal proposal contained in document C.2/Informal Meeting/54 related to a matter of vital interest to both the Conference and to mankind as a whole, namely, the preservation of fisheries stocks. He therefore hoped that discussion on that matter could be reopened as soon as possible.

33. Finally, he was certain that the informal proposal in document C.2/Informal Meeting/43/Rev.2, which had been supported by an overwhelming majority in the Second Committee, would be incorporated in the second revision of the negotiating text before the Conference.

34. Mr. VARVESI (Italy) speaking first of all on behalf of the members of the European Economic Community, said that the Community favoured the proposal to leave unchanged the articles related to fishing. It seemed risky and counter-productive to meddle with a package which had been the subject of protracted negotiations and which had obtained widespread support. The Community would not, therefore, favour the proposals which had been made to that effect.

35. Regarding the inclusion in the convention of a clause permitting the Community's participation, he said that the legal and political arguments in support of its inclusion could be found in the letter which he had sent to the President on 29 March (A/CONF.62/98). There had been intensive consultations with many delegations on that matter, and the outcome

had been a general recognition that the question of including an appropriate clause was one of the important problems which the Conference must resolve in order to conclude its work. The next session must therefore discuss the matter and come to a satisfactory decision.

36. Speaking on behalf of the Italian delegation, he said that the wording of paragraphs (d), (e) and (f) of article 150 in the report of the co-ordinators of the working group of 21 was still unacceptable. Article 151, on the limitation of production, was similarly unacceptable to his delegation, which opposed any provision of that kind, not merely for reasons of principle. By agreeing to discuss the matter they had made a gesture to the land-based producers, and hoped that the latter would reciprocate. His delegation's position was intended to discourage proposals which might prejudice, not only the interests of the industrialized countries, but the consumer countries in particular, including the majority of the developing countries. He also found it impossible to accept the proposal in article 151 that the Authority should participate, in respect of all production in the area, in the organs established under agreements on commodities.

37. With regard to article 155 on the review conference, improvements had been made in the text proposed for paragraph 5, but he considered that the guarantees for the protection of minorities were still inadequate.

38. With regard to article 161 on the composition, procedure and voting in the Council, his delegation had doubts concerning the wording of paragraph 1 (a) and, particularly, of paragraph 1 (b). He also hoped that paragraph 7 would be reworded in such a way that interest groups would not be subject to decisions which they would find unacceptable.

39. Negotiations should continue on annex II, article 5 on the transfer of technology; that article had still not achieved definitive form. The same was true of article 12 on the financial terms of contracts, which stood in need of major improvements, particularly in paragraph 6. Those improvements were indispensable if the proposed text was to be considered acceptable.

40. Although there had been significant improvements in the most recent proposals for annex III, paragraph 3 of article 10 should be the subject of further negotiations, as should article 12, which must be seriously re-examined as a whole.

41. His delegation would submit more detailed comments in writing.

42. In conclusion he said that the proposals on settlement of disputes in connexion with Part XI formed an acceptable working basis, although they could be improved, particularly by including in article 188 a provision to the effect that disputes might be submitted by either of the parties to an *ad hoc* chamber. His delegation emphasized that, with respect to recruitment, the same non-discriminatory principle adopted with respect to the headquarters of the Tribunal in annex V should be followed in article 158 for the headquarters of the international Authority.

43. Referring to the questions discussed by the Second Committee, he said that his delegation noted with interest proposals concerning the continental shelf beyond the 200-mile limit (see A/CONF.62/L.51), and was not opposed to them. On problems of delimitation, he agreed with the observations expressed by the representative of Spain as co-ordinator of the group sponsoring document NG7/2/Rev.2, and emphasized that the basic measures and those relating to the transition period contained in the revised negotiating text could in no way be considered as a basis for consensus. Although far from perfect, the formulation submitted by the Chairman of negotiating group 7 (A/CONF.62/L.47) seemed likely to yield results given further consultations.

44. His delegation favoured the inclusion in the revised negotiating text of the other proposals contained in the report

submitted by the Chairman of the Second Committee. It felt obliged to point out, however, that the proposal concerning archaeological objects had not been included, and hoped that that problem, which had aroused the interest of many delegations, would be resolved at the next session.

45. His delegation had also given close attention to the report of the Chairman of the Third Committee (A/CONF.62/L.50). The new texts represented a step backwards from the compromise wording submitted at the close of the preceding session of the Conference. That was particularly true with regard to the new wording of article 264, which might subsequently restrict the scope of application of the principle of compulsory settlement of disputes, a principle which his delegation wished to see extended to include designation of the specific areas of the continental shelf mentioned in article 246, paragraph 6.

46. Nonetheless, his delegation felt able to overcome its difficulties, on the understanding that no new restrictions on the freedom of scientific research were introduced, particularly with regard to article 246, paragraph 6, and article 253, whose wording seemed to his delegation to represent a delicate balance which any amendment might prejudice.

47. Mr. HAYES (Ireland) said that, on behalf of a number of delegations, he wished to refer to the question of coastal State jurisdiction over the continental shelf, as mentioned in the report of the Chairman of the Second Committee. All the delegations for which he spoke had reservations about the proposed texts. Despite their disadvantages, however, those proposals did substantially increase the prospects of consensus on that issue in the Conference and should be incorporated in a revision of the negotiating text. If the proposals were acceptable to the Conference in general, the delegations for which he spoke would be prepared to accept them and would regard such a development as a significant step forward in the negotiations.

48. With regard to delimitation of maritime zones, on which he spoke also for the sponsors of document NG7/10/Rev.2, he saw a strange inconsistency in the conclusions of the Chairman of negotiating group 7 with regard to criteria for delimitation, the subject of paragraph 1 of articles 74 and 83 of the negotiating text. In paragraph 7 (c) of his report, the Chairman of negotiating group 7 stated that the new formulation might contain the main elements for a solution of a substantive nature and that he was annexing to the report a revised text which included that formulation as his assessment of what might, in time, lead to a consensus. That assessment was made in the face of the express statement of the delegations for which the Irish delegation spoke that such a text was not acceptable, even as a basis of negotiation. In contrast, in paragraph 7 (a), the Chairman of negotiating group 7 dismissed the possibility that the revised negotiating text provisions could serve as a consensus, on the grounds that the opposing group would not accept it. It was difficult to reconcile the different reactions to the views of the two groups, particularly when they were obviously not based on the respective numerical strength of the groups. The attitude of the Chairman of negotiating group 7 was even more incomprehensible in light of the fact that the revised informal composite negotiating text was the only text which both groups had expressly acknowledged as a negotiating basis. The delegations for which his delegation spoke had also unanimously rejected a provision on the lines of the short formula referred to in paragraph 7 (b) of the Chairman's report. Indeed, he had strongly urged the chairman not to make that suggestion, as it seemed an acknowledgement, premature at the present stage, and hopefully unjustified in the long term, that negotiations on the issue had failed.

49. He wished to remind delegations that, on a question which affected vital bilateral interests of States, the convention must realistically give expression to the current state of international law without changing it. Moreover, if the Conference did not adopt a provision making delimitation disputes subject

to compulsory and binding settlement procedures—and his delegation would regard such an outcome as regrettable—then there would be no justification whatsoever for changing the substantive rules on some false compensatory basis. Apart from the question who should be compensated, there was no such relationship between substantive and procedural provisions that would justify adjustment between them in pursuance of some artificial package. The text must accurately state current international law, and it was on that basis that the sponsors of document NG7/10/Rev.2 had proposed it as a clear expression of that law. They still hoped that it would be recognized as such by the vast majority of delegations at the Conference. Since no proposal on criteria for delimitation commanded such widespread and substantial support as to offer a substantially improved prospect of a consensus, there were no grounds for revising the relevant provisions of the negotiating text.

50. Adherence to the conditions of paragraphs 10 and 11 of document A/CONF.62/62³ would ensure that the primary text for future negotiations on criteria for delimitation would be the only text which both interest groups expressly accepted as a basis of negotiation.

51. In the view of his delegation, the substantive connexion between the delimitation provisions and article 121 on the régime of islands was not adequately reflected in the revised negotiating text and that aspect of the work of the Conference must be carefully looked at again.

52. Turning to the régime for marine scientific research, he recalled that his delegation had consistently stated that the provisions of the revised negotiating text adequately reflected what was appropriate in that area. However, as some other delegations were less satisfied with those provisions, his delegation had continued to participate in negotiations with a view to meeting their preoccupations in a reasonable manner. The package of proposed amendments which had emerged from the negotiations at the second part of the eighth session were, however, far from acceptable and had necessitated the intensive negotiations of the current session. The results of those negotiations was reflected in the annex to the report of the Chairman of the Third Committee. Those provisions failed in many respects to measure up to the position of his delegation. That was particularly true in the case of the provision relating to marine scientific research on the continental shelf beyond 200 nautical miles, where it was only with the utmost misgivings that his delegation had contemplated any change in the revised negotiating text. However, the concerns of other delegations had been taken into account, and the discussions on article 246 had been particularly intensive. The compromise formula for amendment of that article in the annex to the Chairman's report offered a better prospect of consensus than the revised negotiating text and his delegation would therefore be willing to accept its inclusion in a revision of the text.

53. With regard to the other amendments in the annex to the same report, his delegation concurred with the Chairman's view that those formulae also provided substantially improved prospects of consensus and consequently accepted that those revised articles should also be incorporated in the second revision of the negotiating text.

54. Finally, he wished to endorse the remarks made by the representative of Italy on behalf of the members of the European Economic Community with regard to participation of the Community in the future convention.

55. Mr. MONNIER (Switzerland) said that 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) contained elements that could lead to a compromise and was generally acceptable to his delegation.

56. The proposed revision of article 5 of annex II, on transfer

of technology, was an improvement on the existing text. Nevertheless, his delegation had some difficulty with paragraph 3 (e) of the proposed text. He noted with satisfaction that the anti-monopoly clause in article 6, paragraph 3 (d), further defined and strengthened the relevant provision in the revised negotiating text.

57. The proposed revision of article 21 of annex II, on liability, omitted a phrase which had been included in document A/CONF.62/L.43.⁴ That phrase was the result of the work of the group of legal experts on the settlement of disputes relating to Part XI and should therefore be included in any revision of the article in question.

58. Turning to the report on financial matters, he said that article 10 paragraph 3 (c), of annex III presented difficulties for his delegation because a supplementary contribution in the form of a long-term interest-free loan would place such a heavy and unfair burden on the States parties that many States might delay ratification of or accession to the convention. The system proposed should be replaced by some other solution, such as the one mentioned by the Chairman of the First Committee in his report presented at the previous meeting (see A/CONF.62/L.54). If that was not possible, a provision might be made that if the loan was not refunded as stipulated in paragraph 3 (d), it should be repaid under the same terms and conditions as an interest-bearing loan.

59. With regard to institutional matters, specifically, the composition of the Council, he stressed that the medium-sized industrialized countries had submitted a proposal aimed at ensuring that they would have adequate representation on the Council. That proposal had not been discussed, but the question remained open and must be dealt with in due course. Once they became parties to the convention, the medium-sized countries would fully assume their obligations, particularly their financial obligations. It would be unfair to deprive them of the opportunity to voice their opinions in the Council.

60. Turning to the report of the Chairman of the Second Committee, he stressed that his delegation still had serious misgivings regarding the meaning and the scope of article 76, paragraph 6, with regard to the outer limit of the continental shelf. The uncertainty surrounding that limit under current international law had not been removed by the new formulae proposed. On the contrary, if the article meant that the coastal States could lay claim, as part of the continental shelf, to ridges that were not natural components of the continental margin in situations not envisaged by the revised negotiating text, particularly where the continental margin did not extend up to 200 miles, then his delegation could not accept the provision because it would officially sanction a new extension of the rights and jurisdiction of the coastal States.

61. Commenting on the report of the Chairman of the Third Committee, he noted that changes had been proposed to article 254—an article that had remained unchanged for several sessions—under the pretext of balancing a provision that would have exclusively benefited the land-locked and geographically disadvantaged States. The proposed revision would completely cancel out the few rights that had been given those States with regard to scientific research. Those rights would thus be purely aleatory. His delegation found it extremely difficult to support a provision that destroyed the balance between the rights and obligations of the land-locked and geographically disadvantaged States and those of coastal States.

62. His delegation noted with satisfaction that the States concerned with the question of the peaceful settlement of disputes had, in a spirit of compromise, succeeded in finding a solution to the problems that had remained pending with regard to Part XV at the end of the eighth session.

63. With regard to one delegation's proposal to reopen dis-

³*Ibid.*, vol. X (United Nations publication, Sales No. E.79.V.4).

⁴*Ibid.*, vol. XII (United Nations publication, Sales No. E.80.V.12).

cussion on the question of conciliation under Part XV, his delegation wished expressly to reserve its position until such time as the delegation in question submitted its proposal in writing.

Mr. Symonides (Poland), Vice-President, took the Chair.

64. Mr. ZEGERS (Chile) said that the report in document A/CONF.62/C.1/L.27 and Add.1 provided an acceptable basis for a second revision of the negotiating text, although some of the proposed articles presented difficulties to his delegation.

65. Part II, on production policy, presented certain problems, particularly with regard to the percentages relating to the floor and the safeguard clause. The inclusion of those two elements might mean the incorporation into the convention of figures which in future might prove to be unrealistic and which might be detrimental to land-based producers. Nevertheless, considering that further negotiations might be conducted on the subject, his delegation was prepared to accept a revision of article 151 on the basis of the text proposed. He wished to stress that in future negotiations, some reference to the need for non-subsidization of the sea-bed mining industry must be included.

66. The report on financial matters and that on settlement of disputes relating to Part XI were acceptable to his delegation and should constitute the basis for a revision. The text submitted on exploration and exploitation would require improvement with regard to the transfer of technology and the review conference.

67. His delegation regretted that no compromise had yet been reached on proposals regarding the voting system in the Council.

68. His delegation endorsed the report submitted by the Chairman of the Second Committee. The formulae presented offered the best prospects for consensus and could be included in a second revision of the negotiating text.

69. With regard to negotiating group 7, and its work on delimitation, his delegation supported the views expressed by the Spanish delegation concerning document NG7/2/Rev.2, of which Chile was a sponsor. His delegation fully agreed with the Chairman of negotiating group 7 (See A/CONF.62/L.47) that the main questions under consideration by the group should be settled together as parts of a package solution. His delegation also endorsed the conclusion that the present formulation of paragraph 1 of articles 74 and 83 could not be considered as a text on which consensus could be reached. On the question of criteria, the detailed texts were vague and incomplete and would require clarification, whereas the short text, although neutral, was inadequate.

70. His delegation did not agree with the suggestion with regard to article 298. It preferred a binding third-party procedure and rejected the idea of such a solution only being applicable to future disputes. If consideration was to be given to compulsory conciliation, it should, at least, be applicable without exception in every case.

71. The proposed texts, although not acceptable to his delegation, could provide in some instances an improved basis for negotiation and consensus as provided for in document A/CONF.62/62.

72. His delegation endorsed the conclusion of the Chairman of the Second Committee with regard to the informal proposals on articles 23, 65 and 111. His delegation was still concerned about the conservation of fishery stocks beyond the 200-mile limit and felt that negotiations would have to be undertaken in Geneva on the basis of the proposals submitted by Argentina, as amended by Canada.

73. The new group of articles on marine scientific research presented difficulties for his delegation. Nevertheless, in order to facilitate agreement, his delegation was willing to consider them as formulae which could lead to consensus under the terms of document A/CONF.62/62.

74. His delegation generally supported the articles proposed by the Chairman of the group of legal experts on final clauses (FC/20). The convention should enter into force when it had been ratified by a reasonable number of States; its entry into force should not be contingent on the establishment of the Council. His delegation was opposed to the provisional application of rules and regulations drawn up by the preparatory commission prior to the entry into force of the convention. The commission's powers should be confined to ensuring that the Authority could commence activities and had draft recommendations on activities in the area. Those recommendations should not be used as a means of obviating the existing moratorium. His delegation supported the general principle that reservations could not be allowed since the convention had been negotiated by consensus; any derogations to specific articles must also be accepted by consensus.

75. His delegation further supported the principle that the law of the sea convention should take priority among States parties over the Geneva conventions of 1958, and that any subsequent treaty concluded between certain States could not affect the rights of other States.

76. His delegation supported the latest version of the preamble (A/CONF.62/L.49) because it provided adequate protection for his country's interests with regard to the principles contained in General Assembly resolution 2749 (XXV).

77. His delegation hoped that the proposals contained in the various reports to the plenary would be incorporated into a second revision of the negotiating text before the end of the current session in New York. For the Geneva meeting, machinery should be established for negotiating the principal outstanding issues and for producing a final revised text which would constitute the draft convention.

78. Mr. FRANCIS (New Zealand) said that his delegation fully supported the new text proposed for article 65 (see A/CONF.62/L.51), which would strengthen the protection of marine mammals.

79. With regard to the package on the continental margin agreed to at the first part of the eighth session held at Geneva, his delegation was now prepared to accept the texts proposed by the Chairman of negotiating group 6 with regard to the commission on the limits of the continental shelf and was satisfied with the proposal to amend paragraph 3 of article 76 with regard to submarine ridges. However, his delegation was willing to accept all the recommendations made by negotiating group 6 only on the explicit understanding that they represented the final package with regard to the continental margin and completed the "first stage" envisaged in paragraph 10 of document A/CONF.62/88.⁴

80. His delegation's position was the same with regard to the texts produced by the Third Committee on the conduct of marine scientific research on the continental shelf beyond the 200-mile limit (see A/CONF.62/L.50). Although it regarded the existing negotiating text provisions as satisfactory, it had been prepared to negotiate for a further compromise on that issue. The régime now proposed in article 246, paragraph 6, represented a further derogation from the rights of broad margin States, with the result that his delegation could accept the latest proposal only as part of the completed package on the continental margin.

81. New Zealand and other southern Pacific countries attached particular importance to the question of final clauses. He hoped they would be resolved satisfactorily at the next session.

82. Mr. de la GUARDIA (Argentina) said that his delegation's position with regard to part XI of the negotiating text was identical to that of the Group of 77. It could accept the production policy proposals contained in the report of negotiating group 1 (see A/CONF.62/C.1/L.27 and Add.1), however, only if a clause was added to prohibit the use of unfair trade practices of any kind.

83. With regard to financial arrangements, the formula proposed for article 12 of annex II by negotiating group 2 (*ibid.*) was incontestably linked with the financing of the Enterprise as provided for in article 10 of annex III. The levels indicated in that proposal were also the minimum levels acceptable to his delegation.

84. If the Enterprise was to be competitive, its governing board must enjoy broad powers and independence of action and the Enterprise must be granted tax exemption so that it could increase its cash flow. That would place it in a stronger position vis-à-vis other sea-bed mining companies. With regard to the representation of special interests in the Council, the special interest of potential land-based producers must be emphasized in paragraph 1 (d) of article 161 and the question must be resolved with the aim of maintaining a consensus.

85. With regard to matters dealt with by the Second Committee, there was a major omission in section 3 of Part II of the negotiating text. The right of coastal States to demand prior notification or authorization for the innocent passage of warships through their territorial sea was not explicitly included. Those rights were recognized under existing international law and must be explicitly included in the second revision of the text in order to meet the demands of more than 40 delegations.

86. With regard to the conservation of living resources, article 63 as it now stood would not achieve the objective of conserving a resource which was threatened by the predatory activities of large fishing fleets. His delegation had proposed an amendment to that article, which had won the support of almost 30 delegations. On that basis, or on the basis of other texts circulating in the Second Committee, an attempt must be made to find a formula which offered a better prospect for consensus. The present text was unacceptable to more than half of the delegations which had expressed their views on that subject.

87. With regard to the criteria for the delimitation of the exclusive economic zone and the continental shelf, his delegation endorsed the comments made by the representative of Ireland.

88. It was regrettable that negotiating group 7 had been unable to revise paragraph 1 of articles 74 and 83. Those paragraphs were unsatisfactory in their present form (A/CONF.62/L.47) in that they made an unnecessary reference to the median or equidistance line as a means of delimitation when it would suffice to indicate that delimitation could be effected only by agreement between the parties concerned and in accordance with equitable principles of international law. The wording of article 15 was also extremely unsatisfactory, and his delegation would not be able to accept it unless a solution was found to paragraph 1 of articles 74 and 83. Paragraph 3 of the text proposed for those articles did improve them somewhat.

89. With regard to the continental margin, the amendments proposed to article 76 by negotiating group 6 (A/CONF.62/L.51) would mean a further sacrifice of the legitimate interests of coastal States and a further restriction on their sovereign rights over the continental shelf. His delegation could accept those amendments only if they formed part of a package covering all aspects of the legal régime governing the continental shelf. Otherwise, it would be forced to revert to its original position, which was amply justified by positive international law.

90. With regard to scientific research, his delegation believed that the existing articles of part XIII of the revised negotiating text were balanced and protected the interests of both coastal States and researching countries. It could, however, accept the inclusion of the proposals contained in the report of the Chairman of the Third Committee (A/CONF.62/L.50), on the understanding that they would be interpreted so as to be strictly compatible with the sovereign jurisdictional rights of coastal States over their continental shelf. His delegation believed that the system requiring the consent of coastal States applied to all

research projects or activities in the exclusive economic zone and on the continental shelf, in accordance with paragraphs 1, 2 and 3 of article 246 and without prejudice to the discretionary rights to which they were entitled under paragraphs 5 and 6 of that article.

91. His delegation thought that part XV of the revised negotiating text should be restructured because its provisions were unclear and the interrelation between articles was very confused. It should be made very clear that some disputes were subject to compulsory jurisdiction while others were not and some were subject to a compulsory conciliation procedure. A similar compromise solution for disputes arising with regard to marine scientific research was contained in article 264, paragraph 2, proposed by the Chairman of the Third Committee.

92. Article 298, paragraph 1 (a), of the revised negotiating text was totally unacceptable to his delegation and the replacement clause proposed by negotiating group 7 did not rectify it. Direct negotiation was the most suitable means of settling delimitation disputes. Since his delegation recognized that the negotiating group 7 proposal was regarded by many delegations as a more appropriate basis for negotiation than the existing formulation, it would not oppose its inclusion in a second revision of the negotiating text, but it maintained its reservations, particularly with regard to subparagraph a (ii), which could give rise to serious misinterpretation.

93. His delegation pledged its full support and co-operation to the President in the proposed restructuring of part XV, which was similar to the restructuring proposed by his delegation.

Mr. Koh (Singapore), Vice-President, took the Chair.

94. Mr. ANDREASEN (Denmark) said that the reports submitted to the plenary Conference represented significant progress, warranting the preparation of a second revision of the informal composite negotiating text.

95. In the view of his delegation, the debate in negotiating group 6 on article 76 concerning the extension of the continental shelf, and specifically the question of oceanic ridges, had been based on an interpretation of the depth criterion contained in existing article 76, paragraph 5. According to that interpretation, a coastal State in whose area a ridge was situated could in all cases use the 2,500 metre isobath to claim huge parts of the ridge as part of its legal continental shelf. In the view of his delegation, that was an incorrect interpretation of article 76 because the method of delimitation mentioned in article 76, paragraph 5, applied only to cases where geological delimitation would otherwise lead to a limit further from the base-lines. His delegation therefore considered the existing negotiating text formulation to be acceptable, but it would not oppose the compromise formula proposed for article 76, paragraph 3, as a means of clarifying the issue of oceanic ridges.

96. The proposed new paragraph 5 *bis* of article 76, on submarine ridges other than the oceanic ridges mentioned in paragraph 3, would create further problems for countries in evaluating the full implications of the different geological concepts used in that paragraph. For instance, they would have to determine what was meant by the concept "submarine elevations that are natural components of the continental margin". His delegation interpreted the concept to mean submarine elevations that belong to fundamentally the same geological structure as the land territory of the coastal State in question and would support paragraph 5 *bis* only if that interpretation applied. He wished to know therefore whether that was how the drafters of the paragraph interpreted the concept.

97. Given the complexities of article 76 and of its application, his delegation supported the establishment of an international committee on the limits of the continental shelf which would make recommendations to coastal States. He therefore welcomed the suggestion for an annex to the convention establishing detailed rules for the establishment of such a commission. As the commission's functions should be of a recom-

mandatory nature, his delegation preferred to retain article 76, paragraph 7, as it now stood.

98. As a sponsor of document NG7/2/Rev.2, his delegation endorsed the comments made by the representative of Spain with regard to the work of negotiating group 7 on delimitation problems. The report showed how difficulties in negotiating group 7 had made it impossible to reach agreement. The report did, however, contain a number of useful elements for future work and emphasized that paragraph 1 of articles 74 and 883 could not be regarded as a basis for consensus. Although the reference to international law contained in the formula suggested was very helpful, it must be understood to be a reference to existing international law. Further discussions on the subject would have to take place, although the formula suggested offered a better basis for consensus than the existing negotiating text.

99. His delegation supported the proposal to amend article 65 on marine mammals (see A/CONF.62/L.51). It understood the second sentence of the proposed amendment to mean that the assistance of an international organization in the conservation, management and study of any particular stock of cetaceans would be required when considered desirable and necessary in respect of those individual stocks.

100. As a member country of the European Economic Community, his delegation endorsed the comments made by the representative of Italy, particularly with regard to the inclusion in the final clauses of the provision enabling the Community to become a contracting party to the future law of the sea convention.

101. Mr. KOZYREV (Union of Soviet Socialist Republics) said that the progress made during the ninth session had created favourable conditions for the achievement of consensus at the resumed session at Geneva. The adoption of a mutually acceptable convention would promote the strengthening of peace and security and friendly relations among States.

102. While discussions in the First Committee had been constructive, no acceptable solution had yet been found for the important political question of the decision-making machinery in the Council. The best compromise was reflected in the existing requirement, in article 161, paragraph 7 of the revised informal composite negotiating text, that decisions be taken by a three-fourths majority. A number of developing and Western countries were unwilling to accept that formula. For its part, the Soviet Union, and probably other countries as well, could not accept any procedure which would discriminate in favour of certain socio-economic systems or geographical groups of States. If a majority of participants in the Conference still favoured an amendment to article 161, paragraph 7, it should be one which would preserve the balance in the Council between all socio-economic systems and geographical groups of States. One possible formula might be that a decision would be taken unless there was unanimous opposition by the members of any geographical group. That principle would protect the interests of States in the special categories referred to in article 161. Any other approach would destroy the basis for establishing an international sea-bed Authority, and make it impossible for a number of States, including the Soviet Union, to participate in it.

103. The new text on exploration and exploitation of the resources of the area and the transfer of technology (see A/CONF.62/C.1/L.27 and Add.1) posed certain difficulties for the Soviet Union. However, his delegation was prepared to accept it as a compromise, provided an acceptable solution could be found to other unresolved issues in the First Committee.

104. The anti-monopoly clause should also apply to the reserved zones, whereas the provision concerning the priority of the Enterprise should not extend to joint ventures with private companies. The new wording of article 151 was a basis for a compromise reflecting the interests of exporter countries and

node-processing countries; but concrete figures should be examined in the interest of an acceptable solution. The principle of limiting the mining of metals under each contract was important in preserving opportunities for development of the area's resources.

105. His delegation would be prepared to support the formula for the financing of the Enterprise in the event of an acceptable solution to all outstanding issues. However, there should be a closer definition of the obligations of States with regard to the financing of the first stage of the Enterprise. The compromise wordings drafted in the First Committee should be included in the second revision of the negotiating text.

106. With regard to the work of the Second Committee, his delegation was not fully satisfied with the proposed text regarding underwater oceanic ridges (see A/CONF.62/L.51). However, it was prepared to support the proposed compromise formula, and also endorsed the provisions concerning the commission on the limits of the continental shelf.

107. He agreed with the Chairman of the Second Committee that the proposal concerning an exceptional method of delimitation applicable to special geological and geomorphological conditions should be strengthened by adopting a declaration which would be included in the final act of the Conference.

108. His delegation also supported the inclusion in the second revision of the negotiating text of the proposed new wording of article 65. However, he urged that a proposal by eight socialist countries for the immunity of sunken warships and non-commercial vessels should be included in articles 95 and 96. The attempt to reopen negotiations on matters already settled, on the pretext of protecting fish-stocks, would jeopardize progress and he firmly rejected it.

109. A satisfactory compromise had been achieved in the Third Committee with regard to the proposed amendments to articles 242, 247, 249 and 255 (see A/CONF.62/L.50). He also agreed that the compromise wording of articles 246, 253, 254 and 264 improved the prospects for consensus. The necessary conditions now existed for preparing the second revision of the negotiating text on the issues dealt with by the Third Committee. All the issues relating to maritime law were interrelated and must be dealt with as a single package.

110. Negotiating group 7 had paid special attention to the settlement of disputes concerning sea boundary delimitation (see A/CONF.62/L.47). His delegation considered the existing wording of article 298, paragraph 1 (a), totally unacceptable, as it envisaged compulsory arbitration of such issues irrespective of the wishes of the States concerned, which was an infringement of their sovereignty. The Soviet Union could not accept such an obligation, and was convinced that agreement on sea boundaries could only be achieved by negotiation or other methods agreed by the parties. However, as the wording proposed was a compromise formula which had achieved wide support at the Conference, his delegation would not oppose its inclusion in the second revision of the negotiating text. The same applied to articles 74 and 83.

111. Mr. FAIDUTTI (Ecuador) said that his delegation could support, in principle, the draft preamble proposed by the President (A/CONF.62/L.49), which reproduced several points which the Group of 77 regarded as fundamental. Respect for and effective application of the principle, of the common heritage of mankind must be the basis for the new legal system governing the equitable exploration and exploitation of the sea-bed, and for the establishment of an authentic, just and equitable international economic order. The preamble must therefore contain a clear provision on that principle.

112. His delegation could also support the proposal to establish a preparatory commission (see A/CONF.62/L.55) to prepare the way for the entry into force of the convention and the functioning of the Authority. Such a Commission should have only recommendatory powers, however.

113. As a member of the Group of 77, his delegation supported the Group's position with regard to the system of exploitation of the area, the financing of the Authority and the Enterprise, the composition and functions of the organs of the Authority, the decision-making procedure and the transfer of technology. That position benefited the developing countries and protected them from the voracity of transnational corporations, and established a proper balance between the various interest groups. It must be clearly understood that the Assembly was the supreme organ of the Authority and that developing countries must be represented in the Council according to their number and importance. Furthermore, the Council should function in strict conformity with the relevant provisions contained in the convention.

114. With regard to the work of the Second Committee, his delegation reiterated its position that the seas and oceans must be used solely for peaceful purposes and that the convention must indicate clearly that the sovereignty, security, territorial integrity and political independence of coastal States must be respected whenever those seas and oceans and their soil, subsoil and air space were used, particularly by foreign vessels and warships.

115. The convention should contain appropriate provisions on the Galapagos archipelago, which UNESCO had declared a cultural heritage of mankind, to ensure that its unique natural wealth was preserved and the unity of its ecological system was respected. For the same reasons, the Columbus archipelago should be subject to the same treatment as archipelagic States with regard to the baseline system for the delimitation of their maritime space.

116. Article 64 should be clarified in accordance with articles 61 and 62, which contained fundamental provisions agreed upon after lengthy negotiations and represented the best possible consensus, taking into account the rights of coastal States over living resources. Article 63 should be amended to ensure that regulations applicable beyond the 200-mile limit were brought into line with those of the coastal States concerned.

117. His delegation considered that a satisfactory compromise had been achieved in the revised negotiating text, on marine scientific research. Unfortunately, the latest amendments (see A/CONF.62/L.50) tended to erode that balance, for they attempted to undermine or disregard the rights of coastal States over their 200 miles and continental shelf, and to give greater powers to researching States. Coastal States alone had the right to carry out, control, authorize, suspend or refuse permission for scientific research.

118. His delegation felt that a position could not be adopted with regard to the final clauses until the negotiations on fundamental issues in other working groups had been completed. It was none the less grateful to the group of legal experts on final clauses for their excellent work (FC/20), which provided a good basis for agreement. If the convention itself did not allow adequately for the rights and interests of States, the final clauses must offset possible omissions or flaws in the convention by recognizing the right of States to safeguard their own fundamental interests. Only thus could the balance be maintained between the criteria of the majority and the interests of the minority.

119. Mr. KARDAN (Iran) said that his delegation took the view that the new text which would emerge at the end of the ninth session should be considered only as a new basis for negotiation. Its status should be identical to that of the revised informal composite negotiating text.

120. His delegation attached considerable importance to the provisions concerning the transfer of technology, dealt with by the First Committee (see A/CONF.62/C.1/L.27 and Add.1). Article 5 of annex II was of special significance, as the transfer of technology under satisfactory conditions was the guarantee of the viability of the parallel system, and an integral part of the package. His delegation therefore regretted the proposed

wording of article 5, which was a retrograde step in comparison with the original version. It offered no guarantee for the transfer of technology, particularly with regard to the processing of minerals extracted from the international zone. The new text would mean that States possessing the requisite technology were bound by nothing more than a promise. The same criticism applied to the guarantees in the case of failure to respect obligations contracted in that field, and the penalties to be imposed. The present wording of the revised negotiating text was preferable in that respect.

121. In general, the Enterprise should enjoy greater tax facilities than those provided in the proposed text; it should be exempt both from a tax on operations undertaken on the territory of States parties to the Convention, and from the payment of duties to the Authority. As a business organization, the Enterprise should, as far as possible, be subject to the financial discipline prevailing in similar private or State enterprises. However, as an integral part of the Authority responsible for the management of the resources of the international zone, the Enterprise should be accorded special treatment under common law.

122. His delegation was concerned by the lack of precision in distinguishing between sea-bed and subsoil and underwater oceanic ridges in the new definition of the continental shelf contained in article 76, annexed to the report of the Chairman of the Second Committee. By unduly extending the jurisdiction of coastal States, the article could adversely affect the concept of the common heritage of mankind. The most appropriate solution would be a definition of the continental shelf based on a fixed distance, and the wording of article 76 in the existing negotiating text would be a better basis for negotiation during the next phase of the Conference.

123. With regard to the report of the Chairman of negotiating group 7, and the proposal concerning the criteria for delimitation of the exclusive economic zone between adjacent or opposite States, his delegation considered that the reference to international law would be a better basis for compromise if that formula alone were retained. Otherwise, the debate concerning the criteria for delimitation would be reopened. The main concern in providing interim delimitation measures during the transition period should be to achieve a definite agreement. However, care should be taken not to interrupt exploration and exploitation activities in the disputed zones. The relevant article of the convention should therefore include a provision to that effect, the parties being bound to avoid recourse to a moratorium.

124. With regard to the settlement of disputes, the use of compulsory conciliation as proposed in the new wording of article 298, paragraph 1 (a), offered better prospects than the solution envisaged in the revised negotiating text, and would avoid the difficulties caused by having recourse to a third party.

125. His delegation maintained its reservations with regard to paragraph 1 of article 254, on marine scientific research. It was concerned to preserve the sovereign rights of coastal States over their continental shelf. He therefore hoped that the negotiations in the Third Committee would lead to a satisfactory solution during the next phase of the Conference. The wording now proposed in the report of the Committee was a better basis for negotiation, and should therefore be included in the second revision of the negotiating text.

Mr. Marsit (Tunisia), Vice-President, took the Chair.

126. Mr. CALERO RODRIGUES (Brazil) said that his delegation's views on the formulas that had emerged from the constructive discussions held during the current session on outstanding issues within the competence of the First Committee were reflected in the statement made by the Chairman of the Group of 77. While the formulas contained in the reports of negotiating groups 1 and 2 might enhance the prospects for a future consensus, additional specific changes were required in

order to establish a fully acceptable international régime for the conduct of deep-sea-bed mining.

127. His delegation welcomed the major breakthrough achieved on matters pertaining to the continental shelf beyond the 200-mile limit. However, it was regrettable that progress had not been made in other important areas. The lengthy debate on new written proposals had only resulted in minor additions or modifications to certain existing provisions; the Second Committee had once again avoided debate on important sensitive issues, such as those relating to the security interests of the coastal States in the maritime areas under its jurisdiction. For example, the future convention should be more explicit with regard to the security of the coastal States in the area beyond the 12-mile limit. Likewise, provisions concerning the coastal State's rights regarding artificial islands, installations and structures in the exclusive economic zone or on the continental shelf, as well as on navigation and overflight in the exclusive economic zone should be unambiguous. Those questions should be considered during the resumed ninth session.

128. With regard to questions of delimitation, it was discouraging to note the lack of progress in negotiating group 7.

129. The amendments put forward in the report of the Chairman of the Third Committee concerning fundamental issues that had been reopened did not improve the text. In fact, the consistency and clarity of the consent régime for marine scientific research expressed in the revised negotiating text have become somewhat blurred. The proposals that a different régime for marine scientific research on the continental shelf beyond 200 miles should be established constituted an attempt to undermine existing rights of coastal States, and his delegation would continue to oppose any such attempts.

130. His delegation interpreted article 246, paragraph 6, as a reiteration of the sovereignty of the coastal State over the continental shelf, in the exercise of which the coastal State might waive some of its rights relating to the exploitation of natural resources for research purposes. The full consent régime should apply to marine scientific projects outside the areas designated by the coastal State and the granting of consent presupposed the existence of normal circumstances and of the necessary conditions that made the research compatible with the convention, without interfering with activities undertaken by the coastal State as provided for in paragraph 8 of the same article. Furthermore, the approach adopted in article 264 regarding any binding procedure for the settlement of disputes constituted recognition of the nature of the sovereign rights of the coastal State over the continental shelf. In reiterating the terms of article 77, the new article 246 subordinated its scope to the broader concept, embodied in the draft convention, of the sovereign right of States over the shelf, which did not depend on occupation or on any express proclamation. The fact that the text did not adequately reflect that indisputable reality explained why those articles remained unsatisfactory to major broad-margin States.

131. The proposed preamble prepared by the President was satisfactory. The relationship between the convention on the law of the sea and General Assembly resolution 2749 (XXV) was properly set out in the text. The principle of the common heritage of mankind, as expressed in that resolution, had been incorporated into international law and stood *per se*. The draft convention was aimed at implementing that principle in concrete terms.

132. Mr. FALCON BRICENO (Venezuela) said that his delegation accepted inclusion of the text submitted by the Chairmen of negotiating groups 1 and 2 and of the group of legal experts for the sole purpose of the second revision of the negotiating text, notwithstanding its reservations concerning review and transfer of technology.

133. Commenting on the negotiations in the First Committee, his delegation reiterated the view that the prerequisite for ac-

ceptance of a parallel system of exploration and exploitation was that the régime should be adopted on a temporary basis and that it should be subject to review after a period of 20 to 25 years. The provisions of article 155 of the negotiating text, particularly paragraph 6 of that article, constituted adequate machinery for the review conference and did not prejudice the outcome of the review of the régime. However, since the machinery envisaged in article 155, paragraph 6, of that text presented serious difficulties for a considerable number of delegations, the new proposal put forward by the Chairman of negotiating group 1 might be an acceptable formula. The machinery proposed for introducing amendments to the system of exploration and exploitation was acceptable. The second prerequisite for acceptance of the parallel system was that the financial resources and technology required by the Enterprise should be guaranteed in order to enable it to commence operations in the international zone simultaneously with the State and private enterprises of the industrialized countries.

134. While the new text on transfer of technology represented a considerable improvement over the proposals in the revised negotiating text and a better basis for negotiation, certain aspects were imprecise and it did not effectively guarantee transfer of technology from third parties to the Authority. Moreover, it was essential that the transfer of technology to the Enterprise should embrace all phases of an integrated operation.

135. With regard to financial arrangements and the provisions relating to the financing of the Enterprise, his delegation endorsed the proposed texts as an appropriate basis for consensus pending agreement on outstanding issues.

136. His delegation generally endorsed the inclusion of the Second Committee's conclusions in the second revision of the negotiating text. It could accept the proposals submitted as a result of negotiations in negotiating group 6 as a compromise solution. However, with regard to the commission on the limits of the continental shelf, his delegation wished to place on record its reservations with regard to the drafting change suggested for article 76, paragraph 7, and article 7 of the annex relating to the commission. It was unacceptable for a third party to be authorized to exceed a recommendatory role.

137. With regard to the report of negotiating group 7, his delegation endorsed the view expressed by the representative of Ireland concerning the joint position of the sponsors of document NG7/10/Rev.2, subject to the reservation in the foot-note. Moreover, since it considered any solution concerning the principles governing the delimitation of maritime spaces should be based on the concept of equity, his delegation was unable to accept the wording of article 15 relating to the delimitation of the territorial sea. The article should be brought into line with articles 74 and 83 proposed in document NG7/10/Rev.2. The proposals put forward by the Chairman of the Group, on his own initiative should not be included in the second revision of the negotiating text.

138. His delegation endorsed the conclusions reached in the Third Committee and was in a position to accept the proposals put forward in its report for the sole purpose of their inclusion in the second revision of the negotiating text. However, in article 254, it was inappropriate to use the term "geographically disadvantaged States". It would be preferable to refer to "States with special geographic characteristics". His delegation reserved its position with regard to the substance of article 254. It also wished to reserve its position with regard to article 264 on settlement of disputes. However, introduction of the conciliation procedure appeared to be a positive development, which considerably improved the prospect of achieving consensus.

139. Mr. PIRZADA (Pakistan) said that his delegation viewed with concern developments in the First Committee. The Group of 77 had accepted the parallel system on the understanding that the common heritage of mankind would be

exploited for the benefit of mankind as a whole. The concept of the parallel system had been accepted as part of a package that included, *inter alia*, an understanding concerning effective operation of the Enterprise. Moreover, it had also been understood that that arrangement was of an interim nature and that the whole system would be reviewed after 20 years. In the circumstances, the proposal put forward in the report of the co-ordinators of the working group of 21 to the First Committee was unsatisfactory.

140. With regard to the work of the Second Committee, his delegation appreciated the efforts made to work out the basic provisions for a commission on the limits of the continental shelf. While his delegation endorsed document NG6/20 in principle, it felt that its provisions needed some modification, in particular the text for article 76, paragraph 7; his delegation would prefer to retain the provisions in the revised negotiating text. It hoped that a satisfactory formula could also be developed to settle the issue of the breadth of the continental shelf.

141. The limitation criteria worked out by negotiating group 7 were disappointing, and the existing revised negotiating text should therefore be retained.

142. With regard to interim arrangements, in order to avoid complications of an economic and political nature, no activity should be carried out in the disputed area by either party to the dispute pending final settlement.

143. In the settlement of disputes over delimitation of the exclusive economic zone and the continental shelf his delegation continued to support compulsory and binding third-party conciliation.

144. With regard to other Second Committee matters, his delegation had co-sponsored an informal proposal that sought to clarify article 21 in respect of the passage of warships through territorial waters. That proposal dealt with a matter of considerable importance and had received wide support.

145. Substantial progress had been made in the Third Committee. Although marine scientific research should promote scientific knowledge for the benefit of mankind, marine scientific research in the exclusive economic zone and on the continental shelf of a coastal State could be conducted only with the express consent of the coastal State concerned, as recognized in article 246 of the revised negotiating text. Moreover, as reaffirmed in article 253 of that text, a coastal State had the right to revoke its consent in case of breach of faith or flagrant violation of terms on which the marine scientific research project or activity had been permitted, or when the continuation of such research was against the vital interests of the coastal State or prejudicial to its security. As reiterated in article 264 of the revised negotiating text, the exercise by the coastal State of a right or discretion regarding withholding consent or ordering suspension or cessation of a project in its exclusive economic zone or on its continental shelf could not be made subject to any dispute settlement procedure or conciliation proceedings without its consent.

146. In connexion with the settlement of disputes, in general his delegation supported the proposal put forward by the Chairman of the group of legal experts on settlement of disputes relating to part XI and would favour its inclusion in the second revision of the negotiating text.

147. The text of the draft preamble was excellent and fulfilled the requirements of document A/CONF.62/62 for inclusion in the second revision of the negotiating text.

148. Mr. KE Zaishuo (China) said that it could be seen from the report submitted by the various committees that outstanding issues were gradually being resolved and new proposals and amended texts were taking shape. On the whole, his delegation agreed that the new text could replace or supplement the original text, so that in accordance with the requirements set forth in document A/CONF.62/62, it would be possible to

proceed to a second revision of the negotiating text. A new informal text would contribute to the final stage of the negotiating process and provide a good basis for further negotiations during the current stage.

149. In essence, the differences outstanding concerning the various questions currently being negotiated must be seen against the larger question of whether or not the international community wished to see the equitable and effective implementation in earnest of the so-called "parallel system of exploitation" based on the principle of the common heritage of mankind. That aim could not be achieved by unilaterally sacrificing the interests of the Authority and the Enterprise. The same applied to the voting system in the Council. In the drafting of the paragraphs concerning voting in the Council, his delegation was not against giving appropriate consideration to the special interests of certain groups, but blocking votes should not be created and procedures that might lead to the paralysis of the Council should not be set up. His delegation would certainly never agree to granting a small number of countries, or a regional group—which was tantamount to a single State—the right to exercise a veto in any form.

150. In connexion with the work of the Second Committee, there was still a possibility of finding a rational solution for the problem of delimitation of boundaries between States with opposite or adjacent coasts. His delegation had no objection to the proposed amendments to article 76, paragraphs 3 and 5, of the revised negotiating text mentioned in the report of the Chairman of the Second Committee, but the wording of the definition of the continental shelf and continental margin contained in paragraphs 1 and 3 of that article was not satisfactory. His delegation also had serious reservations concerning the rules in the revised negotiating text on passage in the territorial sea. The question of foreign warships passing through territorial seas affected directly the sovereignty and security of the coastal countries, and the relevant clauses of the new convention must take that point into account. In fact, the question of warships passing through territorial seas required further negotiation.

151. In the new text proposed by the Chairman of the Third Committee in his report, the formulations of article 246, paragraph 6, and article 253 weakened the position of the coastal States in favour of the researching States.

152. Although good progress had been made on the final clauses and the preamble of the draft convention, his delegation was extremely concerned with regard to the question of reservations and would not agree to any article that did not permit reservations in actual practice.

Mr. Wapenyi (Uganda), Vice-President, took the Chair.

153. Mr. HUMAIDAN (United Arab Emirates), speaking as Chairman of the group of Arab States, said that the proposal of the Chairman of the Second Committee constituted a retrogression compared with the proposal of the Soviet delegation, made the text even more obscure and allowed the coastal States arbitrarily to extend the boundaries of the continental shelf. Therefore, the group of Arab States did not regard either the revised negotiating text or the proposed amendment as an acceptable basis for the second revision. As stated by the representative of Iraq in negotiating group 6 on 19 March 1980, the group of Arab States was prepared to enter into negotiations on the basis of the following principles: a willingness to extend the outer limits of the continental shelf beyond 200 nautical miles from the base lines from which the breadth of the territorial sea is measured, the adoption of distance rather than depth as the sole criterion for the purpose of such delimitation, and a review of the figures contained in paragraph 2 of article 82 of the existing revised negotiating text in connexion with the year in which payments would begin and the rate of such payments.

154. However, the Arab initiative had met with no positive

response from States with long continental undersea extensions.

155. In the interests of the vast majority of States, which had declared their support for the Arab position, he objected to the inclusion of those texts in the proposed text of the convention. There was still time for further negotiation to reach an appropriate solution which would protect the interests not only of the coastal States with a continental shelf but of the international community as a whole.

156. Regarding the proposal made by the Chairman of negotiating group 7 in connexion with the text of paragraph 1 (a) of article 298, he outlined his own country's position as follows.

157. First, many of the categories of disputes concerning sea boundary delimitation had been excluded from the settlement procedures specified in the convention contrary to the principal objectives of the convention.

158. Secondly, the resort to arbitration did not entail a binding decision regarding the subject in dispute. The present wording of the proposed text might lead to a prolongation and aggravation of disputes.

159. Thirdly, a balance must be established between the freedom to choose settlement procedures and the need to reach a binding settlement of the subject of dispute. That balance could be achieved by allowing the parties to resort to the settlement procedures specified in section 2 of part XV of the convention if agreement could not be reached within a reasonable period through negotiation and arbitration.

160. Fourthly, the acceptance of compulsory settlements was not incompatible with the principle of sovereignty since States would agree to negotiate and comply with procedures for the compulsory settlement of disputes in accordance with the provisions of the convention.

161. Fifthly, with regard to the expression "just principles" in connexion with criteria for sea boundary delimitation of the exclusive economic zone and the continental shelf, such principles should be interpreted and applied by international tribunals rather than by the parties to disputes. If such principles were to be included among the criteria for delimitation, the parties should be able to resort to the settlement procedures specified in the convention. Since the criteria and the settlement procedures were closely interrelated, his country could not accept the proposed text for paragraph 1 (a) of article 298.

162. Mr. ZDANOVICH (Byelorussian Soviet Socialist Republic) said that although there was still disagreement on certain issues, the ninth session of the Conference had achieved compromises on a number of unresolved questions. His delegation supported the proposal for a compromise wording of the preamble to the convention (A/CONF.62/L.49). He also supported the amendments made to articles 157, 158 and 160 (see A/CONF.62/C.1/L.27 and Add.1). The new wording of article 151 (*ibid.*) represented considerable progress towards the achievement of a compromise.

163. It was unfortunate that no final compromise had been achieved regarding the important issue of the machinery of decision-taking in the Council. The best compromise wording would be the present text of articles 161 and 167 of the revised negotiating text, but his delegation would also be prepared to consider other variants provided they maintained the principle of equity between different social systems and geographical groups of States. That would reinforce the provision in the convention that no decision should be taken in the Council if States representing one of any five geographical regions opposed it.

164. Commenting on the work done by the Second Committee, he noted that while the wording of article 76 as amended by the Chairman of the Second Committee did not fully reflect the position of his delegation, it represented a compromise which

his delegation was prepared to support in the interest of obtaining a mutually acceptable decision on the complex problem of the definition and delimitation of the continental shelf. The provision concerning the commission on the limits of the continental shelf had also received considerable support, and could be included in the second revision of the negotiating text.

165. With regard to the work of negotiating group 7, the compromise formulas proposed by the chairman could be a basis for a mutually acceptable decision, although his delegation had difficulty in accepting the conciliation procedure for the settlement of disputes.

166. Considerable progress had been achieved in the Third Committee. The compromise wording of articles 246, 253, 254 and 264 had the support of a large number of delegations and formed a better basis for the achievement of consensus than the existing wording in the revised negotiating text. The consensus wording of articles 242, 247, 249 and 255 also represented an improvement. His delegation was therefore in agreement with the proposal for their inclusion in the second revision of the negotiating text, on the understanding that the final position of his delegation would depend largely on the resolution of the outstanding key issues in the over-all "package deal".

167. Mr. PINTO (Sri Lanka) said that his delegation had no objection to the incorporation of new proposals into the second revision of the negotiating text provided that they remained subject to continuing negotiations. He would also be submitting several proposals for the improvement of the text.

168. With a view to offsetting the inequitable consequences that would result from the application of article 76 as at present revised in the Second Committee, Sri Lanka had suggested an additional method of delimitation applicable to special geological and geomorphological conditions and that suggestion had received widespread support from participants at the Conference. Following the successful resolution of differences outstanding concerning the outer limits of the continental margin of neighbouring States sharing the same geological feature, it had been possible to move into the final stages of agreement on the negotiating text. It was widely believed that the exceptional method of delimitation suggested would be spelled out in a statement of understanding to be incorporated in an annex to the final act of the conference as part of an over-all settlement and he believed that agreement would be reached before the end of the ninth session of the Conference.

169. While welcoming the draft statute of the commission on the limits of the continental shelf, he proposed the addition of a provision under which the commission would be governed by the terms of any instrument relating to its functions adopted by the Conference on the Law of the Sea.

170. He hoped that the next meeting of the Second Committee would see the successful conclusion of negotiations concerning the proposal of Argentina relating to straddling stocks, the proposal of the Soviet Union relating to sunken vessels and aircraft and the proposal of Yugoslavia relating to passage through the territorial sea and straits. With regard to the work of negotiating group 7, he believed that articles 74 and 83 formed a good basis for compromise and that the text of article 298, paragraph 1 (a), might command the widest support. He hoped that those provisions would be included in the second revision of the negotiating text. He also expressed the view that the recent texts prepared by the Third Committee and, in particular, article 246, paragraph 6, represented a satisfactory basis for further discussion.

171. Regarding the work of the First Committee, some States still felt that they did not have sufficient opportunities of being elected to or represented on the Council and a satisfactory formula for the decision-making procedure within the Council had still not been found. Any solution to this problem must be based on: the desirability of achieving a consensus on decisions affecting the essential interests of States, the principle that decisions should be taken by majority and that important

decisions should require a qualified majority and the position adopted by various groups wishing to protect their essential interests by avoiding Council decisions which they believed would affect them adversely. Negotiations on that issue should be resumed at Geneva.

172. In conclusion, he believed that greater attention must be paid to the close links between the negotiations on the final clauses (mainly entry into force and amendment), the preparatory commission and the institutional aspects of the work of the First Committee. Those links concerned such essential aspects as the financing of the Authority and the Enterprise, the operation of the system of exploration and exploitation as a whole and the composition of the Council. Small delegations like his own would have many observations to make on those texts during the resumed ninth session.

173. Mr. JAGOTA (India) said that his delegation would agree to the inclusion of the new proposals in a second revision of the negotiating text provided that the text remained open to further modification. Pending consultation with his Government, his delegation reserved its position on the following points concerning the texts submitted by the First Committee. Since the proposed provisions for article 155, paragraph 5, concerning the review conference eliminated the possibility of imposing a moratorium on future contracts pending the entry into force of an agreement or amendment to the convention concerning the system of exploitation, he preferred the existing text of article 155, paragraph 6, of the revised negotiating text and was prepared to incorporate the procedure for making amendments and for their entry into force for all States. Regarding the transfer of technology, the proposed provisions of article 5 of annex II of the revised negotiating text needed to be further strengthened. The third party owner of technology must respect his legally binding assurances concerning the transfer of technology to the Enterprise. In the event of default, there should be specific sanctions, including the non-acceptance by the Authority of any subsequent assurance given by him. The conduct of a contractor who had knowingly obtained flimsy assurances from a third party would also be a relevant factor in assessing his further applications for contracts with the Authority. Those sanctions should be additional to those specified in article 17 of annex II concerning the suspension and termination of contracts. He also hoped that article 5 would provide clearer coverage concerning the transfer of processing and refining technology and a more appropriate definition of the term "technology" in paragraph 8 of article 5 of annex II.

174. He was confident that his Government would approve the recommendations made by the Chairman of the Second Committee regarding the outer limits of the continental shelf and other matters. However, the approval of his Government would definitely be needed for the proposals concerning relations between coastal States and the commission on the limits of the continental shelf as now modified. The absence of agreement regarding the provisions of articles 74 and 83, concerning maritime delimitation, could not be regarded as signifying acceptance of those articles. Further work on that crucial issue must continue at the resumed ninth session.

175. Concerning Third Committee matters, he reserved his position on the proposals contained in article 246, paragraph 6, and article 264, paragraph 2, pending further instructions from his Government. While wishing to promote genuine marine scientific research, his Government wished to ensure that such research would be conducted in a manner that would not adversely affect the jurisdiction and the interests of coastal States.

176. Mr. VAN DER ESSEN (Belgium) expressed his delegation's regret that most States seemed to be more eager to partition the seas than to reconcile the rights and obligations of various countries and that obligatory delimitation settlements had been virtually eliminated. He was concerned at the proposals regarding a restriction of production and the

financial burdens that would be imposed on contractors. Faced with the prospect of a restriction of production, potential contractors would not take pains to exploit oceanic mineral resources at the risk of jeopardizing the mineral market and, consequently, their own profits.

177. With a view to dispelling the anxieties of land-based developing producers and promoting the rational development of resources, his delegation had made a proposal regarding the establishment of a methodical marine development programme which set a ceiling for production. That proposal had not been adopted and the proposal currently under consideration limited marine production to such an extent that only a small number of mining operations would be authorized during the next 25 years. It would be difficult to justify a régime under which the future Authority had virtually nothing to manage in the absence of activities in the Area and that matter should be reviewed as proposed by the Australian delegation. In view of the financial constraints imposed on contractors, it would not be possible to ensure a similarity of conditions between the land-based and marine development of marine resources. The excessive payments provided for in paragraph 6 of article 12 of annex II eliminated every prospect of profitability. If the rates specified in that paragraph were not improved, investments in the future development of activities in the Area would probably be jeopardized. Subparagraphs (d) and (e) of article 150 should also be reviewed.

178. He expressed reservations regarding the proposed restriction of the freedom of marine scientific research. With regard to fishing questions, a clause should be inserted allowing the European Economic Community to become a party to the convention. In the absence of such a clause, Belgium's eventual signature of the convention would not commit his country in matters falling within the competence of that Community.

179. Mr. GOMEZ ROBLEDO (Mexico) said that he attached particular importance to the review clause (article 155) and supported the compromise formula of the First Committee. With regard to Second Committee matters, he fully supported the conclusions reached and the compromise proposals suggested in the report of the Chairman, of the Second Committee, despite the difficulties facing certain delegations in connexion with article 76. In paragraph 1 of articles 74 and 83, he understood the references to international law in a purely formal sense since such matters obviously depended on the free will of the parties concerned. However, he could not agree with what was said in paragraph 3 of the report on general provisions since he understood that only one delegation had expressed objections and that consensus had eventually been reached. He was in favour of an intersessional meeting to facilitate progress in the work of the Drafting Committee.

180. Mr. HAFNER (Austria) said that his delegation was unable to give its full support to all the proposals submitted in the reports by the Chairmen of the three Committees.

181. For example, in the work of the First Committee, the new wording of article 161 failed to take into account a certain category of small or medium-sized industrialized States whose interests would be affected by the exploration and exploitation of the international sea-bed, but who did not necessarily fall into any of the categories mentioned in the article. The article should therefore be revised in order to ensure appropriate representation of those States in the Council. Article 10 of annex III, relating to the financing of the Enterprise, should be worded to reflect its actual involvement in the administration, exploration and exploitation of the Area, so that States could more readily assess the financial burden they would have to bear if they adhered to the conventions.

182. In the Second Committee, the definition of the outer limit of the continental shelf had been a major obstacle. His delegation preferred a limit which would render the international area economically meaningful, would be based upon clear criteria and would establish a balance between the na-

tional and the international part of the sea-bed. Those conditions had not yet been met. In fact, the new wording of article 76 required an increased contribution by the coastal States from the exploitation of the continental shelf beyond 200 nautical miles. The jurisdiction of the coastal States over the continental shelf had been considerably extended. That had led his delegation to submit a draft resolution which emphasized the needs and interests of the landlocked and geographically disadvantaged States in that respect. His delegation would also like to see the various interest groups adequately represented in the commission on the limits of the continental shelf, as well as a closer link between the recommendations of the Commission and the final definition of the outer limit. As for the concept of the exclusive economic zone, his delegation interpreted the freedoms enjoyed by other than coastal States as being freedoms of the high seas.

183. With regard to the report of the Third Committee, it must be said that ambiguous wording in the future convention would foster rather than avoid conflict. His delegation therefore considered it inadvisable to endow the coastal States with ill-defined discretionary powers to regulate and control marine scientific research, as indicated by article 246, paragraph 6, and article 264. His delegation would have supported the initial negotiated text of article 254 but the text now submitted was unsatisfactory. The right of the landlocked and geographically disadvantaged States to obtain scientific information under paragraph 2, or to participate in the relevant project under paragraph 3 of the article, depended largely on the discretion of either the researching or the coastal State. However, his delegation made no formal objection to the new texts, including that of article 254, on the understanding that the right of the coastal States to object to the designation of qualified experts did not amount to a total exclusion of the landlocked and geographically disadvantaged States from participation in marine scientific research projects. Unfortunately it had not been possible to eliminate the foot-note on the definition of "geographically disadvantaged States".

184. With respect to the report on the work of negotiating group 7, the present wording of paragraph 1 of articles 74 and 83 did not foster consensus; however, there was a basis for further negotiation in the proposals presented. His delegation also supported the proposals for the creation of a common heritage fund, which would help to further the original goal of the Conference.

185. Mr. PINTO (Portugal) said that his delegation wished to express its support for the draft preamble.

186. Although he appreciated the special problems of the convention and the principle of the "package deal" on which it

was based, the issues with which it dealt were of such vital importance for a maritime country like his own, that it was impossible to conceal his disagreement.

187. With regard to the work of the Second Committee, his delegation reserved its position on certain substantive matters, such as the amendment proposed by a number of countries, including his own, to article 77, concerning the rights of coastal States to the continental shelf with regard to objects of an archaeological or historical interest. His delegation also reserved the right to participate in the attempts being made by several delegations to improve the wording of article 63 regarding the conservation of stocks beyond the exclusive economic zone.

188. With respect to the question of limits between adjacent States, his delegation could not accept the version contained in the revised negotiating text. He appreciated the efforts made by the Chairman of negotiating group 7 to present a suitable basis for discussion.

189. The report of the Chairman of the Third Committee provided a good prospect of consensus. While opposing any alteration of the present wording of the revised negotiating text on the subject of marine scientific research, his delegation was prepared in principle to accept the proposal contained in the Chairman's report.

190. Like the delegation of Trinidad and Tobago, his delegation was surprised that no change had been proposed to article 161. The question of the composition of the Council was even more pressing than before. His delegation had already insisted on the need to increase the number of representatives, and supported the view that the Council should include representatives of moderately industrialized countries. In the past there had been a tendency to consider only the interests of highly industrialized and developing countries. But there was a third group of countries which were partly industrialized, and whose numbers were likely to increase in future. Their interests must be taken into consideration in the wording of article 161. Similarly, his delegation had insisted since 1978 on the need to take account, in article 161, of the interests of those countries whose nationals were most frequently employed in exploring the wealth of the sea-bed in the international zone. Fifty-six countries were already employing such workers, 48 of them members of the Group of 77. The workers of those countries should be effectively represented in the Council through their country of origin. They had already gained that right through their sacrifices in the international zone, as illustrated by the recent deaths of 120 men in the North Sea.

The meeting rose at 7.20 p.m.

127th meeting

Thursday, 3 April 1980, at 10.30 a.m.

President: Mr. H. S. AMERASINGHE

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

1. Mr. PERIŠIĆ (Yugoslavia) expressed his delegation's support for the inclusion in the second revision of the informal composite negotiating text of the draft preamble (A/CONF.62/L.49), particularly the sixth paragraph referring to the principles set forth in General Assembly resolution 2749 (XXV).

2. Yugoslavia fully agreed with the position taken by the Group of 77 regarding the second revision. It supported the retention of the wording of article 155, paragraph 3, contained

in the first revision (A/CONF.62/WP.10/Rev.1) rather than the alternative proposed in part II of the report of the coordinators of the working group of 21 to the First Committee (A/CONF.62/C.1/L.27 and Add.1). Furthermore, it believed that the wording of article 161 must be discussed at the resumed session in Geneva in order to find a balanced solution.

3. As far as the work of the Second Committee is concerned (see A/CONF.62/L.51), the implication contained, in the current wording of article 36, namely that all States should enjoy the freedoms of navigation and overflight in straits mentioned in that article in accordance with articles 87 and 58 respectively and that those freedoms should not be impeded, must be ex-