

# **Third United Nations Conference on the Law of the Sea**

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## **127<sup>th</sup> Plenary meeting**

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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 5, 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-

pressly stated. Not many straits fell within the scope of article 36, but in some cases they were the only passages connecting enclosed or semi-enclosed seas with other seas. His delegation had offered an informal proposal (C.2/Informal Meeting/2/Rev.2) to help to resolve the matter, and many other delegations were helping to find a formulation that would dispel the remaining uncertainties.

4. The amended version of article 62 proposed by his own and the Romanian delegation at the eighth session (C.2/Informal Meeting/1/Rev.1) should be included in the second revision of the negotiating text.

5. Turning to the proposed articles 76 and 82, he pointed out that his delegation, as well as those of the group of Arab States and many other States, had favoured a 200-mile limit for the continental shelf. Their willingness to negotiate another limit had not been reciprocated by the broad-margin States. Proposals to increase the rate of payments or contributions with respect to the exploitation of the shelf had not been examined. Only if the international community benefited substantially from the exploitation of the continental shelf beyond the 200-mile limit could the extension of the shelf régime be justified. Payments and contributions should be made to the Authority, and in that context the proposed common heritage fund could play a useful role serving the interests of all States.

6. His delegation did not favour the proposed solution for submarine ridges but felt that the question of establishing a boundary commission had been satisfactorily resolved, and it hoped that all outstanding issues, including the problem of delimiting the continental shelf of Sri Lanka, would be resolved in a satisfactory manner.

7. The proposals by the Chairman of negotiating group 7 (A/CONF.62/L.47) concerning paragraph 1 of articles 74 and 83 should be incorporated into the second revision of the text, since they offered a better basis for consensus than did the existing text. In conclusion, he expressed satisfaction at the progress made in the Third Committee concerning the legal régime for marine scientific research (see A/CONF.62/L.50).

8. Mr. FREER-JIMÉNEZ (Costa Rica) said that, although his delegation had previously favoured delimitation between States with opposite or adjacent coasts on an equidistant basis, it had now, being convinced of the need for a compromise solution, decided to support the suggestions contained in the annex to the report of the Chairman of negotiating group 7 concerning articles 74 and 83 and article 298, paragraph 1 (a).

9. It also supported the proposals in document A/CONF.62/L.51 concerning articles 65 and 76 as well as those concerning the commission on the limits of the continental shelf and article 111 on the right of hot pursuit. It favoured the addition of the southern bluefin tuna to the list of highly migratory species in annex I, but felt that it should be added at the end of the list of species of tuna as No. 8 in the list. It also favoured the new drafting for article 25, paragraph 3, concerning the rights of protection of the coastal State.

10. It was important for the second revision of the negotiating text to incorporate the Canadian proposal concerning article 63, paragraph 2, so as to ensure the conservation of marine species in areas adjacent to States' exclusive economic zones. The new draft must also include a provision requiring States' good faith to be backed up by contractual obligations under the convention. Moreover, the general provisions must include the basic rule on the use of the sea for peaceful purposes, as proposed in document A/CONF.62/GP/1, of which his delegation was a sponsor.

11. Finally, he endorsed the suggestion by the Chairman of the Third Committee that all the revised articles appearing in the annex to that Committee's report should be incorporated into the second revision of the negotiating text.

12. Mr. POWELL-JONES (United Kingdom) said that he would like to join those who had spoken earlier in the debate

in thanking the Chairman of the First Committee and the co-ordinators of the working group of 21, the Chairmen of negotiating groups and the groups of legal experts for their constructive and comprehensive reports. He also congratulated the President and all those others who had devoted time and effort during the session towards the achievement of a generally acceptable convention on the law of the sea. The reports before the meeting showed that during the past few weeks the Conference had made substantial progress towards a consensus and a generally acceptable convention. The United Kingdom delegation considered that this progress was sufficient to justify a second revision of the negotiating text.

13. He said that the preamble proposed by the President did not wholly follow his delegation's preferences, but, provided that it went forward in its present form, his delegation would be glad to see it included in a second revision of the negotiating text. The proposals contained in documents A/CONF.62/C.1/L.27 and Add.1 should also go forward, together, into the second revision of the negotiating text; while not acceptable in all respects, taken as a whole they clearly offered improved prospects of a consensus.

14. He had been disturbed to hear the Chairman of the First Committee repeat the fallacy that the production ceiling on minerals from the sea-bed guaranteed a share of the market in such minerals to sea-bed miners. The formulation of article 151 in the revised negotiating text was unacceptable to his delegation, which was, however, ready to consider the compromise suggested in part II of document A/CONF.62/C.1/L.27.

15. Turning to the matters discussed in the Second Committee, he observed that paragraphs 4 and 5 of article 76 rested on the principle that the coastal State enjoyed resource rights in the sea-bed constituting the natural prolongation of its land mass. His delegation would reluctantly be prepared to accept the new paragraph 6 of article 76 proposed in the report of the Chairman of the Second Committee as an element in a general settlement. In general, it accepted the proposed annex concerning the commission on the limits of the continental shelf. It reserved its position, however, with regard to the proposed replacement of the words "taking into account" in article 76, paragraph 7.

16. The United Kingdom was prepared to make a contribution out of revenues derived from the production of non-living resources of the continental shelf beyond the 200-mile limit for the benefit of developing countries. However, such a provision would be self-defeating and wrong if the level of payments envisaged was so high as to become an obstacle to the economic development of outer continental areas. The present figure of 7 per cent, mentioned in article 82, could well inhibit operations on the outer shelf. His delegation would need to reflect further on this part of the text.

17. The United Kingdom shared the understanding expressed at the Conference regarding the exceptional position of Sri Lanka, and it supported the suggestion by the Chairman of the Second Committee in that respect.

18. It was disappointing that the problems of delimitation between adjacent and opposite States and the related issue of dispute settlement had not been resolved in negotiating group 7. The Conference should continue to make every effort to find a formula which would contain substantive delimitation rules and which would command general support in the Conference. His delegation was not able to support the suggestion made by the Chairman of that group in paragraph 7 (e) of his report concerning the settlement of delimitation disputes.

19. Section III of the report of the Chairman of the Second Committee accurately reflected the Committee's discussions. No changes should be made to the articles relating to fisheries. A number of other proposals previously considered had been revived during the current session, but the earlier debates had demonstrated that they did not have the necessary support. His delegation could support the compromise formulas recom-

mended in paragraph 18 of the report and particularly welcomed the change in article 65 on marine mammals.

20. With regard to the report of the Chairman of the Third Committee, his delegation would prefer the deletion of the term "detailed exploratory operations", in the proposed new paragraph 6 of article 246, in favour of the Chairman's earlier formulation, "specific exploratory operations". The United Kingdom was satisfied with the proposed changes in articles 253 and 264 but questioned the workability of the new text proposed to replace the existing article 254; it could, however, accept the proposal if it enjoyed broad support.

21. With regard to the final clauses of the convention, he expressed strong support for the addition to the text of a clause permitting the European Economic Community to become a party and giving effect to Community régimes. On amendments, he believed there was a risk that overhasty attempts at amending the convention could upset the balance which the Conference would have achieved with such difficulty. His delegation did not believe that the convention on the law of the sea should enter into force until a balanced Council, reflecting the interests clearly identified in the discussions on its composition, could be constituted from the parties to the convention. Lastly, the proposals on final clauses (FC/20) were a most useful basis for future work.

22. Mr. STAVROPOULOS (Greece) said that his delegation was strongly committed to a viable international sea-bed régime with an effective Authority and a workable Enterprise. The parallel system must function profitably for both sides; the necessary funds and technology must, therefore, be available to those requiring them. To that end, his delegation supported the recent proposals made by the Chairmen of negotiating groups 1 and 2 (see A/CONF.62/C.1/L.27 and Add.1) while recognizing positive improvements in the proposals submitted by the Chairman of negotiating group 3. Nevertheless, his delegation had difficulties with article 161, paragraph 1, which should provide for better representation for small industrialized countries and other States with special maritime interests, and with paragraph 7 of that same article.

23. He supported the proposal by the Chairman of the group of legal experts on the settlement of disputes relating to Part XI concerning article 188, paragraph 2.

24. As for the matters discussed in the Third Committee, his delegation would not object to the changes proposed in document A/Conf.62/L.50 concerning articles 242, 247, 249, 254 and 255 although it would prefer to retain the text of the revised informal composite negotiating text. It believed, however, that the proposals concerning articles 246, 253 and 264 should be further elaborated.

25. As far as the delimitation of the continental shelf or exclusive economic zone was concerned, his delegation agreed with the statement made at the 126th meeting by the representative of Spain as the co-ordinator of the "median line" group; it would be up to the collegium to determine what course would best serve the interests of the Conference. It would be unfair, however, if normative provisions in that regard were to be imposed for reasons other than the direct interests of the States concerned. An example of the imposition of a normative provision which would benefit one side would be to specify that delimitation should be effected by agreement in accordance with equitable principles without a simultaneous provision as to who was to define what "equitable principles" meant. The duty of the Conference was to attempt to promote balanced and flexible provisions without creating "winners" or "losers". Otherwise, the only way to avoid reservations would be to agree on a formulation couched in general terms.

26. The fundamental principle of international law embodied in article 121, concerning the régime of islands, had remained consistently unchanged. No connexion had ever been established between that article and the provisions on delimitation, and none could be established.

27. Finally, he drew attention to a proposal relating to the question of objects of an archaeological or historical nature which might be found on or under the continental shelf. After being revised, it now appeared to enjoy widespread and substantial support. The fact that delegations might not refer to it within the limited time allowed them in the plenary meetings of the Conference should not militate against the inclusion of the proposal in the second revision of the negotiating text.

28. Mr. MIZZI (Malta) said his delegation's main concern was that the common heritage of mankind in areas beyond national jurisdiction should remain the basic concept underlying the law of the sea. If the 200-nautical-mile limit for the continental shelf, to which Malta still subscribed as a matter of principle, was to be enlarged, it must be by a formula acceptable both as to the extent of the enlargement and as to the clarity of the definition, and adequate provision must be made for revenue-sharing.

29. It was regrettable that, despite the constructive efforts of the supporters of the "median line" approach, no agreement on the delimitation of marine areas between opposite or adjacent States had been possible in negotiating group 7. It had, however, clearly emerged that the existing formulations of articles 74 and 83 did not form the basis for a consensus. The proposals by the Chairman of that negotiating group were not, in their present form, acceptable to his delegation, but they did provide a better basis for further negotiations than the existing text and deserved careful consideration. All three elements involved—delimitation criteria, interim measures and the settlement of disputes—were closely linked and not open to separate acceptance.

30. A convention on the law of the sea would be of little practical value unless it included an effective system for settling conflicts and resolving disputes. The resistance by some countries, particularly the stronger ones, to the compulsory settlement of international disputes was understandable, but it was difficult to credit the good faith of a country in signing a convention if it then refused to allow conflicts about the application of that convention to be settled by some independent organ or authority.

31. Malta supported the proposed addition to article 21 whereby warships would require prior authorization or notification for passage through territorial seas; it also endorsed the proposed inclusion in the second revision of the text of a provision dealing with the jurisdiction of a coastal State over archaeological objects found in its exclusive economic zone and continental shelf.

32. In concluding, he drew attention to the erroneous impression given by article 156 that the Conference had agreed on the location of the proposed international sea-bed Authority; he called for a change in the text and registered his delegation's objection to the way in which the matter had been treated by the Chairman of the First Committee in his report to the plenary Conference (A/CONF.62/L.54).

33. Mr. KRÁL (Czechoslovakia) said that important progress had been made in many areas during the first part of the session. He understood that, under the parallel system, the Enterprise should be assured of the means necessary to operate its first mine-site. Since the Enterprise would not need all such means immediately, a schedule of payments should be worked out and adopted, while an over-all limit of amounts required from individual States parties should be specified. His delegation had difficulty with the proposed text of article 10, paragraph 3 (g), of annex III (see A/CONF.62/C.1/L.27 and Add.1); it believed that the limitation to freely usable currencies would not provide a just solution to the problem for all States. The proposed text of article 12, paragraph 12, of annex II offered a better solution. His delegation regretted that it had not been possible to complete negotiations on the question of decision-making in the Council. It attached great importance to the role to be played by geographical groups in voting in the

Council and believed that any formula adopted should ensure that no substantive decision could be taken which was unanimously opposed by any geographical group represented in the Council.

34. He regretted that few opportunities had been provided for discussing matters of the Second Committee still outstanding, in particular the definition of the outer limit of the continental shelf. The negotiations which had taken place had been limited largely to like-minded delegations and, consequently, the text proposed still gave rise to some opposition. His delegation had serious difficulties with the final sentence of article 76, paragraph 6, but nevertheless agreed that the proposed text should be included in the second revision of the negotiating text, as it contained certain improvements in comparison with the existing text. His delegation welcomed the establishment of a commission on the limits of the continental shelf and would support the set of articles contained in annex II. However, as a matter of principle, his delegation could not accept that a State party submitting a nomination should defray all the expenses of that member of the commission; it believed that the State concerned should compensate the member only for loss of salary and that all other expenses should be met by the appropriate coastal State. Should the Commission meet for purposes other than the consideration of data submitted by a coastal State, the expenses should be met from the United Nations budget.

35. Although considerable progress had been achieved in the Third Committee, his delegation was not happy with the proposed text of article 254; it could, however, accept the Chairman's proposal, which represented a well-balanced solution to a complex problem. He congratulated the President on the proposed text of the preamble and expressed his delegation's support for the incorporation of all the proposals into the second revision of the negotiating text.

36. Mr. YOLGA (Turkey) said that his delegation could accept the proposed text of the preamble. His delegation thought it both useful and necessary that the convention should contain a part devoted to general principles and could accept the texts proposed in documents GP/1, as amended, and GP/4. It had found the original version of the text proposed in document GP/2 excellent but felt that the revised version had removed certain essential elements, in particular the notion of the misuse of powers, and would therefore reserve its position on the text until the version was revised. With regard to the proposal contained in document FC/18, he hoped that further discussions would facilitate the proposal's adoption by the Conference.

37. With regard to the work of negotiating group 7, his delegation fully shared the views expressed at the 126th plenary meeting by the representative of Ireland. The rules concerning the delimitation of maritime frontiers had been clearly established by jurisprudence and by State theory and practice and were faithfully reproduced in the informal proposal contained in document NG7/10/Rev.2. It did not seem reasonable that the Conference should seek to replace what was already law by formulas which were occasionally not even very original. The third paragraph of the texts proposed in document A/CONF.62/L.47 for articles 74 and 83 could be incorporated into the second revision of the negotiating text, although his delegation did have certain reservations in that respect. Article 121 was out of harmony with both international law and articles 15, 74 and 83, and, consequently, his delegation could not accept the present wording of the article and felt that serious efforts should be made to remedy the situation and reach a consensus. With regard to the settlement of disputes concerning sea boundary delimitations, his delegation could not accept the incorporation into the second revision of the negotiating text of the text proposed by the Chairman of negotiating group 7 for article 298, paragraph 1 (a), other than as a basis for discussion, and it retained in that regard the reservations it had already expressed.

38. His delegation supported the texts proposed for articles 65 and 111 and annex I (see A/CONF.62/L.51). In its view, the suggestions made concerning articles 21 and 36 had received sufficient support to justify their incorporation into the second revision of the negotiating text and the same was true of the proposal contained in document C.2/Informal Meeting/54, subject to the agreed amendment. His delegation had, in the Second Committee, expressed its opposition to the removal of Part IX, concerning enclosed and semi-enclosed seas, and felt that it would be preferable to seek to improve that part if the convention was not to prove a source of conflict between States bordering enclosed or semi-enclosed seas.

39. With regard to the work of the group of legal experts on final clauses, his delegation's only difficulty with the proposed text contained in document FC/18 related to article 303, but it felt that discussion of the problem would be more useful when the provisions of the convention had taken their final form.

*Mr. Lungu (Zambia), Vice-President, took the Chair.*

40. Mr. CHARRY SAMPER (Colombia) said that his delegation could not accept the "rule of silence" for the incorporation or amendment of texts. The vital interests of States were guaranteed by the rule of consensus, but that rule should not be used as an excuse for the failure to take decisions when necessary, in accordance with articles 10 and 11 of document A/CONF.62/62<sup>1</sup>.

41. One of his delegation's priorities at the Conference was the problem of the delimitation of maritime frontiers; it therefore supported the views expressed by the representative of Spain at the 126th meeting. It was clear from the discussions that there was no consensus on the present text of articles 74 and 83 of the revised informal composite negotiating text; unless amended, those articles might prove to be the iceberg on which the convention itself foundered, a view which was shared by the Chairman of negotiating group 7.

42. With regard to the comments made by the representative of Ireland at the 126th meeting, he felt that it was inaccurate to speak of an "artificial package" since negotiating group 7 had been established on the understanding that delimitation criteria, provisional rules and settlement procedures were inseparable and required a common solution. Nor could he accept that the convention should give expression to the current state of international law "without changing it". It was unlikely that agreement could be reached in the conference on what exactly the relevant international law was, although what it was not was clearly known. It was not acceptable to seek to convert into a general rule of international law an incomplete fragment of a ruling by the International Court of Justice or another fragment of an arbitration decision between two countries, both fragments having effect only as between the parties. Similarly, it was not acceptable to fail to take account of State practice or the Geneva conventions of 1958. His delegation believed that, although imperfect, the proposals made by the Chairman of negotiating group 7 constituted a basis for negotiation which increased the prospects of consensus, and it could therefore accept their incorporation into the second revision of the negotiating text.

43. The question of the compulsory settlement of disputes could become a "package deal" only after balanced and just provision had been made for delimitation criteria and on condition that the solutions provided were to apply to all types of disputes, whether they arose before or after the convention's entry into force.

44. Since there was no consensus with regard to the decision-making machinery of the Council, his delegation wished to reserve the right to participate in negotiations directed towards a package deal which would also cover the composi-

<sup>1</sup>Official Records of the Third United Nations Conference on the Law of the Sea, vol. X (United Nations publication, Sales No. E.79.V.4).

tion of the Council. Since article 161, paragraph 1 (d), dealt exclusively with the representation of the special interests of developing countries, it was for the Group of 77 to reach a consensus permitting the inclusion of potential mineral-producing countries.

45. His delegation supported the proposed text of the preamble (A/CONF.62/L.49) and could accept the proposed texts for the final clauses (FC/20). However, it wished to reserve its position on the question of reservations. He emphasized that, in any revision of the negotiating text, the rights of coastal States should be fully preserved. The proposals made by negotiating group 6 (see A/CONF.62/L.51) were acceptable to his delegation, on the understanding that the question of the continental shelf and its boundaries was definitively resolved, without prejudice to the delimitation of boundaries between adjacent and opposite States. He welcomed the proposed text of article 65, while the proposals made by the Chairman of negotiating group 1 subject to certain amendments which would more adequately protect on-shore mining interests, constituted an acceptable basis for negotiation. With regard to the report of the Chairman of the Third Committee (A/CONF.62/L.50), although the text of certain articles, such as article 254, did not meet his delegation's concerns, the proposals contained in the report were acceptable as a compromise formula. His delegation found that the specific proposals concerning the financing of the Enterprise reflected a realistic approach.

46. Mr. ADIO (Nigeria) said that his delegation fully shared the views expressed by the representative of Trinidad and Tobago at the 125th meeting on the interpretation of paragraph 10 of document A/CONF.62/62. His delegation was satisfied with the progress made in relation to the final clauses of the convention and hoped that further improvements could be made in that regard. It also supported the draft preamble and was prepared to go along with the report of the Chairman of the Second Committee in a spirit of compromise, although it regretted that the question of the delimitation of maritime frontiers between adjacent and opposite States had not been settled. The demerit of the equitable principles approach was that the adjudicator on such issues was left free to choose what considerations would guide his judgement, whereas, with the equidistant/median line approach, there was a specific guideline for the arbiter.

47. His delegation was prepared to accept the recommendations contained in the report of the Chairman of the Third Committee. However, it felt that the papers emerging from the negotiations conducted in the First Committee were not balanced. No changes were recommended with regard to the composition, procedure and voting in the Council; however, the relevant provisions in the revised composite negotiating text remained unacceptable to his delegation. The recommendations relating to the settlement of disputes were acceptable, subject to certain improvements. His delegation could accept the recommendations made on financial matters, provided that there was an improvement in the tax status of the Enterprise and the financing of the Authority. The provisions as they stood gave no assurance that the Enterprise would even have sufficient funds to mine the first mine-site.

48. The recommendations concerning the review conference, the transfer of technology and production limitation, among others relating to the system of exploration and exploitation, had given rise to such criticism in the Conference that, in his view, there was not adequate positive, vocal support to warrant revising the existing provisions unless account was taken of the criticism expressed in the plenary. It seemed to be the general view that further negotiations on those issues were necessary. Finally, with regard to the seat of the Authority, he pointed out that there were rules for amending the text, and he believed that, under those rules, no alteration of the revised negotiating text was justified.

49. Mr. KIM CHUNG (Viet Nam) reaffirmed his delegation's position on the question of the outer limit of the continental shelf, namely that, beyond the distance of 200 miles, the limit should be clearly defined in accordance with a criterion of distance and should not in any case exceed 350 miles, even in submarine ridge areas. Consequently, while welcoming the proposed text for article 76, paragraph 6 (see A/CONF.62/L.51), as a constructive effort towards a compromise, his delegation wished to reflect on the second sentence of that paragraph before giving a final opinion at the next stage of negotiations. It was, however, prepared to accept the other changes made in article 76 as well as annex II, articles 65 and 111 and article 25, paragraph 3, and annex I. It continued to support the proposal for the inclusion of an article 96 *bis* and wished to insist on the amendments it had proposed in that respect. It also wished to insist on document NG7/10/Rev.2 but it had accepted, in a spirit of compromise, paragraph 1 of articles 74 and 83 of the revised informal composite negotiating text: while, as a sponsor of the document, it could not accept the proposed paragraph 1 of articles 74 and 83 as a basis for negotiation, it did consider that the draft reflected some progress towards a solution. Again in a spirit of compromise, his delegation could support paragraph 3 of articles 74 and 83 and article 298, paragraph 1 (a) (see A/CONF.62/L.47), and, in that connexion, it wished to emphasize that during the transitional period unilateral measures in disputed sectors should be avoided. With regard to the settlement of disputes, his delegation would prefer direct negotiations among the States concerned on the basis of mutual respect for the independence and sovereignty of each. It was regrettable that, in defiance of the principles of sovereignty and peace and of any spirit of understanding and co-operation, deliberate use had been made of armed force and the threat of aggression against Viet Nam in an attempt to impose upon that State an expansionist diktat in relation to the delimitation of frontiers; that threatened not only the security and sovereignty of Viet Nam but also the peace and stability of all of South-East Asia.

50. His delegation was prepared to support provisions promoting international co-operation in the field of marine scientific research and, in that respect, had no difficulty in accepting the new articles 242, 247, 249 and 255 (see A/CONF.62/L.50); in a spirit of compromise, it could accept new articles 246 and 254.

51. With regard to the work of the First Committee, his delegation wished to reserve the right to state its views at the next stage of negotiations on the proposals relating to important problems such as the transfer of technology, production limitation and the review conference. It could, however, accept, *grosso modo*, the proposals concerning the settlement of disputes and financial matters. It wished to emphasize the crucial importance which it attached to the solution of the problem of the decision-making machinery of the Council. That solution should take due account of the interests of the various groups of States according to geographical situation, level of development and socio-economic system and should prevent a small group of Western developed States from imposing their will on the Council by means of a sort of collective veto: finally, it should promote co-operation among progressive forces in the face of powerful monopolistic interests. His delegation therefore welcomed the formula proposed in the First Committee, at the 47th meeting, by the representative of Mongolia.

52. He congratulated the President on having prepared a balanced preamble which his delegation was pleased to support. He wished to express his delegation's appreciation of the work done by the group of legal experts.

*Mr. Mukuna Kabongo (Zaire), Vice-President, took the Chair.*

53. Mr. RAHMAN (Bangladesh), referring to the report of the Chairman of the Second Committee, said that the proposed texts concerning jurisdiction over the continental shelf were not

ideal. The continental shelf should be co-extensive with the economic zone. As to the delimitation of the outer edge of the continental shelf, he requested that Bangladesh be given special consideration because of the special geographical and geomorphological nature of its coastal seaboard.

54. With reference to the report of the Chairman of negotiating group 7, his delegation did not agree with the delimitation criteria proposed therein. The revised informal composite negotiating text, while not satisfactory, could be a basis for further negotiations provided that States demonstrated the necessary political will. The settlement of disputes relating to the sovereign rights of coastal States or to the question of payments for exploration of the continental shelf beyond 200 miles should be based on the concept of equity. Disputes over delimitation of the exclusive economic zone and continental shelf should be subject to the compulsory jurisdiction of a third party.

55. Turning to the report of the First Committee, he said that as a member of the Group of 77 his delegation had agreed to the parallel system on the understanding that the common heritage of mankind would be exploited for the greater benefit of mankind as a whole. The Enterprise should be made economically viable so that it could effectively engage in deep-sea mining activities with contractors, and the developing countries must be made to feel secure with the arrangement. Accordingly, the provision blacklisting owners of technology (annex II, article 5, para. 1 (b)) should be maintained, as should that granting the Enterprise tax exemption privileges (annex III, article 12, para. 5).

56. His delegation welcomed the progress achieved in the Third Committee concerning the concept of marine scientific research. However, it maintained that coastal States should have exclusive jurisdiction over and rights to conduct and regulate marine scientific research in the exclusive economic zone and their continental shelf as stated in article 246 of revised negotiating text. Moreover, no country had any right to participate in research projects in the exclusive economic zone of another country save with the explicit concurrence of the coastal State concerned. Accordingly, his delegation favoured the texts of articles 253 and 264 of the revised text. The proposal made by the Chairman of the group of legal experts on the settlement of disputes relating to Part XI provided a good basis for further negotiations and could be included in the second revision of the text. Finally, it was his delegation's firm belief that the second revision would mark a significant advance in the quest for early adoption of a universally acceptable convention.

57. Mr. BACH BAOUAB (Tunisia) said that the proposals regarding the preamble presented by the President, particularly those relating to the sixth paragraph, well reflected the efforts made during the informal discussions to reach a consensus and should be inserted in the second revision of the text.

58. With regard to the matters dealt with by the First Committee, his delegation had already endorsed, at the 48th meeting of that Committee, the views set forth by its Chairman.

59. While no satisfactory decision had been reached concerning the composition of the Council and the rules for the decision-making procedure in that body, he hoped that agreement could be reached during the next stage of the negotiations and that it would reflect a shift away from the rule of veto so that the legitimate interests of States parties, particularly the developing nations, would be protected. His delegation fully concurred with the proposals made by the group of legal experts on the settlement of disputes relating to Part XI and believed that they should be incorporated into the second revision of the negotiating text.

60. As to the proposals made by the Chairman of the Second Committee, some required further negotiation if a fully acceptable text was to be achieved. His delegation had already

expressed its views to the effect that the limit of the continental shelf should not extend beyond 200 miles, and it was prepared to participate in negotiations to reach a solution that would guarantee the opposing interests. Such a solution could be achieved by using criteria relating to distance, depth and distribution of income that were acceptable to all parties.

61. The proposal concerning objects of an archaeological and historical nature (C.2/Informal Meeting/43/Rev.2) was likely to create considerable difficulties, and it was essential that all parties should consider the proposal carefully so as to ensure that the final text protected the rights of the States concerned.

62. The results achieved by the Third Committee were generally positive; however, his delegation was somewhat concerned at the notification referred to in article 246, paragraph 6, for the tendency which had emerged did not seem to be conducive to the adoption of the provision. The proposal concerning the settlement of disputes was acceptable. Finally, his delegation could agree to the minor amendments which had been suggested recently to ensure that the text was clearer and more consistent.

63. Negotiations regarding the final clauses would have to be continued at the next part of the session if a solution acceptable to all parties was to be reached. Moreover, some decisions must be taken now if the Conference was ever to finish its work. The national liberation movements must be allowed to adhere to the convention. His delegation hoped that efforts would be continued to reach agreement on general clauses that would be conducive to widespread acceptance of the convention, particularly those relating to good faith and abuse of rights and to prevention of the threat of the use of force.

64. Finally, he reserved his delegation's right to speak in greater detail at a later stage.

65. Mr. SYMONIDES (Poland) said that his delegation had studied 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) and noted that positive developments had occurred towards the resolution of most of the outstanding issues. The new proposals on the transfer of technology (annex II, article 5) and those relating to the new approach to the adoption and entry into force of decisions taken by the review conference (article 155) were acceptable in principle. However, it was to be regretted that the so-called anti-monopoly clause contained in article 6, paragraph 3 (d), of annex II did not cover the exploitation of the reserved areas through joint ventures.

66. As to the financial arrangements and the statute of the Enterprise, his delegation could accept the financial terms proposed for contracts and the new formulation for the statute of the Enterprise with the exception of article 10, paragraph 3. The provisions concerning the financing of the first integrated project of the Enterprise raised serious difficulties for his delegation and should be reconsidered. Concerning the crucial problem of the decision-making process in the Council, which had yet to be solved, his delegation believed that any voting formula must be conducive to negotiated decisions adopted by consensus and must protect the vital interests of every group of States. In short, subject to the reservations it had expressed, his delegation believed that the proposals contained in documents A/CONF.62/C.1/L.27 and Add.1 could be included in the second revision of the negotiating text.

67. With regard to the suggestions made by the Chairman of negotiating group 7 (A/CONF.62/L.47), his delegation believed that the delimitation of the continental shelf and the exclusive economic zone should be effected by agreement in accordance with equitable principles. For the reasons stated by the representative of Ireland, it therefore objected to the inclusion in the proposed second revision of paragraph 1 of articles 74 and 83. That paragraph introduced a new and very ambiguous concept of "prevailing" circumstances. His delegation could support the suggestion concerning interim measures which seemed to mark progress over the existing negotiating

text. The new text of article 298, paragraph 1 (a), on the procedure for the settlement of disputes relating to delimitation seemed to be a real compromise and could be included in the second revision of the negotiating text. His delegation could also endorse the concept of compulsory conciliation.

68. Turning to the report of the Chairman of the Second Committee (A/CONF.62/L.51), he said that his delegation could endorse the suggested amendments to articles 25, 65 and 111 and annex I as well as those relating to the commission on the limits of the continental shelf. However, it had serious difficulties with the second sentence of the new paragraph 6 of article 76. Like numerous other delegations, it wanted to know how far the external limit of the continental shelf would go beyond 350 miles and what part would be taken from the common heritage of mankind. Accordingly, it might support paragraph 6 but only if that paragraph was further improved and negotiated as part of the whole package.

69. His delegation expected that during future negotiations the new proposals aimed at filling gaps in the negotiating text, such as article 96 *bis* and the new paragraph of article 70, would be reconsidered and included in the second revision of the text. The situation of the geographically disadvantaged States bordering regions where there was no surplus of living resources in the exclusive economic zones of coastal States should be given serious consideration.

70. Turning to the report of the Chairman of the Third Committee (A/CONF.62/L.50), he said that his delegation supported the suggestion to include the draft articles contained in that report in the second revision of the negotiating text. That did not, however, mean that his delegation was fully satisfied with the wording of articles 246 and 254. It fully agreed with the foot-note to article 254 which stated that the terms "geographically disadvantaged States" and "States with special geographic characteristics" should be harmonized. In its view, that should be done by adopting the former term, which had gained broad acceptance throughout the convention.

71. Mr. de LACHARRIÈRE (France) said that some of the proposed provisions in the report of the Chairman of the First Committee were very unsatisfactory. Moreover, the few amendments which had been made following further negotiation had merely strengthened his delegation's conviction that intensive negotiations were still required if the text of the proposed second revision of the negotiating text was to be appreciably improved.

72. With regard to all the other matters that traditionally fell within the scope of the law of the sea, the picture was much brighter and the text seemed to require just a few minor adjustments and additions. With the exception of the issues dealt with by negotiating groups 6 and 7, the matters considered by the Second Committee reflected broad agreement on reasonably satisfactory compromise formulas concerning, *inter alia*, the territorial sea, straits, the economic zone and enclosed and semi-enclosed seas. His delegation generally endorsed the very cautious recommendations made by the Chairman of the Second Committee. The second revision of the negotiating text should include the amendment to article 65 (C.2/Informal Meeting/49) presented by the United States concerning protection of marine mammals, the Indonesian suggestion that a reference to archipelagic waters be included in article 111 and the Belgian suggestion relative to article 25, it being understood that the French text should refer to *exercices d'armes* rather than to *exercices de tirs*. His delegation regretted the fact that the suggestion presented by Greece and others with respect to objects of an archaeological and historical nature, (C.2/Informal Meeting/43/Rev.2) had not been included and that article 121, paragraph 3, concerning the régime of islands had not been deleted. The proposal of Ecuador for a new article 121 *bis* (C.2/Informal Meeting/47) concerning islands forming part of the territory of a State which constitute an archipelago deserved further study.

73. The recommendations concerning the outer limits of the continental shelf seemed to provide a wise solution to the problem of submarine ridges. Regarding the procedures of the boundary commission, his delegation preferred the wording of the revised informal composite negotiating text. It did not see why the recommendations of that commission should be more binding than those of the conciliation commission, whose recommendations many delegations had already agreed should not be binding.

74. His delegation endorsed the statement made by the representative of Ireland at the 126th meeting regarding the proposals by the Chairman of negotiating group 7. In its view, the convention could not dispense with a clear statement of the rule of law concerning the basic criteria for delimiting the boundary between neighbouring States, and that rule should faithfully reflect the existing state of the law. In that connexion, he pointed out that the French and Spanish versions of article 76, paragraph 6, should start with the words *nonobstant* and *no obstante* respectively.

75. While the relevant articles of the revised negotiating text paid too much attention to the median line, they constituted a better basis for negotiation than the formula suggested by the Chairman of negotiating group 7, nor did any change seem justified concerning the settlement of disputes relating to delimitation. The fact that that issue had not been the subject of negotiations at the current session precluded anyone from assuming that the proposals contained in the report of negotiating group 7 reflected a consensus.

76. The texts relating to the preservation of the marine environment represented a relatively satisfactory consensus. However, some provisions, including those of article 230 concerning monetary penalties, still presented difficulties for his delegation. They seemed to constitute a regression *vis-à-vis* existing international law, which acknowledged the right of coastal States to impose prison sentences for similar offences.

77. With regard to marine scientific research, the proposals made by the Chairman of the Third Committee were generally sound despite certain flaws specifically relating to the régime governing research on the continental shelf beyond the 200-mile limit and the participation of land-locked and geographically disadvantaged States.

78. His delegation would comment on the preambular paragraphs and on the general and final clauses at a later stage. However, as a member of European Economic Community, his delegation attached the utmost importance to the inclusion of a clause enabling the Community to participate in the convention.

*Mr. Andersen (Iceland), Vice-President, took the Chair.*

79. Mr. MARTYNENKO (Ukrainian Soviet Socialist Republic) said that his delegation supported the text of the preamble as contained in document A/CONF.62/L.49.

80. It was regrettable that differing views on the decision-making mechanism in the Council had prevented a final compromise from being reached. In his delegation's view, the compromise formula in the revised informal composite negotiating text, which called for decisions to be adopted by a three-quarters majority, represented the optimum solution. Nevertheless, in view of the desires expressed by many developing countries, the Ukrainian Soviet Socialist Republic would not object to continuing the search for a balanced compromise. The issue should be resolved at the resumed ninth session at Geneva so as to exclude the possibility of discrimination against any geographical group of countries or socio-economic system. Proposals to that effect existed; all that was needed was goodwill.

81. Some progress had been made in overcoming the disagreement over matters to be governed by article 12 of annex II and article 10 of annex III. His delegation also welcomed the



compromise formulas arrived at by the group of legal experts on the settling of disputes relating to Part XI.

82. The proposal by the Chairman of the Second Committee to add a new paragraph 5 *bis* and expand article 76, paragraph 3, merited consideration and, in his delegation's opinion, could be regarded as an acceptable solution to the problem of delimiting the continental shelf in regions of submarine ridges. The proposal did not fully satisfy his delegation, but, in the interests of compromise and a prompt solution, he would be prepared to accept it, provided that it was not amended by other delegations. There also seemed to be widespread agreement on the question of establishing a commission on the limits of the continental shelf. His delegation was sympathetic to the Sri Lankan proposal for exceptional means of delimitation to be used in relation to Sri Lanka's continental shelf and supported the recommendation by the Chairman of the Second Committee for dealing with the matter.

83. With regard to the question of immunity for sunken ships and vessels on government non-commercial service, his delegation was firmly of the opinion that articles 95 and 96 of the second revision of the negotiating text should clearly reflect the principle that such ships would retain their immunity.

84. The compromise reached after protracted and complex negotiations over the rights of coastal and other States to the living resources of the sea, which was reflected in the revised negotiating text, was so fragile that the smallest amendment would destroy it and set the Conference back by many years. His delegation therefore appealed to participants not to reopen discussion on the matter.

85. His delegation maintained that delimitation disputes affecting States' sovereignty should be resolved by direct negotiations between the parties concerned. It could only regret the fact that other delegations took a different position. Although the formula proposed by the Chairman of negotiating group 7, which had been reached as a result of protracted discussions, did not coincide with his country's position on the matter, it commanded fairly widespread agreement and met the requirements of document A/CONF.62/62; accordingly, his delegation would not create difficulties over its inclusion in the new revised negotiating text.

86. The consensus reached in the Third Committee over articles 242, 247, 249 and 255 and the compromise formulas for articles 246, 253, 254 and 264 offered grounds for guarded optimism that those articles might be included in the second revision of the negotiating text. That fact could be considered a very important step forward for the Conference as a whole.

87. Finally, he expressed the view that no intergovernmental organization could become a party to the convention; such an organization could, however, declare that it had assumed responsibility for matters over which the States concerned had given it jurisdiction, and it would then enjoy the rights accorded under the convention in respect of such matters.

88. Mr. GHELLALI (Libyan Arab Jamahiriya), referring to the matters discussed by the First Committee, recalled that the representative of Uganda, speaking on behalf of the Group of 77, had stated that the Group had agreed to a second revision of Part XI. The Group had not adopted a uniform position on the substance of the new proposals, since it had not had time to study them in depth. Accordingly, while his delegation did not oppose a second revision of the text, it believed that the second revision would not be the final revision. As in the first revision, it contained provisions that were unacceptable to many developing countries, and negotiations would have to be continued with a view to achieving a compromise solution.

89. In the view of his delegation, the question of reserved sites and joint arrangements therein, dealt with in articles 8 and 8 *bis* of annex II, was more important than the transfer of tech-

nology, for there could be no effective transfer of technology to the Enterprise or to the developing countries while the industrialized countries were attempting to force the Enterprise or the developing countries to enter into joint arrangements with them instead of giving them technology directly. Moreover, if the industrialized countries were permitted to undertake activities in the reserved site through joint arrangements, they would be in full control of the sea-bed, thus establishing a new form of colonialism. It should also be noted that, if the process of authorizing joint arrangements was not organized by the Assembly itself, the industrialized countries exercising hegemony over the Enterprise would be the ones to profit from sea-bed activities. Articles 8 and 8 *bis* must be redrafted so that the Assembly rather than the Enterprise could stipulate the requirements and conditions with respect to joint arrangements. Accordingly, a new paragraph should be inserted in article 160, and article 5 *bis*, paragraph 4, of annex III would have to be amended. His delegation agreed that the transfer of technology must be included among the activities for which ways must be found to prevent the contractors from evading their obligations.

90. With regard to the text of article 155 concerning the review conference, his delegation preferred the proposals in the revised informal composite negotiating text. The new proposals did not provide for a moratorium, the purpose of which was to emphasize the provisional nature of the parallel system. Even if the Group of 77 were to agree that the majority required for approval of the amendments in question should be two thirds rather than three quarters, it was essential to ensure that the review conference was held after 10 years, not 15, and that it ended after two years rather than five, for, under the new proposals, contracts entered into prior to the review conference would be applicable until new amendments came into force.

91. With regard to the financial arrangements, it was essential to ensure that the Enterprise was able to change the percentage of production taxes or net revenue if it felt that it was not commensurate with the immense profits accruing to the contractor.

92. With regard to the voting system, his delegation believed that no new formula should be negotiated in the future which would result in granting a veto power to any side even if it was a disguised veto.

93. The group of Arab States was opposed to the proposals concerning the outer limit of the continental shelf contained in the report of the Second Committee, since it believed that they were weighted in favour of countries with very broad continental shelves. The proposed amendment to article 76, paragraph 3, and the proposal to add a new paragraph 5 *bis* to that article were therefore unacceptable. The original text of article 76, paragraph 5, was far from an equitable solution. The only criterion that should be used in delimiting the continental shelf was that of distance.

94. With regard to the proposals contained in the report of the Chairman of negotiating group 7, his delegation agreed with the representative of Ireland that they should be rejected since they were not the result of negotiations but simply reflected the Chairman's personal views. Paragraph 1 of articles 74 and 83 of the revised negotiating text represented the only acceptable formula for negotiations.

95. All peoples and States should be able to accede to the convention. That also applied to national liberation movements recognized by the General Assembly. With regard to the seat of the Authority, the revised negotiating text should be amended to ensure that none of the three candidates was favoured and that the decision taken on the matter was an impartial one.

*The meeting rose at 1.05 p.m.*