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

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# 128th meeting

Thursday, 3 April 1980, at 3.35 p.m.

President: Mr. H.S. AMERASINGHE

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

1. Mr. CHANDARA-SOMBOON (Thailand) said that the second revision of the informal composite negotiating text (A/CONF.62/W.P.10/Rev.1) should maintain the delicate balance between the conflicting interests of the various groups and make further improvements in the text for the benefit of all mankind. In particular, his delegation had reservations with regard to the proposed revision of article 155, paragraph 5, in the report of the co-ordinators of the working group of 21 (A/CONF.62/27 and Add.1), on a moratorium in connexion with the system of exploration.
2. The report of the First Committee (A/CONF.62/L.54) had, in general, introduced considerable improvements. However, the provisions on the transfer of technology, the financing of the Enterprise, the voting procedures of the Council and its relations with the Assembly, the relationship between the Authority and the Enterprise, the question of tax exemption in the initial years, the question of immunities and privileges contained in article 12 of annex III, and the question of the settlement of disputes contained in Part XI should be improved through further consultations in order to achieve a more flexible balance.
3. His delegation did not feel that the joint proposal to place the three countries mentioned in article 156, paragraph 3, on the same footing as candidates for the seat of the Authority (A/CONF.62/L.48/Rev.1) was an amendment, regarding it rather as a proposed corrigendum of an error resulting from an oversight.
4. With regard to the report of the Second Committee (A/CONF.62/L.51), a limit should be set to the further extension of national jurisdiction which could encroach on areas reserved for exploration for the benefit of mankind as a whole. The formulation of provisions for the delimitation of the continental shelf and the exclusive economic zone among adjacent and opposite coastal States should also be finalized. His delegation could support any solution based on the principle of consent. No delimitation should be imposed unilaterally by or on any State. He felt that all the proposed formulas were acceptable, since delimitation was clearly subject to the agreement of the parties to employ suitable criteria. His delegation could accept any text which did not violate general principles of international law, and he urged delegations to be flexible and not to seek undue advantage or prejudice the outcome of the delimitation negotiations.
5. The report on the final clauses (FC/20) showed the need for further negotiations before a finalized text could be adopted. Lastly, he expressed satisfaction with the report of the Third Committee (A/CONF.62/L.50), since only articles 254 and 264 were subject to further negotiation.
6. Mr. PRANDLER (Hungary) said that his delegation would support the inclusion of the draft preamble (A/CONF.62/L.49) with the changes contained in A/CONF.62/L.49/Add.2 in the second revision. Those preambular paragraphs contained the fundamental purposes and principles on which the convention would be based. With regard to the report of the Second Committee, the revised provisions on the definition of the continental shelf, on the commission on the limits of the continental shelf and on marine mammals could be incorporated into the new revised text. His delegation attached great importance to the work of negotiating group 7, since the problem of the delimitation of maritime boundaries was very important to many countries and its early

solution would have a positive effect on the final outcome of the negotiations. He expressed the hope that the proposal contained in the report of the Chairman of negotiating group 7 (A/CONF.62/L.47) would facilitate final agreement between the two groups concerned and felt that the new version of article 298, paragraph 1 (a), was a definite improvement over the previous provision. Nevertheless, his delegation expressed disappointment at the refusal to incorporate a new article 96 *bis* on the immunity of sunken warships and other vessels which were only engaged in non-commercial government services.

7. With regard to the report of the First Committee, his delegation was in favour of adopting most of the changes proposed in documents A/CONF.62/C.1/L.27 and Add.1. Although it did not support all the new formulas, it felt that they provided a proper basis for further negotiations. Considerable progress had been made in formulating the new proposal on transfer of technology in article 5 of annex II, since more attention had been paid to the different interests of the developing and developed countries. His delegation felt that it was advisable to include, in the second revision of the negotiating text, the new text of article 6 of annex II containing the anti-monopoly clause. The wording of that provision, however, should be further improved in order to exclude any possibility of monopolizing the exploration and exploitation of the seabed. With regard to article 151 on production policies, his delegation felt that the new version contained in documents A/CONF.62/C.1/L.27 and Add.1 was a good basis for a compromise. The final text should also ensure the adequate protection of the interests of commodity importers. His delegation was not opposed to the new proposals concerning the financial terms of contracts and the financing of the Enterprise, but he stressed that it was time to work out more exact and concrete provisions concerning the financial obligations of States parties to the convention. With regard to the voting system of the Council of the sea-bed Authority, his delegation strongly urged that the compromise text should reflect the interests of all groups and regions. The existing text of article 161 of the revised negotiating text best met that requirement. Nevertheless, in the light of the objections expressed by several delegations, he fully supported the Mongolian proposal submitted in the First Committee at the 47th meeting. Furthermore, the proposals elaborated by the group of legal experts on the settlement of disputes relating to Part XI were acceptable and were a positive step towards consensus.

8. With regard to the report of the Third Committee, he stressed that, in order to ensure the freedom of scientific research provided for in article 246, a specific research régime should be established on the continental shelf beyond 200 miles from the baselines from which the breadth of the territorial sea was measured. His delegation could accept the current wording of article 254 on the rights of neighbouring land-locked States but was resolutely opposed to any further weakening of that article.

9. Lastly, his delegation was not satisfied with the provisions in the current draft convention concerning the régime and breadth of the continental shelf, the economic zone, the future sea-bed régime, marine scientific research and other issues. Nevertheless, it was prepared to act in a spirit of compromise and expected other delegations to manifest the same conciliatory attitude.

10. Mr. FERRAO (Angola) said that, although his delegation was satisfied with the concept of the exclusive economic zone, it was concerned at a tendency to rob that concept of its content to the detriment of coastal developing States. With regard to

the settlement of disputes concerning the delimitation of maritime boundaries between adjacent and opposite States, his delegation could not accept the mandatory settlement of questions affecting sovereignty by a third party. Nevertheless, his delegation supported the proposal concerning articles 63, 77 and 96 *bis* submitted in the report of the Second Committee. With regard to the continental shelf, his delegation felt that the work currently in progress would lead to an acceptable solution.

11. As regards the work of the First Committee, he fully supported the proposed amendment to article 140 contained in document A/CONF.62/C.1/L.27. With regard to the international sea-bed Authority, his delegation expressed concern that the system of exploration and exploitation of the sea-bed would require funds in excess of the revenue of the Authority. Developing countries wished to establish an organization which would promote their development and not be a source of further expense. With regard to the transfer of technology to the Enterprise and to developing countries, he was not satisfied with the text proposed in documents A/CONF.62/C.1/L.27 and Add.1. Although his delegation still had some difficulty regarding the question of financing the Enterprise and the possibility of financing the first site, it supported in principle the financial terms of contracts contained in article 12 of the revised informal composite negotiating text. Articles 8 and 8 *bis* of annex II contained in part II of document A/CONF.62/C.1/L.27, favoured the monopoly of certain States and consortiums and ran counter to the parallel system. With regard to the composition of the Council of the sea-bed Authority, steps should be taken to protect the land-based investing States, especially developing countries. With respect to voting, he felt that the proposal of the Mongolian delegation merited consideration. The formula submitted by the First Committee with regard to production limitation should be further refined to meet the interests of land-based producing States and potential producing States. Due account should be taken of the possible catastrophic effects of production limitation on the economies of certain developing countries.

12. Lastly, with regard to the report of the Third Committee, his delegation had difficulties with the wording of article 246 and strong reservations concerning article 254, paragraph 1, because of the need to safeguard the rights of coastal States.

13. Mr. BRENNAN (Australia) said that his delegation supported the inclusion in the second revision of the negotiating text the latest text of the preamble. With regard to the report of the First Committee he supported the inclusion of all the texts suggested, subject to the points proposed in documents A/CONF.62/C.1/L.27 and Add.1. With respect to the report of the Second Committee his delegation supported the proposed amendments to article 25, paragraph 3, and articles 65, 76 and 111, as well as the inclusion of Southern blue fin tuna in annex I. He could support the inclusion of the proposed new formulation on ocean ridges in article 76 if other delegations accepted that formulation as part of the over-all package on the outstanding issues concerning the continental shelf. Subject to a reservation with regard to article 76, paragraph 7, his delegation generally supported the annex. The existing formulation of that paragraph in the revised negotiating text more accurately reflected the sovereign nature of the rights of coastal States over their continental shelf than the suggested reformulation. With regard to article 7, the words "paragraph 7" should be deleted from the phrase "in conformity with article 76, paragraph 7", since all of article 76 was relevant.

14. His delegation noted the contents of the report of the Chairman of negotiating group 7 and expressed the hope that the work on delimitation would be completed early in the Geneva session. He welcomed the strengthened new text of article 65 by the Second Committee on marine mammals and felt that further work should be done at Geneva on article 63 in relation to straddling stocks.

15. With regard to the report of the Third Committee, his delegation generally supported the proposed changes to the revised negotiating text. The agreement of a coastal State to waive the exercise of some of its rights in regard to marine scientific research on the continental shelf beyond 200 miles, as proposed in article 246, paragraph 6, was without prejudice to the sovereign character of the coastal State's rights over the continental shelf. His delegation would prefer a formulation of article 246, paragraph 6, which would give the coastal State greater flexibility to designate areas in accordance with that paragraph. He supported article 255 on port access because it clearly stated that the obligation to endeavour to facilitate port access was subject to the provisions of the internal law of the coastal States.

16. Lastly, since the problem of decision-making in the Council of the international sea-bed Authority was impeding the work of the First Committee and progress on the final clauses and the question of the preparatory commission, priority should be given to the work of negotiating group 3 in the coming session at Geneva.

17. Mr. NAKAGAWA (Japan), referring to the report of the working group of 21 to the First Committee, said that the proposed new text dealing with the transfer of technology was an improvement, although certain provisions, such as those concerning assurance of the transfer of third party technology and the transfer of technology to developing countries, needed further clarification. With regard to production limitation, his delegation welcomed the idea of the minimum floor as introduced in the formula of the co-ordinators' report but wished to reserve its position with regard to the figure of 3 per cent and the scheme of the ceiling. His delegation had difficulty with the figures given in the provisions relating to the financial terms of contracts and with the financing of the Enterprise. Those two problems were linked with each other and with other First Committee issues and should be studied as a whole. He expressed great disappointment that no breakthrough had been achieved regarding the problem of the Council of the international sea-bed Authority. It was of the utmost importance that the economic interests of deep sea-bed mining countries should be properly protected in the decision-making process of the Council. It was to be hoped that that problem would be solved in the coming session at Geneva. With regard to the settlement of disputes relating to Part XI, the work done by the group of legal experts was generally satisfactory. The remaining main issues dealt with in the First Committee were closely inter-related and should be considered as a package. His delegation supported the inclusion of all the proposals of the respective co-ordinators in the second revision of the negotiating text.

18. With regard to the report of the Second Committee, he supported the recommendation to include the proposals relating to articles 25, 65, 76 and 111 and annexes I and II in the second revision of the negotiating text. Article 65 should not contain a special provision regarding marine mammals since the principle of optimum utilization of living resources should apply equally to that category. Furthermore, there was no scientific reason to single out cetaceans among marine mammals and subject them to special treatment. Nevertheless, in order to arrive at a mutually acceptable solution, his delegation supported the recommendation to include the new text of article 65 in the second revision of the text. In that regard, it was the understanding of his Government that the measures regarding the conservation, management and study of cetaceans in the exclusive economic zone would not necessarily be taken simultaneously and include every stock of cetaceans but would be taken on an individual basis when such measures were found to be appropriate through consultations between the States concerned, taking into account such relevant factors as population and level of harvest of individual stocks. His delegation expressed satisfaction that a breakthrough had been achieved with regard to article 76 and supported the recommendation to revise annex I by adding Southern blue fin tuna

to the list of highly migratory species. With regard to the problem of the delimitation of the exclusive economic zone and the continental shelf, his delegation fully associated itself with the view expressed by the representative of Spain at the 126th meeting, speaking on behalf of the sponsors of document NG7/2/Rev.2.

19. With regard to the report of the Third Committee, his delegation felt that freedom of marine research activities should be ensured as much as possible in the new régime since it was in the common interest of mankind. At the same time, the settlement of disputes relating to such activities should be mandatory. Although his delegation was not fully satisfied with the proposals contained in the report, it would have no difficulty in supporting them in view of the painstaking efforts to strike a balance between the interests of coastal States and those of researching States.

20. Mr. AL-WITRI (Iraq) said that his country, as a member of the Group of 77, reaffirmed the position of that group with regard to the report of the First Committee, especially on the question of the exploitation and exploration of the sea-bed. The question of the transfer of technology to the Enterprise and to developing countries would have to be settled before developing countries could accept the parallel system, which would otherwise lose its desired balance. With regard to article 161 concerning decision-making in the Council, a solution might be reached by excluding the possibility of any veto or weighted vote so that all States would have an equal vote. The question of a review conference dealt with in article 155 should receive further study, since a moratorium system with regard to sea-bed activities would have to be contemplated if the Conference did not succeed in setting up a new system of exploration and exploitation as envisaged in the revised negotiating text.

21. With regard to the report of the Second Committee, his delegation shared the position taken by the group of Arab States calling for the limitation of the extent of the continental shelf of coastal States to a minimum distance assessed by precise measurements in order to safeguard the common heritage of mankind. As to the work of negotiating group 7 on the delimitation of the exclusive economic zone and the continental shelf (articles 74 and 83), he supported the position contained in documents NG7/10/Rev.2. The principles enunciated by the International Court of Justice with regard to the North Sea and the relevant rules of international law should be observed in order to take account of the special circumstances involved in settling disputes over the delimitation of sea-bed frontiers. His delegation supported the concept of binding settlement to safeguard peaceful relations between neighbouring States. The rights of geographically disadvantaged States with respect to fishing in neighbouring maritime areas had not been sufficiently protected in the revised negotiating text. Negotiations on article 70 would have to continue, therefore, in order to settle the problem and clarify the relationship between article 70 and articles 61 and 62. There were other crucial problems, such as the régime of islands, which required further attention since they hampered the delimitation of maritime frontiers and freedom of navigation in international waterways. The problem of enclosed or semi-enclosed seas was of particular interest to his country. Article 123 should be further refined to ensure co-operation of States bordering enclosed or semi-enclosed seas.

22. Lastly with regard to the report of the Third Committee, due account should be taken of the rights of geographically disadvantaged developing States in the area of scientific research.

*Mr. Bhatt (Nepal), Vice-President, took the Chair.*

23. Mr. Duk Choo MOON (Republic of Korea) said that he

would limit his comments to certain issues of importance but reserved the right to refer to other matters at the forthcoming session in Geneva.

24. He endorsed the position taken by the Chairman of the Group of 77 (see 126th meeting) on the proposals contained in documents A/CONF.62/C.1/L.27 and Add.1, which offered a better chance of achieving consensus at Geneva.

25. Referring to production policy, he said that consumption by the developing countries of minerals to be produced from deep sea-bed mining would inevitably increase in the future and that an adequate supply of such minerals would be important to those countries. The minimum ceiling on the growth rate should therefore be fixed at such a point that it would not disadvantage the land-based producers by being too high or frustrate plans for sea-bed mining.

26. Turning to the subject of innocent passage of warships through the territorial sea of coastal States, he said that his delegation's proposal (article 29 *bis*) that the coastal State may require foreign warships to give prior notification to its competent authorities for passing through its territorial sea represented a compromise of the conflicting interests involved. He requested the inclusion of that proposal as an addendum to the report of the Chairman of the Second Committee.

27. The question of the delimitation of the continental shelf and the exclusive economic zone was also of importance. He regretted that little progress had been made during the current session despite strenuous efforts by the chairman of negotiating group 7 and its members. However, he was encouraged by the prospects for reaching a consensus based on the compromise formula contained in the Chairman's report.

28. At the same time, the new compromise suggested by the Chairman of negotiating group 7 appeared too ambiguous for the process of delimitation, since it purported to effect delimitation by reference to the somewhat vague concept of international law. He hoped that guidance might be provided by a judgement rendered by the International Court of Justice on the North Sea continental shelf and by the Anglo-French Arbitration involving the delimitation of the continental shelf. The question of delimitation was one of the most important elements of the package, and he trusted that the various parties would demonstrate their political will by accepting a compromise along the lines suggested by the Chairman of negotiating group 7.

29. With regard to interim measures and the settlement of disputes concerning delimitation, he endorsed the proposals contained in document NG7/45. They represented the best chance of reaching a consensus on the question of delimitation. It would be against the interests of all States to leave valuable resources in disputed areas unexploited simply because one party to a dispute, while making an unreasonable claim, refused to negotiate. Such difficulties might arise in a dispute between a small State and its larger neighbour, in which case it would be unfair for the small State to subject its rightful share of potential resources to the arbitrary discretion of its larger neighbouring State.

30. Turning to Third Committee matters, he endorsed the new proposals on marine scientific research contained in document A/CONF.62/L.50. In particular, the newly proposed article 246, paragraph 6, was worthy of support in that it safeguarded the sovereign rights of the coastal State over the continental shelf beyond 200 miles in respect of marine scientific research, thus ensuring the unity of the continental shelf régime.

31. Although some difficult problems remained, there had been considerable progress in past weeks towards the goal of a new comprehensive legal order for the seas and oceans. His delegation's response to many of the proposals in the reports was positive, for they represented a considerable improvement over the revised negotiating text.

32. Mr. HING UN (Democratic Kampuchea) said he trusted that the present session would lead to a convention on the law of the sea which met the legitimate interests of all its signatories and the aspirations of all peace- and justice-loving peoples.

33. With reference to the Chairman's report on the work of negotiating group 7 on the delimitation of the exclusive economic zone and the continental shelf his delegation felt that the provisions of paragraph 1 of articles 74 and 83 of the revised negotiating text should be retained. Any other definition would represent a departure from the equitable principles upon which any delimitation should be based. In the interim, States should refrain from any acts which might prejudice definitive delimitation and the interests of other parties.

34. The settlement of delimitation disputes should be in accordance with article 2, paragraph 3, and article 33, paragraph 1, of the Charter of the United Nations whatever might be the settlement procedure adopted by the parties. The convention on the law of the sea should not oblige States parties to a dispute over the delimitation of maritime zones to accept a settlement procedure which they did not agree with. That would be contrary to current international law. Direct negotiations and consultations between the parties on the basis of equality and in accordance with the principles of the Charter would be preferable. His delegation had carefully noted the conciliation procedure contained in annex IV of the revised negotiating text.

35. He strongly supported those delegations which felt that the provisions on delimitation in the future convention must not be allowed to prejudice the legal *status quo* by engendering claims against sovereignty or other rights in respect of continental or island territory.

36. Turning to the innocent passage of warships, he endorsed the view of other delegations that a new subparagraph (b) should be added to article 21, paragraph 1, of the revised negotiating text whereby coastal States might adopt laws and regulations on the matter in accordance with the provisions of the convention and the norms of international law. It was in everyone's interest for a coastal State to be able to demand prior notification or authorization for the passage of warships through territorial seas.

37. With regard to the rights of coastal States over the continental shelf, his delegation supported the inclusion of a new paragraph 5 in article 77 calling for a coastal State to exercise sovereign rights over any object of archaeological or historic interest found on the continental shelf.

38. Furthermore, his delegation supported the principle of the peaceful use of the high seas and therefore endorsed the proposed amendment to article 88 contained in document C.2/Informal Meeting/555.

39. He reserved the right to comment on the documents in greater detail at the resumed session.

40. Mr. YUSUF (Somalia), referring to the reports submitted by the co-ordinators of the group of 21 (A/CONF.62/C.1/L.27 and Add.1) and by the Chairman of the First Committee (A/CONF.62/L.54), said that his delegation fully endorsed the views expressed by the Group of 77. The provisions on the transfer of technology, the review conference, the exemption of the Enterprise from taxation and the voting procedure in the Council needed further consideration.

41. He regretted that there had not been sufficient time to deal with the unresolved issues before the Second Committee. His delegation was disappointed at the absence in the Chairman's recommendations (See A/CONF.62/L.51) on the second revision of the negotiating text of any explicit reference to the right of a coastal State, in making laws and regulations relating to innocent passage, to require prior authorization or notification for passage of warships through its territorial sea. It was his delegation's view that such a right already existed in international law. Although the existing formulation in the

revised informal negotiating text did not preclude or prejudice the exercise of that right by coastal States, his delegation would prefer to see it more explicitly formulated in the second revision. In particular, the proposal contained in document C.2/Informal Meeting/58 deserved careful consideration.

42. He felt that the provisions of the revised negotiating text on the conservation of fishery stocks which overlapped the 200-mile limit or occurred in the economic zones of two or more States were inadequate. He therefore supported the Argentine proposal on article 63 (C.2/Informal Meeting/54), which would afford better protection for endangered species in the areas concerned. The absence of any recommendation for the inclusion of that proposal in the second revision of the negotiating text was regrettable.

43. He also regretted the fact that no compromise formula had been found for the delimitation of the exclusive economic zone and continental shelf between adjacent or opposite States. Such delimitation should be effected in accordance with equitable principles and all the relevant circumstances. The practice of States and judicial and arbitral precedents provided clear evidence of the widespread use of those criteria by the international community.

44. With reference to the report presented by the Chairman of the Third Committee (A/CONF.62/L.50), he was pleased that the reservations and objections of various delegations to some of the proposed changes in the text on marine scientific research had been recorded. He welcomed the proposals of the Chairman with respect to articles 242, 247, 249, 254 and 255. The proposed changes in those provisions constituted a step forward and might lead to a consensus. His delegation found it difficult, however, to accept the proposal on article 253, which weakened the legitimate right of coastal States to terminate a research project that was found to be in breach of the conditions under which consent had been granted. Further negotiations were necessary on that provision and on the related provisions of article 264 on dispute settlement.

45. He welcomed the draft preamble presented by the President (A/CONF.62/L.49), together with the draft proposals on final clauses submitted by the Chairman of the group of legal experts (FC/20). Delegations needed an opportunity to consider carefully the proposed provisions on final clauses, and he wished to reserve his delegation's position on those proposals.

46. While his delegation had limited its remarks to those issues because of the agreed time-limit, that did not mean that it supported or consented to the inclusion of all the other proposed suggestions in the second revision of the negotiating text. His delegation would express its views in a more comprehensive manner at a later date and reserved its position on those suggested amendments which it had not expressly accepted.

47. Mr. LUPINACCI (Uruguay) said that his delegation was in broad agreement with the President's draft preamble and that the proposals submitted by the co-ordinators of the various negotiating groups represented real progress.

48. As a member of the Group of 77, his delegation endorsed the proposals submitted to the First Committee by the relevant co-ordinator; it should be borne in mind that the financing of the Enterprise, the review conference and production limitation were the basic factors that had enabled the developing countries to accept the parallel system.

49. The compromise proposals contained in part V of document A/CONF.62/C.1/L.27 represented an appropriate balance, and his delegation supported their inclusion in the second revision of the negotiating text.

50. With respect to the continental shelf, he endorsed the comment made by the representative of Ireland, at the 126th meeting, that the amendments to article 76 would provide the basis for a consensus and he supported their inclusion in the second revision of the negotiating text. However, he had res-

ervations about the amendment to paragraph 8 whereby the words "taking into account" would be replaced by "on the basis of"; that would alter the legal nature of the acts of the commission on the limits of the continental shelf, which were termed recommendations by article 76 and by the commission's statute contained in the report of the Chairman of the Second Committee. His delegation basically endorsed the text of that annex but felt that some amendments might be made to it. He did not agree with the proposal contained in article 2, paragraph 5, on defraying the expenses of members of the commission, since it would not safeguard the commission's autonomy.

51. Turning to other Second Committee matters, he endorsed the recommendations of that Committee's Chairman regarding articles 65 and 111 and the inclusion of another highly migratory species in the list contained in annex I. The proposal on article 63 submitted by Argentina had received widespread support, and he trusted that it would provide a basis for negotiation at Geneva.

52. His delegation found unacceptable a number of provisions and omissions relating to Second Committee matters in the revised negotiating text. Some articles connected with key articles of the package deal had not been negotiated along with those key articles, so that their wording created ambiguity or confusion or even contradicted the key articles themselves. At the Geneva session, such ambiguities and contradictions should be eliminated and other amendments which could lead to a consensus should be considered. His delegation reserved the right to submit such amendments at the proper time.

53. With regard to Third Committee matters, his delegation reaffirmed its support for the rule that scientific research activities in the exclusive economic zone and on the continental shelf must be conducted with the consent of the coastal State, and it could not accept any derogation from that rule as set out in article 246 of the revised negotiating text. However, it had participated in the negotiations on the proposed amendments to that article and to part XIII of that text, some of which appeared to offer a basis for a consensus. In particular, his delegation supported the inclusion in the second revision of articles 242, 247, 249, 254 and 255 as contained in the report of the Chairman of the Third Committee.

54. His delegation also accepted the inclusion of articles 253 and 264 but felt that their wording needed to be made more precise. He favoured a specific reference in article 264 to article 253, paragraphs 1 and 3. That would be in keeping with the philosophy of the régime provided for in article 253, which drew a clear distinction between the circumstances necessitating the suspension of research activities and those necessitating their cessation.

55. With regard to research activities carried out on the continental shelf beyond 200 miles, the formula ultimately agreed upon must not limit the sovereign rights of the coastal State as recognized in customary and treaty law and in article 77 of the revised negotiating text. The wording of article 246 suggested by the Chairman of the Third Committee was acceptable to his delegation, given the provisions of paragraphs 7 and 8. Nevertheless, the establishment of a régime for scientific research on the continental shelf beyond 200 miles different from that applicable to the rest of the shelf as provided for in paragraph 6, created problems for many delegations, including his own, even if the principle of consent was retained. He recognized that the Chairman of the Third Committee had attempted to reach a compromise, but it was clear that no compromise solution had in fact been found.

56. His delegation considered it of vital importance that the first part of the ninth session should end with the completion of the second revision of the negotiating text, so that final negotiations leading to the formal adoption of the text could take place at the Geneva session.

Mr. Zegers (Chile), Vice-President, took the Chair.

57. Mr. ANDERSEN (Iceland) said that his delegation supported the second revision of negotiating text and the inclusion of the revised preamble. All the elements of progress towards consensus in First Committee matters should be reflected.

58. He supported the amendments proposed by the Chairman of the Second Committee. He understood that the new provision regarding submarine ridges meant that the 350-mile limit criterion would apply to ridges which were a prolongation of the land mass of the coastal State concerned. He considered that the Argentine proposal on article 63 and the Canadian proposals on that matter should be further developed.

59. His delegation also supported the inclusion of the amendments proposed by the Chairman of the Third Committee.

60. Further efforts would have to be made at Geneva to solve the remaining problems in the revised negotiating text. The proposals on the preparatory commission were acceptable to his delegation (A/CONF./62/L.55).

61. He trusted that the convention would be ready for signing in Caracas within a few months, so that a process which had begun in 1949 with the work of the International Law Commission could finally be completed.

62. Mr. ABDEL MEGUID (Egypt) observed that the compromise text of the draft preamble contained in document A/CONF.62/L.49 highlighted the underlying principles, framework and goals of the future convention; however, he associated himself with the point of view of the Group of 77 with respect to the sixth paragraph. For lack of time, his delegation had not been able to consider all the proposals in detail and would therefore reserve its right to comment on them at the resumed ninth session. In any case, a definitive view would be premature before the package had been completed.

63. The new proposals submitted by the Chairmen of the three committees encompassed a number of improvements which had met with general agreement and should therefore be incorporated into the second revision of the negotiating text. The fact that his delegation accepted the idea of drawing up a second revision did not mean, of course, that it accepted all the proposals, except as a basis for future negotiation. It had some difficulty with those pertaining to the system of exploration and exploitation and the transfer of technology, and it believed that further efforts would be necessary to find more acceptable solutions in conformity with the principle of the common heritage of mankind. The financing of the Enterprise also required more careful study, as did the establishment of a common heritage fund. The necessary funds should be guaranteed to enable the Enterprise to begin its work at the same time as States and other entities, taking into account the initial problems it would face.

64. He was somewhat concerned at the lack of progress achieved on the issue of decision-making in the Council and hoped that some more acceptable solution would be found at the resumed session on matters pertaining to the continental shelf that were dealt with by negotiating group 6. His delegation still had some reservations about the natural prolongation of the continental shelf of coastal States, which could seriously impinge on the international Area. The text of article 76 was still too flexible in that respect, although the establishment of a commission on the limits of the continental shelf would help to mitigate the adverse effects to some extent. The report of the Chairman of negotiating group 6 and document NG6/20 represented a useful, but inadequate, attempt at a solution. Some ambiguities remained with respect to the definition of the continental shelf, and the revenue-sharing problem had not been sufficiently studied. A major issue on which a balance had to be struck between national sovereignty and the principle of the common heritage of mankind was that of the *pro rata* increase contemplated in article 82.

65. Turning to Second Committee matters other than those dealt with by the negotiating groups, he reaffirmed his delegation's support for the informal proposals relating to innocent passage (C.2/Informal Meeting/58), the proposal made by Italy with regard to the rights of the coastal State over the continental shelf with respect to objects of an archaeological and historical nature (C.2/Informal Meeting/43/Rev.2) and the informal proposal on the reservation of the high seas for peaceful purposes (C.2/Informal Meeting/55), all of which should be included in the second revision of the negotiating text. With respect to article 33 of the revised negotiating text, it was important that the coastal States should be entitled to exercise their right to protect their security by having total sovereignty over their own customs, fiscal, immigration and sanitary regulations.

66. On the subject of marine scientific research dealt with by the Third Committee, his delegation had some reservations with respect to the proposed wording of article 253 on the suspension or cessation of research activities; no distinction was drawn between research conducted in the exclusive economic zone and that conducted beyond that zone or on the extended continental shelf. The article thus detracted from the discretionary powers contemplated in the convention for the purpose of enabling coastal States to protect their national interests. His delegation's reservations also extended to article 264 on the settlement of disputes.

67. On the subject of the preparatory commission, he shared the view expressed by the Group of 77 that the issue could not be dealt with until the First Committee had completed its work. However, he supported the unanimous opinion that had emerged in the informal meetings regarding the establishment of the commission, namely, that its membership should consist of signatories of the convention and that its functions should be confined to procedural questions so as to enable the Authority and its main bodies to assume their responsibilities as soon as possible, once the convention had entered into force. In accordance with existing United Nations practice with respect to preparatory commissions or committees, the commission should not act in place of the Authority.

68. His delegation would comment on the excellent report on final clauses (FC/20) at the resumed ninth session.

69. Mr. MANANSALA (Philippines) said that substantial progress had undeniably been achieved on most of the hard-core issues, although his delegation regretted that, because of time constraints, some of the problems relating to Part IV of the revised informal composite negotiating text, particularly with respect to archipelagic sea lanes passage, had not yet been solved.

70. It was heartening to note that the First Committee had recognized the legitimate concern of land-based mineral producers at the possible loss of a fair share of the world market. Because of that concern, his delegation would have preferred it if the figures of 3 per cent and 100 per cent in article 151, paragraph 2 (b), had been left blank and the search for a solution deferred until the resumed session. He had noted the correction appearing in document A/CONF.62/C.1/L.27/Add.1 regarding the two-thirds majority in article 155, paragraph 5, but the deletion of the moratorium clause still posed problems for his delegation. In his view, further negotiation was needed on the subject of the transfer of technology, in article 5 of annex II; provisions on penalties, blacklisting and transfer of processing technology should be further elaborated.

71. In considering the work of negotiating group 2, his delegation still had some doubts about the workability of articles 9 and 12 of annex III but was prepared to study the provisions carefully. He had noted the failure of negotiating group 3 to arrive at a final solution on the composition of the Council and its decision-making procedures. However, the

optimistic attitude of the Chairman of that group regarding the imminence of a solution of that highly contentious issue was encouraging.

72. His delegation had already commented in the Second Committee on the compromise text dealing with the definition of the outer limit of the continental shelf and was pleased to note that a compromise text to deal with the unique problem of the Sri Lankan continental shelf would shortly be submitted. It was most regrettable, however, that the informal proposal on the navigation of warships through the territorial sea of a coastal State had not merited inclusion in the report of the Chairman of the Second Committee, since it had received considerable support. Further discussion would be required on that issue at the resumed session. The lack of progress in negotiating group 7 on the delimitation of maritime frontiers between adjacent or opposite States was disappointing but resulted from the complexity of the problem rather than from any lack of a spirit of accommodation. That was another issue that would have to be carried over to the resumed session.

73. At the previous session, his delegation had expressed misgivings about reopening the problem of arrangements for marine scientific research in the exclusive economic zone and on the continental shelf, for fear of creating more problems. However, it would study the new compromise text proposed by the Chairman of the Third Committee. It would have no objection to the inclusion of that text in the second revision of the negotiating text but had some reservations with respect to article 246, paragraph 6, which seemed to be a derogation of the sovereign right of a coastal State to regulate, authorize and conduct marine scientific research on its own continental shelf.

74. The preparation of the draft text of the preamble and the statute of the preparatory commission marked a significant accomplishment of the current session. He believed that they would help to bring about prompt acceptance of the convention which finally evolved, and he hoped that all outstanding issues would be speedily negotiated and resolved, thus ensuring a universally acceptable convention that would bring order to the oceans for the ultimate benefit of all nations.

75. Mr. KAMANDA wa KAMANDA (Zaire) said that, to a large extent, his delegation was prepared to regard the proposals submitted by the various negotiating groups as a basis for negotiation, although that in no way meant that it fully supported them, particularly those relating to the system of exploration and exploitation, financial matters, the powers of the Assembly and of the Council, the preparatory commission and the settlement of disputes relating to Part XI.

76. He associated himself with the statement made at the 126th meeting by the representative of the Group of 77; his delegation would submit its detailed written comments at a later stage.

77. Referring to the system of exploration and exploitation, and more specifically to production policies in article 151, he said that, although the efforts made by Mr. Nandan to reconcile the various positions and to find a compromise were appreciated, his delegation was nowhere near being able to endorse the formula proposed. For a number of reasons, it remained reluctant to see the introduction of the floor concept: first of all, the calculations, particularly the 3 per cent growth rate, were based on speculation; secondly, the floor would not prevent the sea-bed producers from monopolizing the market, to the detriment of land-based producers, when the growth rate dipped appreciably; thirdly, because of the way it operated, the floor would have the effect of imposing maximum restrictions on land-based production and thereby nipping in the bud any development of economies, such as that of his own country, which were based mainly on the export of land-based minerals; fourthly, such a formula would simply prevent the emergence of certain potential land-based producers, because no country would want to risk investing huge sums when it knew in

advance that the market would be glutted; fifthly, the formulation of article 151, paragraph 2 (b) (iii), served neither the letter nor the spirit of article 150 and sought to restrict the scope of the appeal launched by the General Assembly in resolution 2749 (XXV); sixthly, there was the question of the ambiguity surrounding the arrangements with regard to the computation of the ceiling on the basis of the 3 per cent growth rate in consumption. Over the five-year period between the beginning of the interim period and the first year of commercial production, land-based production would be seriously curtailed for the benefit of the sea-bed producers. His delegation could not accept a calculation which was tantamount to saying that 3 minus 1 equalled 3. However, it was aware that some other proposals were being worked out, and it would be willing to discuss a compromise formula on the basis of a reduction of the growth rate to 1 or 2 per cent, accompanied by compensatory conditions.

78. With respect to the provisions of article 150, more particularly subparagraph (g), which rightly sought to protect the developing countries his delegation believed that the convention should not overlook the purposes and principles of the United Nations, the principles of international law and the pertinent legal aspects of promotion of the establishment of a new international economic order, to which the concept of the common heritage of mankind was closely linked. The new order, of which the convention on the law of the sea would be a part, was designed to protect the interests of the developing countries by remedying the disequilibria of the past, which had militated against them.

79. In considering article 76, his delegation had always preferred the distance criterion because of its simplicity and the consequences arising from the principle of the common heritage of mankind, which was a pillar of the law of the sea. In those circumstances, the continental shelf would form the substructure of the economic zone and there would be no further need to discuss submarine ridges, the outer edge of the continental margin or the commission on the limits of the continental shelf. Since some believed that the compromise was moving in the direction of a combination of distance, depth and geomorphological criteria, he hoped that a satisfactory solution could be found to the question of payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles. The suggestions made by Sri Lanka in that respect were extremely interesting; certain technical provisions had to be found to ensure that no part of the common heritage of mankind was affected. He therefore urged initiatives to establish a common heritage fund for the purpose of developing the non-living resources of the economic zone and of the continental shelf beyond 200 miles. The changes proposed in article 63 would damage co-operation between States in the management of fishery resources, and his delegation was therefore opposed to them.

80. It welcomed the efforts to arrive at a consensus in the Third Committee on marine scientific research. A positive outcome of discussions on the preamble, the settlement of disputes, final clauses and the preparatory commission would have to await completion of the negotiating process, which should take account of the many other elements that had come to light in the course of discussions. The improvement of articles 69 and 70 in favour of the land-locked and geographically disadvantaged States would strengthen the principle of non-discrimination. The right of those States to exploit fishery resources had to be strengthened, and their interests had to be taken into account in marine research.

81. Mr. LUSAKA (Zambia) expressed support for the view of the Group of 77 that sufficient progress had been made to warrant a second revision of the negotiating text even though there were a number of outstanding issues, some of which were of vital concern to his country.

82. With respect to the work of the First Committee, his

delegation endorsed the stand of the Group of 77 on the review conference (article 155, para.5), the fiscal status of the Enterprise (annex III, articles 9 and 12), the transfer of technology (annex II, article 5), production policies (article 151), the financial terms of contracts (annex II, article 12) and the decision-making process in the Council (article 161, para.7).

83. The proposal before the Conference on the question of production limitation under article 151, paragraph 2 (b), presented difficulties for many delegations, including his own. They felt that the floor figure of 3 per cent and the safeguard clause of 100 per cent were very high and displayed an insensitivity to actual market growth. They would force land-based producers to cut back on their production during periods of low growth in the market, a situation that would be catastrophic for developing land-based producers whose economies depended on the mining industry. The emerging consensus that the proposal required further negotiation offered improved chances of a solution: his delegation would therefore have preferred that the proposal not be incorporated into the second revision. It was only prepared to accept its inclusion if the figures were omitted. That procedure would ensure a free discussion of the text at the resumed session.

84. His delegation urged that the proposal for a common heritage fund contained in document C.2/Informal Meeting/45, which his delegation, among others, had sponsored, should be incorporated into the second revision, since it presented the Conference with a last chance to give meaningful effect to the principle of the common heritage of mankind. The inclusion of a common heritage fund in the new convention on the law of the sea would have a tremendous impact on the establishment of a new international economic order.

85. The proposal to amend articles 56 and 82 appeared to have majority support.

86. Finally, his delegation supported the inclusion in the second revision of the negotiating text of the draft preamble submitted in document A/CONF.62/L.49 and of the text on the settlement of disputes relating to Part XI.

87. Mr. STEPHANIDES (Cyprus) said that his delegation intended to make a detailed statement at the resumed session. With respect to First Committee matters, it fully supported the statement made by the Chairman of the Group of 77, while it regretfully had to express opposition to the proposal on general principles contained in document FC/18.

88. In noting the failure to find a basis for consensus on paragraph 1 of articles 74 and 83, he pointed out that that was a clear-cut case calling for immediate remedy by the collegium at its next sitting. If a really balanced and neutral text could not be found, that would be a serious omission which was not justified by the merits of the case. In that connexion, he fully supported the views expressed by the representative of Spain at the 125th meeting on behalf of the sponsors of document NG7/2/Rev.2.

89. He earnestly hoped that the close interrelationship between the three elements of the text, namely, delimitation criteria, interim measures and settlement of disputes, would continue to be recongized and fully safeguarded in the second revision of the negotiating text.

90. Attempts to change the text of article 121 on the well-established régime of islands would meet with the strongest opposition from his delegation, which represented an island nation.

91. Having supported the proposal of the United States for a new text of article 65 on marine mammals (C.2/Informal Meeting/49), he was glad to see that it was gaining wide support for inclusion in the second revision of the negotiating text. It was to be expected that the substantially improved, widely supported proposal relating to objects of archaeological or historical interest found on or under the continental shelf (C.2/Informal Meeting/43/Rev.2) would similarly, and deservedly, find its place. He voiced his delegation's support for

the proposals contained in the report of the Chairman of the Third Committee and its full agreement with the text of the draft preamble.

92. Mr. IMAM (Kuwait) said that the procedural division of the Conference into watertight compartments had made it difficult, if not impossible, for delegations to have an over-all view of the work of the various committees and that the problem had been compounded by the fact that most negotiations had taken place within small groups which had not been truly representative of various interest groups and schools of thought. The extreme case was reflected in paragraph 5 of the report of the Chairman of the Second Committee. His delegation strongly objected to that procedure, especially on vital issues such as the continental shelf, in which all delegations had an interest. He therefore made a plea for more democratic procedures during the resumed session: all delegations should have an equal opportunity to express their views on all topics.

93. On First Committee matters, his delegation had always been eager to maintain solidarity with the developing countries and the co-ordinator and other members of the Group of 77 had already echoed some of its tentative views on the issues. The question of the composition of the Council and its decision-making process were far from being resolved, and, while his delegation had no objection to the representation of interest groups within the Council, it did have serious objections to the creation of a blocking vote reminiscent of the veto power enjoyed by the five permanent members of the Security Council. That could only result in creating stalemate and preventing the Enterprise from carrying out activities in the area.

94. On Second Committee matters, his delegation believed that any extension of the continental shelf beyond 200 miles from the baselines from which the breadth of the territorial sea was measured would constitute an encroachment on the common heritage of mankind; that position had already been articulated by the chairman of the group of Arab States.

95. In view of its special stake in the question of the delimitation of the continental shelf between adjacent or opposite States, his delegation had carefully studied the numerous proposals presented but had become more and more convinced over the years that article 6 of the 1958 Convention on the Continental Shelf offered the ideal solution. In the absence of agreement between the States concerned, the boundary should be determined by the median line every point of which was equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State was measured.

96. Silence on all the other proposals should not be construed as agreement. The second revision of the negotiating text would be referred to the competent authorities for consideration, and his delegation would make its views known on the various issues at the resumed session. It viewed the second revision merely as an additional step along the path of negotiation and believed that the status of its provisions would not be superior to that enjoyed by its two predecessors.

*Mr. Bedjaoui (Algeria), Vice-President, took the Chair.*

97. Mr. AL HADDAD (Democratic Yemen) said that his delegation welcomed the progress made on major issues in the First Committee and in the various related negotiating groups. That progress would provide a good basis for the second revision of the informal composite negotiating text. Where 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) was concerned, more attention should be devoted to the question of the transfer of technology, particularly in order to ensure that the Enterprise had access to the technology of the contractor and in order to ensure that sanctions were developed and used against those who did not transfer technology. The proposal put forward by the representative of Singapore in that connexion

constituted an improvement. With regard to decision-making in the Council, it was essential that the interests of States should be taken into account and that the Council should be empowered to discharge its functions adequately.

98. With regard to the Second Committee, negotiating groups 6 and 7 had accomplished commendable work. The outer limit of the continental shelf should be defined in accordance with the interests of the States involved and without prejudice to the principle of the common heritage of mankind. His delegation supported the compromise formula proposed by the President (see A/CONF.62/L.51) and endorsed his statement concerning the establishment of a commission on the limits of the continental shelf. However, it did not endorse the proposals concerning revenue-sharing and felt that they should be reconsidered in the light of the needs of the developing countries.

99. The report submitted by the Chairman of negotiating group 7 (A/CONF.62/L.47) constituted a suitable basis for a second revision of the negotiating text. However, his delegation wished to reserve its position with regard to the question of the settlement of disputes, since binding decisions would be prejudicial to the sovereignty of States.

100. The Third Committee had achieved results (see A/CONF.62/L.50), and it was to be hoped that the question of research in the exclusive economic zone could be settled. The new text should not affect the rights of the coastal State in its exclusive economic zone or on its continental shelf.

101. Lastly, his delegation considered the proposed text for the preamble (A/CONF.62/L.49) to be a most valuable contribution.

102. Mr. TORRAS DE LA LUZ (Cuba), referring to the proposed new texts said that adoption of the draft preamble was justified by the fact that the text in question emphasized the historic significance of the future convention.

103. With regard to the work of the First Committee, the reports of negotiating groups 1 and 2 represented a considerable improvement, particularly in the case of negotiating group 1 owing to the amendments introduced, which took up a number of observations made by the Group of 77. His delegation endorsed the formula suggested by the representative of Fiji as a basis for negotiation but agreed that a number of figures that it contained would have to be considered more closely. Where the question of decision-making in the Council was concerned, only a formula that guaranteed equal standing for the interests of all the groups of countries on the Council would work. Since the proposal put forward by the representative of Mongolia, at the 47th meeting of the First Committee, seemed to have that aim, it should be taken into account.

104. With regard to the work of the Second Committee, his delegation endorsed the formula proposed by its Chairman regarding definition of the continental shelf, since it was the one most likely to achieve a consensus. However, it would prefer adoption of a precise criterion based on distance that would guarantee the international community an equal share in the benefits of the shelf beyond 200 miles, in accordance with article 82.

105. With regard to article 298 paragraph 1 (a), on the settlement of disputes concerning delimitation, his delegation could not accept any settlement procedure that entailed a binding decision involving third parties, a position which was in keeping with prevailing international law.

106. Where the work of the Third Committee was concerned, his delegation favoured inclusion of the proposed texts in the second revision of the negotiating text.

107. The future convention would have to be the result of mutual concessions. For obvious reasons, the concessions would have to be greater on the part of the developed countries. It was therefore a matter of concern to his delegation that a number of delegations of developed capitalist countries failed

<sup>1</sup>United Nations, *Treaty Series*, vol. 499, No. 7302, p. 311.

to show proper regard for the interests of underdeveloped land-based producers of minerals that were to be mined on the sea-bed. Other delegations that had 200-mile economic zones and extensive shelves were reluctant to grant any benefits to land-locked countries and countries with special geographical characteristics. It was necessary to reconcile the legitimate interests of all concerned, but the needs of the countries of the so-called third world were greater.

108. Mr. SÈNE (Senegal) said that the work accomplished during the current session was encouraging because it would surely lead to the drafting of a convention. His delegation was in favour of a second revision of the negotiating text, provided that the second text had the same status as the first one and that it took the interests of all the parties concerned into consideration.

109. With regard to the question of the seat of the Authority, his delegation supported the draft decision in document A/CONF.62/L.48/Rev.1 and felt that the candidatures of Fiji, Jamaica and Malta should be considered on an equal basis. Where the clause on the European Economic Community was concerned, his delegation endorsed the contents of the letter dated 29 March 1980 from the representative of Italy to the President of the Conference (A/CONF.62/98). It was to be hoped that the European Economic Community would guarantee adequate implementation of the provisions of the future convention.

110. With regard to the work of the First Committee, his delegation considered that the text on financial matters submitted in the report of the co-ordinators of the working group of 21 to the First Committee (see A/CONF.62/C.1/L.27 and Add.1) constituted a good basis for negotiation. However, that text should deal with the question of the body responsible for determining the financing needed by the Enterprise in order to implement an integrated project. Moreover, article 12, paragraph 4 (d) and (e) and paragraph 5, should be more explicit with regard to the question of the tax immunity of the Enterprise.

111. With regard to the question of the system of exploration and exploitation, his delegation attached great importance to the transfer of technology, which was one of the reasons why it had accepted the parallel system. It therefore considered that the provisions of article 5, paragraph 3 (a), (b) and (c), on the extent of the undertakings by the operator as to duration and type of technology should be reconsidered. Similarly, paragraph 8 should be reconsidered with a view to reaching a more complete definition of the term "technology", which should include processing.

112. As it was currently worded, article 151 on production policies called into question the temporary nature of the system that was to be established. In that connexion, paragraph 5 should be changed so as to reinstate the moratorium. Moreover, while taking into account the interests of developing producers, article 151 should not operate to the detriment of developing non-producers and consumers.

113. With regard to the Assembly and the Council, his delegation rejected any solution based on a veto or blocking vote. A two-thirds majority should be reasonable, since individual interests must be borne in mind. In that connexion, his delegation was willing to consider the formula proposed in article 161, paragraph 7, of document A/CONF.62/91,<sup>3</sup> with variable x having a value of 9 or 10.

114. With regard to the Second Committee, his delegation had followed with interest the work of negotiating group 6. It wished to reserve its position regarding the various formulas under consideration on the question of revenue-sharing, although it felt that the formula proposed in document

A/CONF.62/L.51 constituted a good basis for negotiation. Where the question of delimitation was concerned, his delegation supported the statements made at the 126th meeting by the representative of Ireland on behalf of the sponsors of document NG7/10/Rev.1 and felt that negotiations should be pursued at Geneva with a view to finding a satisfactory solution.

115. With regard to the Third Committee, his delegation attached great importance to scientific research and to any effort to increase the humanitarian and peaceful aspects of such research. In that connexion, it welcomed the results obtained where article 242 was concerned. However, the need for flexibility in that area should not constitute a pretext for voiding the concept of the exclusive economic zone of its content or for diminishing the sovereignty of the State regarding its continental shelf. For that reason, it could be considered that the wording of article 246, paragraph 6, went as far as it was possible to go in an attempt to reach a compromise. Furthermore, his delegation welcomed the consensus achieved with regard to article 247 on research projects under the auspices of, or undertaken by, international organizations and regarding article 249 on the duty to comply with certain conditions. With regard to article 254 on the rights of neighbouring land-locked and geographically disadvantaged States, his delegation endorsed the concept that the legitimate interests of such countries should be taken into account in the future convention and considered that negotiations on that article should be continued. Lastly, the compromise which appeared to be taking shape with regard to article 264 on the settlement of disputes should be retained.

116. With regard to the report of the Chairman of the group of legal experts on final clauses (FC/20), his delegation welcomed the satisfactory outcome of negotiations on article 302, paragraphs 1 and 2, on entry into force. It proposed that the following wording should be substituted for the second sentence of paragraph 3: "The first Council shall be constituted in accordance with article 161. If the number of ratifications does not permit the first Council to be constituted in accordance with article 161, appropriate action shall be taken in order to achieve the purposes of that article." As had already been pointed out, the second sentence of that paragraph could give rise to a number of difficulties in connexion with ratification. His delegation was unable to accept the sentence in question for constitutional reasons. As regarded article 303, paragraph 1, the report of the Chairman was a suitable basis for negotiation. If the draft convention was adopted by consensus, his delegation would be in a position to accept the exclusion of reservations. Where article 305 on amendment was concerned, the period set for the convening of the conference in question was too long. With regard to article 306 on amendment by simplified procedure, his delegation was in favour of two amendment procedures, namely, a complex procedure and a genuinely simplified procedure. Where article 308 on denunciation was concerned, his delegation was in favour of the inclusion of a provision on the subject.

117. With regard to the settlement of disputes relating to Part XI, his delegation endorsed the recommendations made in that connexion.

118. As far as the draft preamble was concerned, its provisions were on the whole satisfactory.

119. The readiness to co-operate shown on all sides marked the beginning of a new era in international relations and had made the Conference one of the most significant undertakings of the international community. It was to be hoped that it would promote the innovative movement in international law that had been evident over the past two decades.

120. Mr. DEMBELE (Mali) said that, where the work of the First Committee was concerned, his delegation supported the views expressed by the Chairman of the Group of 77, particularly with regard to the question of a moratorium (article

<sup>3</sup>Official Records of the Third United Nations Conference on the Law of the Sea, vol. XII (United Nations publication, Sales No. E.80.V.12).

155). transfer of technology (article 5 of annex II), production policies (article 151) and the legal status of the Enterprise (annex III). However, the text concerning the settlement of disputes relating to part XI constituted a good basis for negotiation as it stood and should not undergo excessive modification.

121. With regard to the work of the Second Committee, the question of the delimitation of the continental shelf was particularly important and should be the subject of negotiations that took into account the concept of the common heritage of mankind. During such negotiations, a solution to the problem of revenue-sharing must be found. Where the commission on the limits of the continental shelf was concerned, his delegation was opposed to the provision that a State party that had nominated a member of the commission should defray expenses incurred by that member. That provision would bar developing countries, and particularly land-locked developing countries, from membership in the commission. It was also to be hoped that the concept of the common heritage of mankind would be retained by the Conference. The proposal submitted by the Chairman of negotiating group 7 on the delimitation of the exclusive economic zone and of the continental shelf between adjacent or opposite States (articles 74 and 83) did not represent an improvement. It was therefore inadvisable to revise the current provisions of the revised negotiating text in that connexion.

122. The Third Committee had accomplished important work. However, article 254 on the rights of neighbouring land-locked and geographically disadvantaged States as regarded scientific research should be improved in order to take the interests of those countries more into account.

123. Mr. ENKHSAIKHAN (Mongolia) said that the work accomplished during the first part of the ninth session of the Conference had been productive. The preamble of the future convention submitted by the President was acceptable to his delegation, particularly because it underlined that the future convention was to be an important contribution to the maintenance of peace, justice and progress for all the peoples of the world.

124. Questions within the purview of the First Committee had been considered thoroughly, and progress had been made in drafting a mutually acceptable text for further negotiations in a number of fields. The anti-monopoly clause in annex II, article 6, paragraph 3 (d), would be more acceptable to his delegation if it was equally applicable to reserved and non-reserved areas.

125. The question of decision-making in the Council was a very sensitive political and legal issue and should be dealt with as such. His delegation endorsed paragraph 14 of part IV of the report of the co-ordinators of the working group of 21 to the First Committee, which listed the four elements that had appeared to command consensus during negotiations. Bearing those four elements in mind, his delegation, together with a number of other delegations, had worked out a compromise formula which it had presented orally to the First Committee. According to that formula, all decisions on questions of substance would be taken by a two-thirds majority of the members present and voting, provided that such majority included a majority of the members participating in the session as laid down in article 161, paragraph 7, of the revised negotiating text and provided that a simple majority of members in any two of the special categories referred to in article 161, paragraph 1, or all members of any geographical region provided for in that paragraph had not cast negative votes. The two new prerequisites in the suggested formula for binding decisions to pass would be that either a simple majority in any two of the five categories or all members of any geographical region had not cast negative votes. The reasons for the inclusion of those two new elements were well known. The provision that any two of the categories should not have cast negative votes ensured that

no single special category of States had blocking power, that, while none of the special categories of States had blocking power, each group's weight and importance was underlined, that the burden of blocking a decision would lie with the minority, that the number of negative votes required to block a decision would be higher than in other systems of decision-making, and that abstentions would benefit the majority and not the minority. The proposed formula would require that only unanimity of negative votes in any geographical region would block a decision. The formula's importance lay in its recognition of the fact that any binding decision taken in disregard of the interests of a whole socio-political system or any one of the regional groups would be ineffective and counter-productive. Any formula that disregarded those facts would, moreover, be ineffective in that it would confuse the number of mechanical votes required to block decisions with the very concept of the geographical regional group. It was to be hoped that that complicated issue could be settled during the resumed session at Geneva.

126. His delegation had no difficulty in endorsing the text proposed by the group of legal experts on the peaceful settlement of disputes relating to Part XI.

127. With regard to the work of the Second Committee, the proposal put forward by the Chairman of that Committee the previous week concerning the question of the definition of the outer limits of the continental shelf was not fully satisfactory to his delegation. However, the latter could endorse such a major concession to the broad-margin States in the hope that in the future that spirit of mutual accommodation would also be shown on the part of those States regarding the rights and legitimate interests of the land-locked and geographically disadvantaged States. His delegation supported the proposal put forward in the report to the plenary of the Conference by the Chairman of the Second Committee concerning the last sentence of article 76, paragraph 3. It also endorsed the proposal that the limits of the shelf established by a coastal State on the basis of the recommendations of the commission on the limits of the continental shelf should be final and binding. His delegation hoped that the future Commission would be composed in such a manner as to reflect the interests of the land-locked and geographically disadvantaged States.

128. Where the work of the Third Committee was concerned, his delegation welcomed the consensus reached on questions relating to marine scientific research (articles 242, 247, 249 and 255). The establishment of a different régime for marine scientific research on the continental shelf beyond 200 miles was fully justifiable.

129. His delegation supported the view expressed by an overwhelming number of delegations that it was desirable to proceed with the second revision of the negotiating text.

130. Mr. CASTILLO-ARRIOLA (Guatemala) said that his delegation welcomed the progress that had been made regarding a number of outstanding issues. It had thus been possible to achieve the consensus essential for developing and putting into effect the new international law of the sea, which would unquestionably be a pillar of the new international economic order. Although a number of amendments had not received universal support, significant progress had been made in the various fields and the amendments under consideration should therefore be included in the revised negotiating text. The collegium should proceed with the second revision of the negotiating text so that Governments would have the opportunity to consider it prior to the resumed session at Geneva. His delegation felt that during the resumed session it would be necessary to involve more delegations in the negotiating process. For the reasons he had mentioned, the second revision of the negotiating text would be very useful, although it would not be binding for delegations. His delegation endorsed the inclusion in the negotiating text of all the amendments that had obtained substantial support, particularly those submitted by the contact group and by the Group of 77.

131. With regard to the remaining problems, the draft preamble was considerably improved as a result of the proposal put forward by the President. In general, the final clauses (FC/20) were acceptable, but his delegation had reservations regarding the provisions on entry into force and on reservations.

132. In view of the complexity of the problems within the purview of the First Committee, his delegation welcomed the constructive proposals put forward by the Chairmen of negotiating groups 1, 2 and 3. In particular, his delegation endorsed the proposal on production limitation put forward by the Chairman of the First Committee. Since the future convention would give rise to rights and obligations, only sovereign States could become parties to it, although the interests and needs of peoples that had not yet gained independence should be taken into account. In principle, his delegation endorsed the proposals regarding the review conference and the question of the compulsory transfer of technology.

133. His delegation endorsed the proposals put forward by the Chairman of the Second Committee, which resulted in considerable improvements in the revised negotiating text. In particular, it supported the proposal regarding the shortening of the term of office of the members of the commission from 10 to 5 years and the proposal concerning the manner in which coastal States should determine the limits of their continental shelf. It also endorsed the inclusion in article 76, paragraph 1, of the amendment proposed by the Chairman of negotiating group 7.

134. With regard to the work of the Third Committee, his delegation agreed that the right of coastal States to regulate or authorize scientific research in their territorial sea or in their exclusive economic zone should be protected, but it had reservations with regard to article 246, paragraphs 3, 4, 6, 7 and 8, and articles 249, 253, 254 and 255, which would be duly considered by his Government.

135. His delegation attached great importance to the question of the representation of special interests in the Council. As a potential producer of nickel and cobalt, his country was particularly concerned that the interests of potential producers of minerals should be represented in that body.

136. The future convention should not permit innocent passage of warships without the consent of the coastal State.

137. Lastly, his delegation endorsed the proposal put forward by Argentina concerning the adoption of a régime to protect migratory species.

*The meeting was suspended at 6.40 p.m. and resumed at 7.55 p.m.*

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

138. Mr. WAPENYI (Uganda) said that, as the representative of a land-locked country, he wished to add his voice in support of solidarity within the Group of 77 regarding all the proposals which the Group wished to see renegotiated at the resumed session at Geneva. The land-locked States stood to lose if the convention was signed in its present form. They were defending not only their own interests but also those of the coastal States, which sought to obtain jurisdiction beyond the present 12-mile territorial sea.

139. The enunciation of the principle of the common heritage of mankind in 1973 had been intended to promote the welfare of all mankind. Since then, however, most States, and particularly most of the developed States, had changed their attitude and the Conference had become one of special interests. Although a total of 53 States had been designated as land-locked and geographically disadvantaged, there were in fact at least 67 such States: more than 20 Arab States, more than 20 African States, about 3 Latin American States, 7 in the Caribbean and 10 Asian States. That group of States represented more than two-thirds of the membership of the Conference and their needs should be taken into account. It was not too late to

take action along those lines and revive the common heritage principle. His delegation therefore added its voice to those who had called on the Conference not only to endorse that principle but also to affirm that the economic zone beyond the 12-mile territorial sea was not within the exclusive jurisdiction of the coastal States. If that was not done, some 10 States at the Conference—most of them developed countries—stood to gain the most. His delegation therefore suggested that resources in addition to those obtained from exploitation of the economic zone should be set aside to establish the common heritage fund. It was never too late to give due consideration to the poorest among the poor, who represented seven tenths of the world's population and must enjoy equal benefits under the convention.

140. His delegation attached great importance to the deliberations in the Second Committee, which would determine the transit rights to be accorded to land-locked countries. It was certain that, as the representative of a member of the Group of 77, the Chairman of that Committee would ensure that Uganda's concerns were borne in mind.

141. It had been intimated that States did not have the right to designate themselves as geographically disadvantaged. However, his delegation believed that that was a decision to be taken by the States concerned and that one State could not decide whether or not another State was geographically disadvantaged.

142. The proposals regarding the common heritage principle were in keeping with the preamble of the convention and with the effort to establish a new international economic order. With regard to the delimitation of the continental shelf, his delegation welcomed the proposal to establish a commission on the limits of the continental shelf to ensure that States did not extend their economic zones beyond the continental shelf.

143. Mr. TUBMAN (Liberia) said that the purpose of the Conference was to elaborate a convention governing the peaceful uses of the seas and oceans of the world. Considerable progress had been made in that effort, and it must now be recorded in a second revision of the negotiating text. In that connexion, the preamble prepared by the President was most appropriate because, brief though it was, it dealt with the objectives of peace, justice and progress for all peoples.

144. The fact that not everything recommended in the reports on First Committee matters was acceptable showed that an effort had been made in that Committee to achieve a proper balance. With respect to the question of technology, the concerns of the developing countries were clearly projected by the position taken by the Group of 77, and his delegation supported that position. Unless the Authority acquired, through the Enterprise, the technology with which to conduct viable operations within the area, the parallel system would never succeed. The Group of 77 approached that issue on the basis of good faith, which underlay the acceptance of the parallel system by all sides in the negotiations. However, formulations must be found by which good faith could be translated into binding commitments. The language so far proposed at the Conference reflected movement in the right direction but was not sufficient. Loop-holes which would make it possible to evade the obligation to transfer technology must be closed. In addition, suitable language must be found to ensure that appropriate technology would be transferred to enable the Enterprise to function on a par with contractors conducting operations within the area.

145. With regard to the need for a second look to determine whether the parallel system should be continued after an initial trial period, his delegation agreed that to require a three-quarters majority for the relevant decision would be going too far and that the provision for a two-thirds majority should be retained.

146. The competing interests involved in production limita-

tion were not easily reconciled. If the production of sea-bed minerals was to benefit all mankind, it could not be undertaken at the expense of land-based producers. At the same time, there must be a balancing of interests between such States and the entire international community, particularly those developing countries which were not land-based producers and which quite correctly expected that operations in the area would result in benefits to them.

147. Regarding the question of balance between the Council and the Assembly, his delegation believed that weighted voting on the one hand and a collective veto on the other must be equally resisted. With regard to the question of financing the Enterprise, his delegation found the work done in the working group of the Group of 77 to be praiseworthy and had no difficulty in agreeing to its being incorporated with minor modifications and clarifications into the second revision of the negotiating text.

148. The issues surrounding definition of the outer limits of the continental shelf were of concern to many countries, and his delegation understood why some States appeared to favour a lack of precision on the question of where the shelf ended. However, that approach could not be in anyone's long-term interests, because it had the potential for diminishing the scope and content of the common heritage of mankind and could lead to serious conflict. He therefore hoped that those concerns which required further negotiation would find expression in whatever formulation eventually came before the Conference in the revised text.

149. His delegation believed that everything possible should be done to promote rather than impede legitimate, genuine scientific research. That, however, could not be done in a manner inimical to the security interests of coastal States. Efforts at consensus which bore that consideration in mind would receive widespread support.

150. While the issues connected with the final clauses were not yet ready for constructive comment, it was not too early to stress that the envisaged preparatory commission must not pre-empt functions properly to be reserved for the new organs when they came into operation, nor should it be used as a means of continuing the negotiations which had already gone on for so long. After nearly a decade, the international community was anxious for the Conference to end and for the beginning of a new era of international relations based on closer co-operation among all nations in profitable endeavours in the seas and oceans of the world.

*Mr. Djalal (Indonesia), Vice-President, took the Chair.*

151. Mr. RICHARDSON (United States of America) said that the work done in the First Committee, the working group of 21 and the group of legal experts on the settlement of disputes relating to Part XI must inevitably be controversial, not least among those in his country who were contemplating investment in deep sea-bed mining. However, that fact and the fact that work had not been completed on all the outstanding problems did not detract from his delegation's belief that the new text (see A/CONF.62/C.1/L.27 and Add.1) provided an improved basis for negotiation and pointed the way to eventual consensus at Geneva.

152. Among the unresolved issues was the critical one of voting in the Council, on which some progress had been made in advancing the mutual understanding of delegations of the limits of each other's flexibility and of the necessity to give adequate protection to the real economic interests at stake in sea-bed mining. His delegation welcomed the significant progress reflected in the revised text of article 151 on production limitation but remained concerned that that article, as now drafted, might still unduly restrict the exploitation of the seabed. It also welcomed the improvements made with regard to technology transfer, although it was disappointed that article 10, paragraph 3 (e), remained in the text. That paragraph had nothing to do with ensuring the viability of the Enterprise, and

it seriously imperilled acceptance of any text in which it was found.

153. Following discussions with many delegations, his delegation had submitted a working paper (IA/1) on the important question of protection for mining investments made in preparation for the entry into force of the convention. It believed that the paper's introduction at the present time would afford all delegations an opportunity to study the matter before the Geneva session. Reasonable provisions on that subject would greatly facilitate and encourage ratification of the convention.

154. With regard to the work of negotiating group 7, and, in particular, paragraph 1 of articles 74 and 83, his delegation had not advocated the proposed changes and had no objection to the existing text. That should not be understood to mean, however, that his delegation objected to a decision to include the amendments to articles 74 and 83 in a second revision of the negotiating text. Moreover, the United States recognized that the proposed amendment to article 298 was an important contribution to consensus. In that regard, his delegation assumed that there would be an opportunity at the resumed session to ensure that paragraph 3 of articles 74 and 83 was amended to take account of the legitimate interests of third States as well as States directly involved, pending agreement on the boundary.

155. His delegation believed that the Second Committee and negotiating group 6 packages of amendments both constituted major steps forward and should be included in any revision of the negotiating text.

156. His delegation's support for the proposal on the continental shelf contained in the report of the Chairman of the Second Committee (A/CONF.62/L.51) rested on the understanding that it was recognized—and, to the best of his knowledge, there was no contrary interpretation—that features such as the Chukchi plateau situated to the north of Alaska and its component elevations could not be considered a ridge and were covered by the last sentence of the proposed paragraph 5 *bis* of article 76.

157. His delegation continued to believe that article 82, paragraph 3, was inequitable and unfairly burdened the least developed countries. He regretted that there had been insufficient time to consider his delegation's proposal, which offered greater opportunities for all developing countries to assess their economic situation in the future and choose the course of action best suited to their needs.

158. His Government could not accept amendments that permitted a coastal State to require prior notification and authorization for the passage of warships through the territorial sea. While it had always recognized the need to protect objects of an archaeological and historical nature, it opposed the revised seven-nation proposal (C.2/Informal Meeting/43/Rev.3). His delegation was prepared to consult with the sponsors on alternatives and hoped that those problems could be solved at the start of the Geneva session.

159. It should be no surprise that his delegation could not agree with some of the remarks of other speakers regarding the texts on marine scientific research. He had repeatedly witnessed the erosion of compromise proposals that themselves offered far less protection for marine scientific research than his delegation and the scientific community considered desirable. However, in a spirit of co-operation with the Chairman of the Third Committee, his delegation would withhold its own criticisms and reactions and was prepared to accept the Chairman's judgement that those texts, without further change, were the best that could be achieved and would promote general consensus (see A/CONF.62/L.50).

160. His delegation wished to express its appreciation to the President of the Conference and the chairman of the group of legal experts for their work on final clauses (FC/20) and related matters, particularly the preamble (A/CONF.62/L.49) which was ready to be incorporated into the revised negotiating text.

161. Despite all the concerns and reservations of different delegations including his own, the texts presented by the various Chairmen could bring the Conference within reach of a final agreement at Geneva. That was the single most important fact which should be borne in mind in the collegium in the course of its assessment of the debate.

162. Mr. KASANGA MULWA (Kenya) said that while his delegation was far from satisfied with the results that had so far emerged from the negotiations, it was sufficiently encouraged that those results offered a much better basis than the corresponding provisions in the revised informal composite negotiating text for the eventual resolution of the remaining issues. His delegation therefore supported a second revision of the text on the understanding that such a revision would provide a negotiating text, as opposed to a negotiated one, and that the revised text would retain the same informal character. That would ensure that the few remaining but important issues would be fully negotiated and resolved during the resumed session in Geneva. If those issues were resolved, his delegation would find no merit in a further informal revision of the text. The Conference could then proceed with a revision that would lead to a formalized text.

163. His delegation agreed with the previous speakers from developing countries that further negotiations were still necessary to resolve some outstanding issues in negotiating group 1, including issues relating to the review conference, sanctions against owners of technology that failed to transfer technology, and transfer of processing technology.

164. With regard to production policy, a majority of delegations agreed that the general formula presented in the compromise proposal was acceptable, a floor and a ceiling were essential for controlling sea-bed mining for the common good of the sea-bed miners, land-based miners and potential producers of the affected metals, and a split of consumption growth in the ratio of 60:40 was a compromise. The main question was what constituted an acceptable floor and ceiling. His delegation felt that with tireless efforts that question would be resolved at Geneva.

165. With regard to the financing of the Enterprise, the financial terms of contracts and the statute of the Enterprise, his delegation believed that much progress had been made in the right direction although there were still several issues which needed to be negotiated further. Among those issues was the question of whether the Enterprise should be exempted from making payments to the Authority in accordance with article 12 of annex II of the revised negotiating text. On the issue of whether the offices and facilities of the Enterprise should be granted immunity from direct and indirect taxation by the host countries, his delegation felt that it could accept the provision as it had now been amended by the Chairman of negotiating group 2.

166. Although considerable effort had been made to reach a compromise on the outstanding issues relating to the Assembly and the Council, not much had been resolved. With respect to the decision-making mechanism in the Council, his delegation was strongly opposed to giving veto power to any country or geographical region and felt that further consultations and negotiations were necessary in that regard.

167. Although the results achieved thus far in the Second Committee were not in all respects satisfactory, his delegation was particularly pleased with the results of the work undertaken in the informal meetings. It could agree with some of those results; for example, it believed that the revised formulation of the definition of the continental shelf was acceptable as a good basis for compromise. However, it was not happy that the proposal concerning the conservation of fish stocks adjacent to or beyond the 200-mile exclusive economic zone had not been included in the provisions agreed upon for the second revision of the negotiating text. Such a provision was useful and should be included in the revised text.

168. With regard to the work done in negotiating group 7, his delegation reiterated its belief that delimitation of the exclusive economic zone and the continental shelf between adjacent and opposite coastal States should only be effected through agreement in accordance with equitable principles. To do otherwise would mean an introduction of uncertainty in inter-State relations with attendant undesirable consequences. However, he welcomed the latest proposal by the Chairman of negotiating group 7 (A/CONF.62/L.47) on delimitation criteria for both articles 74 and 83 of the revised negotiating text. The proposal, however, required further study and could not at the present stage be reflected in the proposed revision of the text. His delegation disagreed with the observation of the Chairman of negotiating group 7 that the present formulation of articles 74 and 83 had proved unacceptable to a number of delegations. It would have liked to see the Chairman adopt the position that, in the event his formulation for delimitation criteria proved unacceptable, the fall-back position for further negotiations must be found in the provisions of the revised negotiating text, and there could be no question of an imposed solution such as the one recently proposed.

169. On the question of the settlement of delimitation disputes, his delegation continued to believe that compulsory third party binding procedures were not suitable and that such disputes should be settled through means other than those which entailed compulsory procedures with a binding effect.

170. With regard to the work of the Third Committee, his delegation had no problem in accepting articles 242, 247, 249, 255, 253 and even 254 as amended. Its acceptance of those articles was based on the need for a compromise and the understanding that the substance of each article remained unchanged. It was not comfortable, however, with paragraph 6 of article 246. As a developing country without any deep sea-bed mining technology, Kenya felt that the continental shelf should be left to the coastal States for exploration and exploitation of non-living resources as provided in article 77.

171. His delegation wished to reserve its position on article 264 on the settlement of disputes. That was in no way an opposition to the inclusion of that article in the convention, because the settlement of disputes was an important element for the parties involved and for mankind as a whole.

172. The text of the preamble went a long way towards meeting the expectations of many participants in the Conference, despite the fact that there were aspects which his delegation would have wished to see elaborated, for example, General Assembly resolution 2749 (XXV). Much progress had been achieved in the area of the final clauses. Those clauses were crucial because they related to the fundamental questions of amendments to the convention, reservations, relationship to other conventions and so on.

*Mr. Al-Witri (Iraq), Vice-President, took the Chair.*

173. Mr. SCOTLAND (Guyana) said that his delegation supported the inclusion of the preamble proposed by the President in a second revision of the negotiating text. With regard to the work of the First Committee, his delegation accepted that the text of article 151 on production policies as reflected in documents A/CONF.62/C.1/L.27 and Add.1 should be included in a new revision of the text because it enhanced the prospect for consensus on that question. As to the review conference, his delegation believed that further work was required on the text of article 155 of the above-mentioned document in order that it might offer to developing countries the prospect of an early end to any practices which, in the light of experience, might not faithfully reflect the principle of the common heritage of mankind. Paragraph 5 of that article was not altogether satisfactory.

174. With regard to the transfer of technology, the proposed wording of article 5 fell somewhat short of offering the assurance that the contractor would honour his obligations in the matter of technology transfer. His delegation felt that there was

need for further consideration of the term "activities in the area" as used in that article and also of paragraph 8 of the same article.

175. The articles on financial terms of contracts (annex II, article 12) and financing of the Enterprise (annex III, article 10) proposed in document A/CONF.62/C.1/L.27 appeared to maintain the elements of their relationship and his delegation supported their inclusion in a second revision of the negotiating text as being an acceptable basis for further negotiations.

176. While his delegation had no substantive comment to make concerning the Council or its decision-making faculty, it noted that appropriate protection of special interests on the Council could not mean the bestowal on any geographical or interest group of either the power of veto or the faculty for inflicting paralysis on the work of the Council.

177. With regard to document A/CONF.62/L.48/Rev.1. on the seat of the International Sea-Bed Authority, his delegation saw no need to revise the text of the revised negotiating text since that matter had not been discussed in the Conference.

178. With respect to the work in the Second Committee, his delegation supported the view that there was need for a clear definition of the concept of innocent passage as it applied to foreign warships. Prior notice and permission of the coastal State should form elements on that concept. Article 63 was deficient in its silence on the protection of fish stocks: his delegation therefore supported the proposal of Argentina, as amended, for the conservation of stocks in danger of being overfished in the area outside the 200-mile economic zone.

179. Concerning delimitation, his delegation noted that, had both sides been willing to talk to each other and about the issue, the task of the Chairman would have been lighter and the Conference closer to consensus. While it was accepted by all that only direct bilateral negotiations could resolve delimitation questions, it was not accepted by all that a starting point for the resolution of such questions should be the subject of self-interpretation. The record of the negotiations revealed that the criteria for delimitation as set out in paragraph 1 of articles 74 and 83 were not an acceptable basis for negotiation. Despite what was set forth in document A/CONF.62/62,<sup>4</sup> paragraph 10, his delegation believed that, once a provision had been rejected by a large number of delegations, it should not once again find its way into a text being presented as a basis for further negotiations leading to consensus. His delegation believed that the text set forth in the report of the Chairman of negotiating group 7, paragraph 1, contained interesting elements upon which efforts aimed at reaching a consensus could be based.

180. His delegation wished to emphasize the interrelationship between delimitation criteria, interim measures and settlement of delimitation disputes and the necessity of seeing those questions settled together in the same package. It continued, however, to believe that for small weak States, the only reasonable relief from the burdens of uncertain criteria on delimitation rested in compulsory third-party settlement.

181. With regard to the work of the Third Committee, his delegation wished to reserve its position on the texts of article 246, paragraph 6, and article 264, paragraph 2. It would rely on the assertion by the Chairman of the Third Committee that those provisions did not intend a derogation from the sovereign right of the coastal State to control and regulate marine scientific research within its maritime zone. It seemed, however, that the sovereign right of the coastal State over the continental shelf suffered from some ambiguity as set forth in article 246, paragraph 6, which would create two zones with different régimes on the continental shelf of the coastal State. His delegation had reservations regarding that provision, and also regarding article 284, paragraph 2.

182. Mr. GUEHI (Ivory Coast) said that, at the present stage, a second revision of the negotiating text did not confer official status on that document: there should still be a possibility of negotiating on unresolved matters at the resumed session at Geneva. He would therefore confine his comments to the results of the current session.

183. The draft preamble represented a genuine improvement on that contained in the revised negotiating text, which did not correspond to the scale of the convention which the Conference was drafting. The new text reflected his delegation's principal concern and should be incorporated in the second revision of the negotiating text.

184. With regard to matters covered by the First Committee, his delegation, like many others, had serious difficulty in accepting the inclusion in a second revision of provisions which did not enjoy widespread support. In particular, the transfer of technology, which was a condition for acceptance of the parallel system, must be guaranteed once that system was accepted. His delegation considered that it was of primary importance that the Enterprise should be able to function in the same conditions of profitability and viability as did the entities operating in the non-reserved area. A procedure for reviewing the entire system must be established. One pre-condition for the survival of the Enterprise was that the system of financing continued until the Enterprise reached maturity, and was not confined to the first site unless it was certain that the Enterprise was capable of standing on its own feet and of being competitive.

185. With regard to the production system, he supported the Canadian proposal to delete the figures given in the revised negotiating text, believing that those figures could have harmful consequences for the vital interests of many existing and potential land-based producers.

186. In connexion with the decision-making machinery, his delegation could not countenance any mechanism which might tend to render the Council's decisions open to the tyranny of a majority or the veto of a minority. Vital interests were at stake, and the decision-making machinery was of fundamental importance in the search for a balanced package.

187. Turning to matters considered by the Second Committee, he said that his delegation would have preferred a clearer, simpler and more concise definition of the outer limit of the continental shelf, in which reference was made solely to the criterion of distance. The new wording sacrificed the interests of the international community, and his delegation therefore had reservations with regard to its inclusion in the second revision of the negotiating text.

188. The proposed articles concerning the commission on the limits of the continental shelf opened up broad possibilities for achieving consensus, but could none the less be improved upon. As a sponsor of document NG7/10/Rev.2 his delegation agreed with the point of view expressed by the co-ordinator of negotiating group 7 with regard to the criteria for delimitation of maritime frontiers. The new formulation submitted by the Chairman was less satisfactory than the existing wording in the revised negotiating text, and the reference to international law in particular seemed ambiguous. With regard to marine mammals, his delegation accepted the new wording, which would contribute to improved conservation and protection of those species and would promote regional and interregional co-operation.

189. Turning to the work of the Third Committee, he said that his delegation would have no difficulty with articles 242, 247, 249 and 255, on all of which consensus had been reached. While consensus had not been achieved on articles 245, 253, 254 and 264, they none the less enjoyed widespread support. In a spirit of compromise his delegation supported the Chairman's proposal to include them in the second revision of the negotiating text, with the proviso that the compromise

<sup>4</sup> *Ibid.*, vol. X (United Nations publication, Sales No. E.79.V.4).

formulas contained in document A/CONF.62/L.50 should be re-examined.

190. Finally, his delegation supported the Group of 77 in its recommendation that Jamaica be chosen as the seat of the Authority.

191. Mr. GAYAN (Mauritius) said that the report of the co-ordinators of the working group of 21 had highlighted some areas which were of special concern to his delegation. He continued to believe that the parallel system was palatable to the Group of 77 only on the understanding that there would be an effective and viable Enterprise with adequate financing and access to the technology needed to exploit the sea-bed and to carry out related activities, and that that system would be reviewed after a period of 20 years. Those elements remained central to any package on the system of exploration and exploitation. Referring to the review conference, he recalled that the formulation of article 155, paragraph 6, in the revised negotiating text was itself the result of a compromise on the part of the Group of 77, which had sought an automatic reversion to the unitary system if the review conference failed. The version proposed by the Chairman of negotiating group 1 gave concern to his delegation, which believed that the idea of a moratorium ought to be retained in the text, and that any formulation tantamount to a non-review of the system of exploration and exploitation was unacceptable.

192. His delegation was also concerned by the addition of certain words in article 155, paragraph 2, concerning the non-reviewability of the participation of States in activities in the Area. The amendment rendered illusory the system which the Group of 77 had advocated, and which was in keeping with the spirit of the common heritage of mankind. While his delegation realized that certain States had problems with the existing text in the revised negotiating text, those problems could not be resolved in a manner detrimental to the very existence of the concept of the common heritage of mankind. His delegation wished to reserve its position on the changes proposed to article 155.

193. On the transfer of technology, his delegation fully endorsed the comments of the Chairman of the Group of 77, but noted that the Chairman of negotiating group 1 had made some effort to meet the apprehensions of the developing countries in that area. Although that was a hopeful step forward, he believed that the issue must be reconsidered at the resumed session at Geneva.

194. It was unfortunate that the current session of the Conference had been unable to address the question of voting in the Council in a businesslike manner. It was to be hoped that it would be resolved in a manner satisfactory to all the interested parties, since there was a necessary link between the decision-making system in the Council and the viability of the Enterprise. As for the Enterprise itself, all were agreed that it must be run on sound commercial principles, and his delegation believed that all means must be provided to ensure that the central goal was achieved. It also believed that the Enterprise should be free to dispose of its funds in the manner best suited to give concrete form to the common heritage. It was unacceptable that funds made available to the Enterprise by all States parties should be devoted to a single project. The Enterprise should have wide discretion in the way it made use of its funds, and it should have sufficient latitude to organize its activities on the lines of any other business concern. His delegation did not see the Enterprise as a forum where political issues were permitted to interfere with its programme of development. For that reason, the Council should not have the power to issue directives to the Enterprise, which would in any case naturally be subject to the budgetary control of the Assembly and the rules, regulations and procedures of the Authority. However, his delegation suspended judgement on that matter until it was able to study the decision-making mechanism in the Council.

195. Regarding the composition of the governing board of the

Enterprise, he found it difficult to accept the suggestion made in some quarters that there should be the equivalent of permanent seats for a certain category of States on the Board. That proposal had rightly been rejected by the Chairman of negotiating group 2, since it could not in any way be considered as substantially improving the prospects for a consensus. A governing board controlled by a group of creditors could not be considered sound commercial practice. The aim remained one of establishing an effective and viable Enterprise unfettered by unnecessary political considerations: to achieve that aim, the States parties should suppress their preferences for any particular social or economic system.

196. Turning to the topics discussed in the Second Committee, he said that his delegation could accept the text proposed by negotiating group 6 on the commission on the limits of the continental shelf, on the clear understanding that the text represented the final package. It agreed with the proposal that exceptional treatment should be accorded to the continental shelf of Sri Lanka because of its unique geological and geomorphological features. It also agreed that such an exception could be made by way of a statement of understanding by the President as part of the final act of the conference.

197. It was unfortunate that, in spite of very hard work, negotiating group 7 had been unable to find a method of delimitation which would meet with widespread acceptance, and he hoped that the problem could be successfully resolved at the resumed session.

198. With respect to the matters considered by the Third Committee, he believed that the formulation on marine scientific research on the continental shelf beyond 200 miles met the interests of all States parties. It was his understanding that the formulation was the final concession that could be made by the coastal States, and any further erosion of their sovereign rights in the field of marine scientific research would not be acceptable. He shared the view held by other representatives that the provisions in no way detracted from the right of the coastal State to refuse requests to conduct such research should that State consider such activities to be unrelated to research.

199. His delegation welcomed the new version of the preamble, believing that it reflected the spirit which gave rise to the Conference, and that it could be included without difficulty in the second revision of the negotiating text.

200. In general, the various proposals contained in the reports indicated the progress that the Conference had made on the outstanding core issues, and his delegation felt confident that they substantially improved the prospects for a consensus.

201. Mr. KRISHNADASAN (Swaziland) said that sufficient progress had been made at the current session to warrant a second revision of the package contained in the negotiating text.

202. Referring to matters considered by the First Committee, he said that article 155, paragraph 6, which was the result of an earlier compromise and which provided for a moratorium on sea-bed mining contracts, with the exception of contracts already approved or contracts in the reserved areas, was a better reflection of the philosophy underlying his delegation's concept of the common heritage of mankind than the new proposal for that paragraph prepared by the Chairman of negotiating group 1. However, in the interests of achieving a mutually acceptable compromise, his delegation would be prepared to support the new proposal for amendments to the system of exploration and exploitation, provided they were adopted by a two-thirds majority and became binding upon all States parties following ratification, accession or acceptance by two thirds of those States parties.

203. With regard to the transfer of technology, he believed that the proposal made by the Chairman of negotiating group 1, taken together with the proposals of Trinidad and Tobago for amendments to article 5, paragraphs 3 (b) and (c) and

article 5, paragraph 8, merited consideration for inclusion in the second revision of the negotiating text. He was not, however, convinced that the obligations of the operator, as defined in article 6, paragraph 7, should be limited to a period of 10 years after the Enterprise had commenced commercial production.

204. The proposals made by the Chairman of negotiating group 2 on financial arrangements for sea-bed mining and for the Enterprise offered a substantially improved basis for negotiations, and he believed they should be included in the second revision of the negotiating text.

205. The provisions on the settlement of disputes relating to Part XI of the convention constituted a closely interrelated and comprehensive system for the settlement of sea-bed disputes, and the delicate and mutually satisfactory compromises which had been arrived at should also be incorporated in the second revision of the negotiating text.

206. Commenting on the topics discussed by the Second Committee, he expressed regret that the text proposed for article 76 (definition of the continental shelf) was still unsatisfactory and that the latest proposal on submarine ridges, in paragraph 6 of article 76, was very unclear and imprecise. The one positive feature in the new proposals relating to the continental shelf was that, according to paragraph 8 of article 76, taken in conjunction with article 8 of annex II in document A/CONF.62/L.51, the limits of the shelf established by a coastal State should be on the basis of recommendations made by the commission on the limits of the continental shelf. His delegation had some reservations on a number of the articles relating to the commission itself, and particularly the machinery for election to that body, currently based on the principle of equitable geographical representation.

207. With regard to revenue-sharing beyond the 200-mile limit, his delegation saw article 82 of the existing text as an outstanding and unresolved issue, in that the rate of contributions specified in the article was too low. It would not, however, insist on an increase in the percentage, provided a greater element of justice and equity was introduced into the Conference's deliberations on the matter. That principle of equity was clearly represented by the proposal for establishing a common heritage fund, a proposal which would represent a real and substantial move in the direction of the new international economic order.

208. With regard to the final clauses, he believed that significant progress had been made at the current session, and that the beginning of the resumed session would see a satisfactory resolution of all outstanding issues. As far as the preamble was concerned, while the new version should be included in the second revision of the negotiating text, due regard should if possible be paid to eliminating the repetition in the first and seventh paragraphs. That could be achieved by ending the first paragraph after the words "the present Convention", and by replacing the words "develop" and "embodied" in the sixth paragraph by the words "embody" and "contained" respectively.

*Mr. Hayes (Ireland), Vice President, took the Chair.*

209. Mr. EVENSEN (Norway) said that, although significant progress had been made in the First Committee, as could be seen from the report of its Chairman, there were still outstanding issues, particularly with respect to questions relating to the composition and decision-making of the Council. The formula proposed by Jamaica was perhaps the most likely to succeed as a compromise solution. He attached importance to the proper representation of small and medium-sized industrialized countries in the Council, an issue which had been raised by the representative of Sweden. The smaller countries might have an outlook on certain issues which was somewhat different from those of the major economic Powers, and might thus have independent contributions to make in the new and largely unexplored field of economic activities.

210. He also felt that the final success of the Conference would depend on its ability to provide answers to the few outstanding questions still facing the First Committee. In particular, the production ceiling formulation might need some further examination, although the work accomplished by the Chairman of negotiating group 1 had been a major contribution to a final text.

211. His delegation believed that the reports of the Chairmen of the Second and Third Committees contained acceptable solutions to most of the outstanding issues within the purview of those two Committees.

212. His country was a coastal State with a broad continental shelf, and his delegation had therefore actively participated in the work of negotiating group 6 concerning article 76, on the outer limits of the continental shelf. Its position was that the concrete proposals currently being put forward represented an improved basis for consensus provided it was accepted that all the elements contained in the report of the Chairman of negotiating group 6 constituted an entity.

213. Referring to the work of negotiating group 7, he said that three implications might be drawn from its report: first, that the existing revised negotiating text should be amended; secondly, that the amendment could possibly follow the line suggested by the Chairman of negotiating group 7 and, thirdly, that further negotiations were needed on matters related to articles 74 and 83.

214. The negotiations on marine scientific research conducted in the Third Committee and in smaller informal negotiating groups seemed to have paved the way for a generally acceptable compromise text. He felt, however, that further improvements could still be made, in particular to article 246, paragraph 6. He was especially concerned by the use of the term "detailed exploratory operations" in the last sentence of that paragraph. He had been assured by various delegations that the term should be given a broad interpretation, in order to encompass a wide range of exploratory operations. In that context it should be borne in mind that the freedom of scientific research envisaged in paragraph 6, applied to resource-oriented research. Such research should not take precedence over the resource-oriented research conducted by the continental-shelf country concerned. Bearing that in mind, his delegation did not object to the existing wording of the paragraph, but reserved its right to revert to the matter again at a later stage, in order to clarify its position regarding the interpretation of the article. In conclusion, he endorsed the recommendation that the President's proposed preamble should be incorporated in the contemplated second revision of the negotiating text.

215. Mr. MANYANG (Sudan), referring to the work of the First Committee, said that he fully supported the position of the Group of 77 as presented at the 126th meeting by its Chairman. In that connexion, he drew particular attention to the issues of the transfer of technology and the review conference, questions which he believed had not yet been thoroughly examined. With regard to the negotiations on the composition of, and procedure and voting in, the Council, his delegation strongly favoured the establishment of a mechanism which would enable the majority of States to participate in the decision-making process.

216. In connexion with the work of the Second Committee, his delegation agreed with the rationale underlying the position of the group of Arab States, as stated by its Chairman, with regard to delimitation of the outer limit of the continental shelf. Consequently, the proposal put forward by the Chairman of the Second Committee could not be a satisfactory compromise to all parties concerned. The situation required further and comprehensive negotiations and consultations if a generally acceptable compromise formula was to be reached. His delegation also believed that the issue of revenue-sharing should be decided upon in a manner which would give special consideration to the interests of the developing countries. In the

- delimitation of the continental shelf between adjacent or opposite coasts, his delegation favoured use of the median line as the criterion. However, there were special circumstances of historical heritage which should be linked with the principle of equity when the question was examined by the Council.
217. The report of the Chairman of the Third Committee showed that substantial progress and positive results had been made. At the same time, he emphasized his delegation's concern that, in article 254, the term "geographically disadvantaged States" should remain unaltered.
218. While supporting the inclusion of the revised draft preamble, he stressed that the principles enunciated in General Assembly resolution 2749 (XXV) should be reflected in the convention.
219. In conclusion, he expressed his delegation's satisfaction at the results achieved by the group of legal experts on final clauses.
220. Mr. MESLOUB (Algeria) said that any new revision of the revised informal composite negotiating text must have the same status as the negotiating text, and must not exclude the possibility of renewed negotiations.
221. With regard to the work of the First Committee, he said that there was a genuine risk, when dealing with the system of exploration and exploitation, of arriving at a system which, though certainly unitary in nature, would be the contrary of the system originally envisaged in the light of the principle of the common heritage of mankind. The system being proposed in the amendments amounted to a continuation of the exclusive role of private and State enterprises in the exploration and exploitation of the resources of the area. The survival of the Enterprise was thereby seriously jeopardized.
222. The elimination of the moratorium from the provisions concerning the review conference was a retrograde step. The proposed new system for the adoption of amendments could be construed as conferring virtual veto power, and the risk thereby arose that the parallel system, far from being temporary in nature, might become a permanent arrangement. His delegation preferred the provisions of the revised negotiating text in that respect.
223. Developing countries had been induced to accept the parallel system in part because of the transfer of technology, which was a necessary condition for the viability of the Enterprise. However, the Conference was now undermining the very concept of the transfer of technology, notably in the proposed reference to recourse to the open market and the proposed restrictions in the definition of technology. His delegation hoped that renewed negotiations would enable the Enterprise to acquire all the necessary technology to play its proper role.
224. The changes introduced regarding the tax immunity of the Enterprise were somewhat unclear, and his delegation preferred the wording of the revised negotiating text. With regard to voting procedures in the Council, it was essential to exclude the use of any veto provision, in the spirit of genuine international democracy.
225. The provisions of article 8 *bis* emphasized the burden placed upon the Enterprise. The industrialized countries were already in a monopoly position in the non-reserved area, and were now being given the opportunity of gaining access to reserved sites through joint ventures. There must be an anti-monopoly clause to cover activities in the reserved area. The problem could be solved by guaranteeing the Enterprise a majority share should it decide to engage in joint ventures.
226. With regard to the work of negotiating group 6, the question of the continental shelf and its limits remained one of the most important unresolved issues. The revision of the negotiating text in that regard had taken place under somewhat dubious circumstances. The so-called compromise proposal submitted by the Chairman of the negotiating group was not the outcome of negotiations within the group, nor had it obtained the required majority. Unfortunately, in spite of the remarkably conciliatory spirit displayed by 20 Arab countries and numerous land-locked and geographically disadvantaged countries, a new formula had now emerged which endangered any hope of consensus: it lent added uncertainty to the external limits of the continental shelf, and infringed the concept of the common heritage of mankind. The views reflected in the Conference documents were those of a curious coalition of certain Powers joined by a handful of other countries.
227. With regard to the work of negotiating group 7, there was no agreement between the authors of documents NG7/2/Rev.2 and NG7/10/Rev.2. However, there was wide support in the Conference for the relevant provisions on delimitation in the revised negotiating text. The so-called compromise proposal annexed to the report of the Chairman of negotiating group 7 offered no prospects for compromise, and was rejected by the authors of the two documents. His delegation held the view that the principle of equity was the only rule of international law which could bring about a solution to the problems of delimitation. It would be a paradoxical step to bestow the status of law on delimitation techniques such as the median line or equidistance, which had been shunned in recent court decisions.
228. With regard to the régime of islands, article 121 of the revised negotiating text was extremely dangerous, and could lead to serious disputes if applied, as tiny islands might gain more importance than individual States. He hoped that the Conference would have an opportunity to return to the issue, in order to prevent the presence of islands affecting delimitation.
229. An amendment had been proposed to article 21, rendering the passage of warships in territorial waters subject to authorization and prior notice, and his delegation favoured its incorporation in the second revision of the negotiating text.
230. His delegation hoped that the Conference, which had already lost a unique opportunity for international co-operation of a fruitful and original nature, and had chosen to ignore the new international economic order, would not commit any further errors. It had the grave responsibility of avoiding the establishment of dangerous precedents, such as decision-making machinery which was not in accordance with the requirements of international democracy.
231. Mrs. YUSOF (Malaysia) said that it was imperative for all the outstanding issues to be resolved before the negotiating text could be given the status of a draft convention. The second revision of the text need not necessarily be the final one.
232. Issues dealt with in the First Committee must be resolved in an equitable manner, and in accordance with the concept of the common heritage of mankind, in order to achieve a just régime of the international sea-bed area.
233. With regard to the work of the Second Committee, Malaysia was one of many coastal States which were concerned to see their rights protected without prejudice to the interests of other States. One difficulty concerned the legal régime of the Straits of Malacca and Singapore, which posed special problems owing to their navigational and geographical characteristics. She hoped that the commitment given by major users of the Straits to resolve those problems satisfactorily with the coastal States concerned would continue to be adhered to in future.
234. There were certain ambiguous terms in the articles falling within the purview of the Second Committee and they must be given precise definition to avoid unnecessary misunderstanding in the future application and interpretation of the Convention.
235. The formula recommended by the Chairman of negotiating group 7 concerning the criteria for delimitation was acceptable to her delegation.
236. Progress had been achieved in the Third Committee towards a satisfactory solution regarding marine scientific re-

search: however, article 246, paragraph 6, was one of several provisions requiring further negotiation.

237. Her delegation was one of those which supported the preamble.

*Mr. Imam (Kuwait), Vice-President, took the Chair.*

238. Mr. KOROMA (Sierra Leone) said that his delegation had considered the outcome of the negotiations in the light of the need to assist the collegium to determine whether progress had been achieved towards the goal of harnessing the mineral resources of the sea-bed for the benefit of both developed and developing countries.

239. With regard to the exploration and exploitation of seabed resources, the Enterprise must be provided with all the necessary technology in respect of mining, processing and marketing. However, that goal would be frustrated if contractors, while agreeing to transfer their own technology to the Enterprise, failed to undertake that third-party technology used in their operations would also be transferred. His delegation therefore welcomed the proposed provision to the effect that, failing an assurance to transfer the technology in question, it could not be used by the operator in carrying out activities in the Area. His delegation also welcomed the proposal to change the requirement for ratification from a three-quarters majority to a two-thirds majority, as that would prevent the establishment of a parallel system not subject to review.

240. With regard to the financial arrangements, his delegation looked forward to the proposed changes relieving the Enterprise of the requirement to pay charges to the Authority, and exempting its assets and facilities from taxation. There must be further examination of the issue of contributions in the case of a shortfall not exceeding 25 per cent, as the present provision was open to various interpretations. In terms of risk and financial sacrifice, the sacrifice to be made by the developing countries was as great as, if not greater than, that of the developed countries.

241. With regard to the Council, its membership must be democratic and representative of the interests of both developed and developing countries. The introduction of the veto would be a retrograde step, contrary to the common heritage principle. His delegation endorsed the proposal for the establishment of a common heritage fund. It also believed that the principle of the non-use of force applied equally on sea and on land, and that all States should refrain from the use of force against the territorial integrity of any State.

242. Mr. AL BAHARNA (Bahrain), recalling the comments made by his delegation on its reservations with regard to the reports of the Committees, said that he supported the position of the developing countries on First Committee matters. He especially supported the retention of article 155, paragraph 6, of the revised informal composite negotiating text relating to a moratorium on operations. That provision should not be replaced by the text of article 155, paragraph 5, proposed in documents A/CONF.62/C.1/L.27 and Add.1. He supported the retention in annex II of the text of article 5, on the transfer of technology, called for by the developing countries.

243. He also supported the position of the developing countries on the Assembly and the Council and the need for a harmonious distribution of powers in the Authority. The voting majority should be two thirds, and not three fourths, as provided in the new text of article 161, paragraph 7. He had no objection to the proposals regarding the settlement of disputes relating to Part XI, and hoped a consensus could be achieved on that question.

244. With regard to the work of the Second Committee and the definition of the continental shelf, his delegation supported the position of the Arab States. In article 76, paragraph 5, the criterion of depth should be set aside, as it would lead to an undesirable extension at the expense of the international Area. With regard to the question of oceanic ridges, he did not accept

the amendments proposed in the report of the Second Committee: they were vague and failed to provide an acceptable legal definition. Nor did he accept certain provisions in annex II, relating to the functions and composition of the commission on the limits of the continental shelf.

245. He opposed the wording of article 82 in the revised negotiating text, on payments with respect to the exploitation of the continental shelf beyond 200 miles, as the schedule of payments should be entirely revised to provide increased payments for the benefit of countries adversely affected by the extension beyond 200 miles. The article should also be amended to delete the reference to exemptions for the first five years.

246. In the light of the need to protect the rights of geographically disadvantaged States in the exclusive economic zone, his delegation opposed article 70 of the revised negotiating text. Geographically disadvantaged States had a right to participate on an equal basis in the exploitation of the living resources of the exclusive economic zone. There was also a need to reach a concrete definition of geographically disadvantaged States, to ensure that they could benefit from certain privileges in the exclusive economic zone, and to amend article 70 accordingly. The word "surplus" should be deleted, and the expression "nutritional purposes of their populations" should be replaced by a more suitable phrase, such as "the economic and development needs of the population". Article 62 of the revised negotiating text should be amended to reflect the right of geographically disadvantaged States to participate in fishing activities in the exclusive economic zone.

247. With regard to the report of the Third Committee, his delegation supported the deletion of article 246, paragraph 4. That paragraph was a superfluous interpretation of the term "normal circumstances" in paragraph 3. He also supported the position of the geographically disadvantaged States regarding the amendments to article 254, which should be retained in its existing form.

248. With respect to the settlement of disputes regarding boundaries between opposite or adjacent States, the provisions of the final clauses of the revised negotiating text should be retained.

*Mr. Tubman (Liberia), Vice-President, took the Chair.*

249. Mr. RATTRAY (Jamaica) said that the views now being expressed by delegations were of a preliminary nature. The debate had given an opportunity to assess whether proposals arising from the work of the committees and working groups were widely supported and would foster consensus. In the view of his delegation the revised informal composite negotiating text could not properly be regarded as a consensus document; it was a negotiating text. The second revision would reflect a general consensus, and that consensus must be achieved by positive and demonstrable support for each step. The various elements of the package offered an important basis for further negotiations. For example, the preamble was good material for negotiation, and should be incorporated in any revision of the negotiating text.

250. Considerable work had been done in the First Committee to refine the issues involved, and the results could be incorporated in a second revision. However, further negotiations were needed on such topics as the review conference and the moratorium.

251. With regard to the transfer of technology, there were a number of outstanding problems. In order for the parallel system to work, the Enterprise must have the necessary technology to operate in parallel with State and private enterprises. There must be adequate assurances regarding access by the Enterprise to processing technology. There was a need for further clarification in article 5, paragraph 7, of annex II, which, as currently drafted, might prohibit the Enterprise from obtaining technology from the contractor after 10 years had

elapsed from the beginning of production by the Enterprise. The 10-year limit should apply to production under individual contracts, so that the Enterprise was certain of obtaining the technology used.

252. With regard to the work of negotiating group 3, there was a need for an acceptable compromise on the decision-making mechanism, to protect vital interests while avoiding obstructing the work of the Council. Further negotiations were needed on the work entrusted to negotiating group 7.

253. As for what had already been said regarding the seat of the Authority, he reserved the right of his delegation to elaborate further on the basis on which the name of Jamaica had been incorporated in the text, and to indicate why there was no basis under the rules of the Conference for any revision of the negotiating text on that issue.

254. Mr. RAHMAN (United Nations Council for Namibia) said that the Council would like to express its gratitude to the Conference for accepting it as a full member and giving it the opportunity for meaningful participation in the negotiations.

255. The Council must record its dissatisfaction with some of the proposals which had emerged. The report of the co-ordinators of the group of 21 to the First Committee revealed the erosion over the years of many substantial provisions which might once have served as a basis for compromise. His delegation was alarmed at the attempt to amend article 140 of the revised negotiating text to limit the sharing of benefits to States parties to the convention, to the exclusion of peoples who had not yet attained full independence. Such an attempt was a misinterpretation of the fundamental principle that the sea-bed was the common heritage of mankind, and that activities carried out in the Area should be for the benefit of mankind as a whole. According to Decree No. 1 for the Protection of the Natural Resources of Namibia, no animal resource, mineral, or other natural resource produced in or emanating from the territory of Namibia was to be taken to any place outside the territorial limits of Namibia by any person or body without the consent or permission of the United Nations Council for Namibia or of any person authorized to act on behalf of the Council.

256. The transfer of technology, including processing technology, was a thorny question. Legally binding assurances that the owners of technology would make it available to the Enterprise were not enough: developing countries must be able to rely on the arrangements. The provision blacklisting the owner of technology, as contained in annex II, article 5, paragraph 1 (b) of the revised negotiating text, should therefore be main-

tained. Any failure to honour obligations to transfer technology would jeopardize the viability of the Enterprise.

257. As a new international economic entity involved in seabed mining for the benefit of mankind as a whole, the Enterprise should be immune from taxation on its assets, property and revenues, as specified in annex III, article 12, paragraph 5, of the revised negotiating text. Otherwise the Enterprise risked being taxed out of existence within a short period.

258. Issues in the Second Committee with a definite bearing on the development of Namibia related, in particular, to areas of national jurisdiction and the rights of coastal States. In the view of the Council for Namibia, the outcome of the negotiations on the territorial sea, the exclusive economic zone and the continental shelf, as contained in the revised negotiating text, adequately protected the interests of Namibia as well as those of third States. The Council attached particular importance to articles 2 and 3 on the juridical status and breadth of the territorial sea, article 10 on bays, article 55 on the specific legal régime of the exclusive economic zone, article 56 on the rights, jurisdiction and duties of the coastal State in the exclusive economic zone, article 61 on conservation of living resources, article 62 on the utilization of living resources, article 76 on the definition of the continental shelf, and article 77 on the rights of the coastal State over the continental shelf. The exploitation of living and non-living resources in the areas which should be under Namibia's jurisdiction was of vital importance for its people, who alone were entitled to derive benefit from such exploitation.

259. His delegation also supported the balanced compromise which had emerged from negotiating group 4, dealing with the access of land-locked and geographically disadvantaged States to the living resources of the exclusive economic zone, as well as articles 69, 70, 71 and 72, and Part X on the right of access of land-locked States to and from the sea and freedom of transit.

260. His delegation also welcomed the progress achieved in the Third Committee in respect of the conduct of marine scientific research. It was to be hoped that the issue would be satisfactorily resolved, as consensus had already been reached on articles 242, 247, 249 and 255, and was emerging in respect of articles 246, 253, 254 and 264.

261. The Council for Namibia was willing to make every effort to reach agreement on the outstanding issues, and was confident that the second revision of the negotiating text would represent a significant step towards the ultimate adoption of a universally acceptable convention.

*The meeting rose at 10.25 p.m.*

## 129th meeting

Friday, 4 April 1980, at 11:25 a.m.

*President: Mr. H. S. AMERASINGHE*

### The seat of the International Sea-bed Authority

1. The PRESIDENT drew attention to the draft decision contained in document A/CONF.62/L.48/Rev.1 and said that, following consultations with the various groups, it had been decided that the foot-note to article 156 of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1) should be expanded to include the following sentence: "The Conference decided that at an appropriate time the Conference should be given an opportunity to express its preference among the candidatures of Jamaica, Malta and Fiji by means of a vote, unless the Conference decided otherwise."

2. If he heard no objection, he would take it that the Conference agreed to the addition of that sentence.

*It was so decided.*

### Organization of future work of the Conference

3. The PRESIDENT said that following consultations with a cross-section of delegations and bearing in mind the decision which the Conference had taken to the effect that it must complete its work by the end of its ninth session he was proposing the following time-table for consideration by the Conference. First, the Drafting Committee should meet before the Conference resumed its session, possibly from 9 to 27 June 1980 in New York, to enable that Committee to complete the harmonization of the various language texts and to start the revision of the text itself. Secondly, the first two weeks of the resumed session should be devoted to the continuation of negotiations on all outstanding issues. Discussions would continue concurrently in informal meetings of the plenary Conference regarding the final and general clauses and the prepara-