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Report of the Chairman of the Third Committee

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DOCUMENTS OF THE THIRD COMMITTEE

DOCUMENTS A/CONF.62/C.3/L.34 and Add.1 and 2*

Report of the Chairman of the Third Committee

[Original: English]
[4 August 1980]

1. As this is our first meeting during this resumed ninth session of the Third United Nations Conference on the Law of the Sea, I would like to extend to all of you a warm welcome and to wish you success in our common endeavours. The programme of work adopted at the 130th plenary meeting by the Conference on the recommendation of the General Committee set aside the initial weeks of this resumed session to enable different constituent bodies of the Conference to complete negotiations on the outstanding issues. This particular procedure did not apply to the Third Committee since, as had been reported in documents A/CONF.62/L.34³⁰ and A/CONF.62/L.50,³¹ the substantive negotiations on Part XII (Protection and Preservation of the Marine Environment), Part XIII (Marine Scientific Research) and Part XIV (Development and Transfer of Marine Technology) had been completed. The results of these negotiations are contained in the first and second revisions of the informal composite negotiating text and, in my opinion, have enabled the Third Committee to attain a level of agreement which can be considered to offer a substantially improved prospect for consensus.

2. Since the substantive negotiations in the Third Committee have been completed, I considered that it was now appropriate that we should concentrate on an examination of the drafting suggestions contained in reports of the Drafting Committee and particularly document A/CONF.62/L.57/Rev.1 as well as drafting suggestions from individual delegations. To this end, I addressed a letter to the Chairman of the Drafting Committee in which I expressed my desire to maintain close co-ordination and co-operation on drafting matters between our two committees. I pointed out that in scrutinizing different suggestions, I might establish that some of them were of a *prima facie* editorial nature while others might have a bearing on the substance of some provisions. In the letter I envisaged the possibility of consultations with the President of the Conference on provisions related to the settlement of disputes and final clauses, as well as the Chairmen of the First and Second Committees on matters of mutual concern. I assumed that issues related to more than one committee which could not be solved through consultations with the President or the Chairmen of the respective committees could be brought to the attention of the Collegium in an attempt to find a balanced and acceptable solution.

3. It was my intention that in carrying out this exercise the changes that I would suggest would offer an improvement in the clarity of the negotiating text and make more coherent the provisions of the text within the terms of reference of the Third Committee in relation to the rest of the articles of the draft convention. At the same time, I was determined not to upset the delicate

balance that had been achieved over these past years of lengthy negotiations.

4. I would like to inform the Committee that following my examination of the texts of Parts XII, XIII and XIV and all of the suggestions contained in the reports of the Drafting Committee as well as the suggestions made by individual delegations, I have been able to prepare a list of suggested changes contained in the annex to this report. It is my hope that delegations would accept these suggestions in a spirit of compromise so that they could be incorporated in the next revision of the text which the Collegium anticipates to prepare. The changes, in some cases, employ the substitution of one word for another while in others, I have proceeded to re-draft or restructure certain articles and sentences which were not clear or which may have caused difficulties in comprehension or translation. I would like to point out that I have worked on the basis of the English text and all of these suggested changes may not correspond in every case to the other language texts. In due course, I intend to see that the necessary co-ordination and harmonization in this area is achieved.

5. I also intend to inform the Drafting Committee of the changes which will have been approved by the Third Committee for introduction into Parts XII, XIII and XIV of the text and I hope they will assist the Chairman of the Drafting Committee in fulfilling the mandate he has been entrusted with. I would like to thank him for the co-operation and very kind assistance that he has shown to this Committee and to me personally.

6. All these drafting changes that I am proposing today would not have been possible without the active participation in the work by the representatives of the language groups and the Drafting Committee and their tireless efforts for the improvement and clarity of the text. I would like to express my sincere gratitude to all, especially those who approached me and offered advice and suggestions. I hope that this spirit of co-operation that has existed during these past sessions of the Conference will continue until the successful conclusion of our work.

7. Finally, I wish to pay special tribute to the Secretariat for their exemplary diligence, dedication and most valuable service rendered to the Committee and to me personally since the inception of this Conference.

ANNEX

Drafting changes in the negotiating text proposed by the Chairman of the Third Committee

PART XII. PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

Article 192: title to read "general duty".

Article 192: replace "have the obligation" by "have the duty".

Article 194, paragraph 3 (a): replace "harmful and noxious" by "harmful or noxious".

Article 194, paragraphs 3 (b), (c) and (d): after "particular" add "measures".

* Documents A/CONF.62/C.3/L.34/Add.1 and 2 contain the annex of the present report.

³⁰ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XI.

³¹ *Ibid.*, vol. XIII.

Article 194, paragraph 4: replace "rights and duties of other States exercised" by "rights exercised and the duties performed by other States".

Article 194, paragraph 5: replace "The measures" by "Such measures" and "other marine life" by "other forms of marine life".

Article 197: replace "characteristic" by "specific".

Article 198: replace "A State which" by "When a State" and "shall immediately notify" by "it shall immediately notify".

Article 199: replace "Towards that end, States shall jointly promote" by "To this end, States shall jointly develop and promote".

Article 200: line 1, put the phrase "directly or through competent international organizations" within commas; in line 5 delete "actively"; in line 6, replace "extent of pollution, the exposure to it, its pathways, risks and remedies" by "extent of pollution, the exposure to it, its pathways, risks and remedies".

Article 201: put the expression "directly or through competent international organizations" within commas and replace "prevention of pollution" by "prevention, reduction and control of pollution".

Article 202, subparagraph (b): replace "pollution in the marine environment" by "pollution of the marine environment".

Article 203: replace "prevention of pollution" by "prevention, reduction and control of pollution".

Article 204, paragraph 1: add a comma after "organizations"; and in paragraph 2: add an "s" to "effect".

Article 205: after "environment" add "referred to in article 204, or".

Article 207, paragraph 2: delete "also".

Article 207, paragraph 4: after "account" add "specific regional features".

Article 207, paragraph 5: replace "possible extent" by "extent possible" and "harmful and noxious" by "harmful or noxious".

Article 208, paragraph 2: delete "also".

Article 208, paragraph 5: delete "arising from or in connexion with seabed activities subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction".

Article 209, paragraph 2: line 1, delete "other"; and in line 5, after "registry" add "or operating under their authority as the case may be".

Article 210, paragraph 1: line 2, replace "from dumping" with "by dumping"; in paragraph 2, line 1, delete "also"; and in paragraph 5, line 4, replace "other States" by "all other States".

Article 210, paragraph 6: replace "pollution from dumping than global rules and standards" by "pollution of the marine environment by dumping than international rules and standards".

Article 211, paragraph 1: line 5, after "pollution of" add "or damage to"; in paragraph 2: line 3, delete "vessels"; in line 5, replace "or diplomatic conference" by "or general diplomatic conference"; in paragraph 3, replace "a call" by "for calling"; in line 10, delete the comma after "furnish" and add a comma after "arrangements"; in paragraph 4, replace "marine pollution from vessels" by "pollution including foreign vessels"; after "Part II", add a comma; in paragraph 5: after "6" add a comma and in line 5, replace "diplomatic" by "general diplomatic".

Article 211, paragraph 7: add a comma after "incidents" and after "casualties".

Article 212, paragraph 1: after "within" add "the"; in paragraph 2: delete "also"; and in paragraph 3: add a comma after "conference".

Articles 213 and 214: replace "shall adopt the necessary legislative, administrative and other measures" by "adopt laws and take other measures necessary".

Article 216, paragraph 1: replace "and applicable international rules" by "and with applicable international rules".

Article 216, paragraph 1 (b): after "flying its flag" add "or of its registry".

Article 217, paragraph 1: line 5, delete "vessels" in the phrase "vessels of their registry"; in line 6, after "adopt" add "laws and take other measures necessary"; and in line 7, replace "Flag State" by "They".

Article 217, paragraph 2: line 1, delete "Flag"; and in line 2, delete "vessels" before "of their registry".

Article 217, paragraph 3: line 3, replace "Flag States shall ensure that their vessels" by "They shall ensure that vessels flying their flag".

Article 217, paragraph 5: replace "seek" by "request".

Article 217, paragraph 8: replace "specified under" by "provided for by".

Article 218, paragraph 1: after "proceedings" add "in accordance with its laws".

Article 218, paragraph 3: line 1, replace "its ports or off-shore terminals" by "within a port, or at an off-shore terminal"; in line 3, replace "of discharge violations" by "of a discharge violation" and delete "of international rules and standards"; in line 6, add a comma after "practicable" and in lines 7 and 8, replace "violations" by "violation".

Article 219: after "seaworthiness" add "of vessels".

Article 220, paragraph 1: add a comma after "7"; in lines 1 and 4 and in paragraph 2, line 3, replace "national laws" by "it laws"; in paragraphs 1 and 2, replace "or applicable" by "or with applicable"; in paragraph 4: line 1, replace "shall take legislative, administrative and other"; by "shall adopt laws and take other"; and in paragraph 6, line 6, delete "discharge".

Article 221, paragraph 1: replace "shall prejudice" by "prejudices"; in paragraph 2: line 2, replace "ships" by "vessels", and in lines 3 and 4 "ship" by "vessel".

Article 222: line 1, add "the" before "air space"; and in line 4, replace "the necessary legislative, administrative and other measures" by "laws and take other measures necessary".

Article 223: replace "enjoy such rights and duties" by "have such rights and obligations".

Article 224: line 2, replace "officials" by "competent officials" and add a comma after "warships".

Article 225: line 1, after "In the exercise" add "under this Convention"; and delete this phrase in line 2; in line 3, replace "cause" by "create" and "cause an unreasonable risk to the marine environment" by "expose the marine environment to an unreasonable risk".

Article 226, paragraph 1: in line 2, add "the" before "investigation"; in line 13, place a comma after "environment"; and in line 15, replace "ships" by "vessels".

Article 228, paragraph 1: in line 14, delete "firmly"; in paragraph 2: line 2, delete "of a period"; and in paragraph 3: line 2, replace "adopt" by "take" and "taking" by "instituting".

Article 229: replace "shall affect" by "affects".

Article 230, paragraph 1: delete the comma after "standards"; and in paragraph 3: delete "to impose penalties" and after "vessel" add "which may result in the imposition of penalties".

Article 234: begin the last sentence with "Based on the best available scientific evidence" and delete this phrase at the end of the sentence.

Article 235: replace "with the objective of assuring" by "In order to assure".

Article 236: replace "adoption" by "taking" and "not impairing" by "not to impair".

PART XIII. MARINE SCIENTIFIC RESEARCH

Article 240: redraft as follows:

"Marine scientific research shall be conducted:

"(a) Exclusively for peaceful purposes;

"(b) Using appropriate scientific methods and means compatible with this Convention;

"(c) Without unjustifiably interfering with other legitimate uses of the sea compatible with this Convention and it shall be duly respected in the course of such uses;

"(d) Complying with all relevant regulations established in conformity with this Convention including those for the protection and preservation of the marine environment."

Article 242, paragraph 2: line 1, replace "duties" by "the rights and obligations"; in line 2, replace "a State in the application of this part shall provide as appropriate other States with" by "a State shall provide in the application of this Part other States as appropriate with"; and in line 5, replace "environment" by "marine environment".

Article 243: line 1, delete "with one another"; in line 5, replace "in" by "therein"; and in line 6, delete "the marine environment".

Article 244, paragraph 1: lines 2 and 3, after "available" add "by publication and dissemination through appropriate channels"; and delete this phrase in line 3; in paragraph 2: line 1, delete "shall"; in line 2, add "shall" before "actively"; and in line 4, replace "to develop States" by "to developing States".

Article 246, paragraph 5: line 1, replace "in their" by "at their"; and in paragraph 6: line 5, replace "200 miles" by "200 nautical miles".

Article 247: line 2, replace "whose zone" by "whose exclusive eco-

onomic zone"; in line 5, after "carried out", add "directly or under its auspices", and at the end of the article add the following, "and has not expressed any objection within four months of notification of the project by the organization to the coastal State", which was missing from the text.

Article 248: line 4, replace "research project" by "marine scientific research project".

Article 248, subparagraphs (a), (e) and (f), delete "research".

Article 249, paragraphs 1 (a) to (g): begin with lower case letters; in paragraph 1 (a): line 1, replace "rights" by "right"; in line 2, replace "research project" by "marine scientific research project"; in line 5, delete "research"; in paragraph 1 (c): line 2, replace "research project" by "marine scientific research project"; in paragraph 1 (d): line 2, delete the comma after "samples"; and in paragraph 2: line 5, replace "for" by "to".

Article 250: title to read, "Communications concerning marine scientific research projects"; and in line 1, replace "concerning the research project" by "concerning marine scientific research projects".

Article 252: line 1, replace "research" by "marine scientific research"; in subparagraph (b): delete "research"; and in subparagraph (d): replace "previous research project" by "previous marine scientific research project".

Article 253, paragraph 1 (b): replace "research project" by "marine scientific research project".

Article 254, paragraph 2: line 1, replace "such proposed research" by "such a proposed marine scientific research project"; in line 4, replace "marine scientific research" by "such a project"; in line 6, replace "article" by "articles"; in paragraph 3: line 3, replace "proposed research" by "proposed marine scientific research"; and in line 5, delete "research".

Article 255: title to read "Measures to facilitate access to harbours and assistance to marine scientific research vessels".

Article 258: replace "any area" by "any such area".

Article 259: replace "seas" by "sea".

Article 260: replace "around scientific" by "around marine scientific".

Article 261: replace "of scientific" by "of marine scientific".

Article 262: replace "the principles established" by "rules and regulations established".

Article 263, paragraph 2: replace "undertake" by "take"; and in line 3, delete "on their behalf".

Articles 264 and 265: replace "2" by "3".

PART XIV. DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY

Article 266: title to read "Promotion of the development"; in paragraph 1: line 2, delete "actively"; and in paragraph 3: replace "foster" by "create".

Article 267: replace "duties" by "obligations".

Article 268, subparagraph (d): delete "and".

Article 269: line 1, replace "the above-mentioned objectives" by "the basic objectives referred to in article 268"; and in line 2, replace "shall, *inter alia*, endeavour to" by "shall endeavour, *inter alia*, to".

Article 269, subparagraph (a): line 2, replace "kinds" by "types"; in line 3, delete "other"; in line 6, delete "the" before "marine resources"; and in subparagraph (d): replace "scientists, technologists and other experts" by "scientists and other technological experts".

Article 270: replace "technology shall, where feasible and appropriate be carried out" by "technology shall be carried out, where feasible and appropriate"; and in line 4, delete "and" and put a comma after "research".

Article 272: line 3, delete "in this field".

Article 274: replace "duties" by "obligations"; in line 2, replace "the Authority shall, with regard to activities in the area, ensure" by "the Authority, with regard to activities in the area, shall ensure that"; in subparagraphs (a) to (d): delete "that" at the beginning of each subparagraph; in subparagraph (a): replace "undertaking" by "undertakings"; and in subparagraph (c): line 3, after "States" add a comma.

Article 275, paragraph 1: line 2, replace "specially" by "particularly"; in line 3, replace "strengthening" by "the strengthening"; in line 6, replace "strengthen" by "enhance"; in paragraph 2: line 1, after "Authority" add a comma; and in line 3, replace "for the provision of advance training facilities" by "so as to provide for advanced training institutions".

Article 276, paragraph 1: line 1, delete "shall"; and in line 3, replace "promote the establishment, especially" by "shall promote the establishment, particularly".

Article 277, subparagraph (g): line 2, replace the period by a semi-colon.