

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

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Document:-

**A/CONF.62/C.3/SR.46**

## **46<sup>th</sup> meeting of the Third Committee**

Extract from the *Official Records of the Third United Nations Conference on the Law of the Sea, Volume XIV (Summary Records, Plenary, General Committee, First and Third Committees, as well as Documents of the Conference, Resumed Ninth Session)*

15. Close co-operation was always maintained between the Drafting Committee and the chairmen of the committees. Whenever the Drafting Committee deemed such action necessary, it referred a particular matter to the chairman of the appropriate committee. Thus the Third Committee was called upon to deal with those matters within its province on which the Drafting Committee had not been able to take any action. It was his understanding that every effort should be made to avoid any overlapping of work, or parallel work, with the Drafting Committee or any other organ of the Conference. Ultimately, all questions of drafting would come before a single body, namely, the Drafting Committee. The work that was at present being done in the Third Committee would certainly be of assistance to the Drafting Committee, and his impression was that the Drafting Committee welcomed that assistance. He reminded members that he had addressed a full meeting of the Drafting Committee at which he had explained the procedure outlined in his report.

16. Mr. FERRERO COSTA (Porto) endorsed the Brazilian representative's request that the record should show the manner in which the Third Committee intended to adopt the amendments proposed in the Chairman's report.

17. He shared the views of other representatives on the need for more time in which to study the proposed amendments.

18. Mr. ABD-RABOU (Egypt) asked whether the amendments proposed by the Chairman were merely of a drafting nature or whether some of them were substantive.

19. The CHAIRMAN said that he had been concerned to avoid upsetting the delicate balance achieved over the past years, particularly on critical issues. The proposals he had made, therefore, were drafting changes designed to harmonize and improve the text, and not changes of substance on important issues.

20. Mr. SREENIVASA RAO (India) suggested that the editorial changes should be referred to the Drafting Committee in the first instance. If difficult issues then emerged, they might be referred back to the Committee at a later stage.

21. Mrs. BREATHNACH (Ireland) said that it would be desirable for the Committee to consider certain drafting changes related to sensitive issues. Her delegation intended to introduce such a drafting change at an appropriate time.

22. Mr. TIKHONOV (Union of Soviet Socialist Republics), supporting the procedure proposed by the Chairman and the Irish representative, said that it was entirely appropriate for the Committee to consider the proposed changes.

23. Mr. KOPAL (Czechoslovakia) said that the proposed changes should be discussed in the Committee. It was sometimes impossible to draw a dividing line between drafting changes and substantive changes. All delegations should have an opportunity to express their views on the proposed amendments, and not all of them were represented in the Drafting Committee. A discussion in the Third Committee would save time and facilitate the work of the Conference in its final stages.

24. Mr. WULF (United States of America) pointed out that the Drafting Committee had followed the rule that if any delegation viewed a particular change as substantive, that change should not be accepted. The Committee might usefully adopt the same procedure.

25. Mr. BACH BAOUAB (Tunisia) said that his delegation had had insufficient time to study the proposed changes in order to determine whether any of them were of a substantive nature. He therefore supported the proposal that consideration should be deferred to allow time for further study.

26. The CHAIRMAN said that he could accept that proposal. The Committee's exchange of views had been useful in clarifying both procedure and the eventual outcome of the Committee's work. Efforts were being made to co-ordinate the work of the Drafting Committee and the Third Committee. In that respect he drew attention to the letter dated 26 March 1980 from the Chairman of the Drafting Committee and to his reply of 29 April 1980. It was entirely appropriate for the Committee to consider drafting suggestions. The Conference had its own specific methods of negotiating and treaty-making, and there could be no mechanical analogies with other Conferences. The Committee would meet informally that afternoon, when its main purpose would be to ascertain whether the proposals before it should be incorporated in the text.

*The meeting rose at 12.15 p.m.*

## 46th meeting

Wednesday, 20 August 1980, at 5.50 p.m.

Chairman: Mr. A. YANKOV (Bulgaria)

### Report of the Chairman on the work of the Committee (concluded)

1. The CHAIRMAN thanked all the members of the Committee for their co-operation and said that the informal discussions on the documents containing the drafting changes he had proposed (A/CONF.62/C.3/L.34/Add.1 and 2) had been successful. Those changes on which agreement had not been reached would not be incorporated in the third revision of the negotiating text; only the drafting changes proposed in the two above-mentioned documents would be included. He was pleased that that difficult task had been completed and that the Committee had concluded consideration of the articles.

2. Of course, the Committee's work was not perfect, but the reading of the articles had been useful, and, for the first time, thanks to the Committee, it had been possible to undertake codification on the protection and preservation of the marine environment. Although various organizations had already studied the question in a piecemeal manner, that had been the first time that a comprehensive approach had been taken to the codification of provisions relating to those questions. Furthermore, some Gov-

ernments had already referred to the text under consideration, although it was still only an informal composite negotiating text.

3. Similarly, the provisions relating to marine scientific research represented the first attempt to formulate a complete set of legal rules on the international régime for that activity. The Committee had therefore made an important contribution to the work of the Conference.

4. He announced that he had received from the World Meteorological Organization a letter in which it referred in particular to the work of the Eighth World Meteorological Congress held in Geneva. On that occasion, the organization had expressed its interest in research activities conducted in the oceans and, in particular, in the "exclusive economic zone". In a resolution which had been adopted by the Congress and had been distributed to the participants in the Conference (A/CONF.62/80), the organization had referred to some of its activities, including the collection of meteorological information from voluntary observing ships, and meteorological and oceanographic observational activities carried out in accordance with international programmes such as the World Weather Watch and Integrated Global Ocean Station Sys-

tem. Now that the Third Committee had completed the negotiations on the substantive questions before it, it was in a position to reply to the Secretary-General of the World Meteorological organization.

5. Since the formulation of draft articles on the legal régime for the conduct of marine scientific research came under his mandate as Chairman of the Third Committee, he was able to share the view of the Eighth Meteorological Congress that adequate marine meteorological data coverage, including that from areas within the exclusive economic zone, was indispensable for timely and accurate storm warnings for the safety of navigation and for the protection of lives and property in coastal and offshore areas. In his opinion, the provisions on marine scientific research would not create any difficulties and obstacles hindering adequate meteorological coverage from ocean areas, including areas within the exclusive economic zone, carried out both within the framework of existing international programmes and by all vessels, since such activities had already been recognized as routine observations and data collecting which were not covered by Part XIII of the negotiating text. Furthermore, they were in the common interest of all countries and had undoubted universal significance. He informed the Committee that he intended to send a letter to the Secretary-General of the World Meteorological organization along those lines.

6. He thanked the Secretariat for its assistance to the Committee and pointed out that, although the Committee had completed negotiations on the substantive issues entrusted to it and consideration of the proposed drafting changes, that certainly did not mean that the Committee was no longer at the disposal of the Conference.

7. Mr. FIGUEIRÊDO BUSTANI (Brazil) paid tribute to the competence and impartiality which the Chairman had displayed in conducting the deliberations and welcomed the Chairman's assurances concerning the possibility of making further improvements. In particular, he hoped that an improvement could be made in the wording of article 263, paragraph 2, which in his opinion was not very clear.

8. Mr. HUSSAIN (Pakistan) associated himself with the tribute paid to the Chairman and thanked the Secretariat for its assistance. Without wishing to reopen the debate on substantive questions, he felt obliged to point out that, although Parts XII and XIV of the negotiating text did not present any difficulties for his delegation, the same was not true of certain articles in Part XIII and he would like once more to make his position clear before the Collegium undertook the third revision of the text. Pakistan, like other developing coastal States, felt that articles 246, 253 and 296, paragraph 2, did not reflect the legitimate aspirations of coastal States. Marine scientific research should be undertaken in the exclusive economic zone and on the continental shelf of coastal States only with their express consent. His delegation considered that paragraphs 4, 6 and 7 of article 246 and article 296, paragraph 2 (b), should be deleted. The idea of implied consent was difficult to accept. Similarly, it was difficult to see how article 253 could be accepted in its present form: the coastal State should be able to revoke its consent in the event of flagrant violation of the conditions specified in articles 248 and 249, since there was a danger that the continuation of activities in such a situation might jeopardize its security.

9. Mr. YTURRIAGA BARBERÁN (Spain) said that, in his opinion, certain articles in Part XII still needed to be coordinated and brought into line with other articles in the draft convention. He was therefore grateful to the Chairman for having taken that problem into account by saying in his report (A/CONF.62/C.3/L.34) that "issues related to more than one committee which could not be solved through consultations with the President or the Chairman of the respective committees could be brought to the attention of the Collegium in an attempt to find a balanced and acceptable solution". As far as article 263 was concerned, he agreed with the representative of Brazil that better wording should be found, without making substantive changes. Furthermore, he noted with satisfaction that it was apparent from

the Chairman's observations at the informal meetings that the decisions adopted on the wording of certain articles which were being examined simultaneously by the Drafting Committee were not of a final character and that, in certain cases, that Committee would be able to make changes if it felt such a course advisable, since it was for that Committee to bring all the provisions of the convention into line. He concluded by thanking the Chairman for the constructive way in which he had conducted the deliberations.

10. Mr. DE MESTRAL (Canada) said that the Third Committee had made much progress in its work under the enlightened guidance of its Chairman. As for the drafting changes proposed by the Drafting Committee in documents A/CONF.62/L.57/Rev.1, several had been omitted from, or only partially included in, the report of the Chairman; however, his delegation understood that that did not mean they could not be adopted and incorporated in the new revision of the informal composite negotiating text.

11. Mr. WULF (United States of America) associated his delegation with those delegations which had thanked the Chairman for his efforts, especially during consideration of the drafting suggestions contained in documents A/CONF.62/C.3/L.34/Add.1 and 2. In that connexion, his delegation wished to emphasize its view that the fact that some of the changes proposed in those documents had been accepted and others rejected had no legal significance. If the work of the Committee had been successful, it was in part because the Chairman had kept to the rule that no drafting amendment should be accepted if one delegation raised a substantive objection to it. That had made it possible to recast some provisions of the draft convention without reopening substantive negotiations. In conclusion, he said that, while he appreciated the points made by the representative of Brazil, he could not subscribe to that representative's interpretation of article 263.

12. Mr. TIKHONOV (Union of Soviet Socialist Republics), speaking on behalf of the Eastern European countries, said that the Committee had come very close to a consensus on all the questions referred to it, and thanked the Chairman for having conducted the deliberations effectively and objectively. Although his delegation did not welcome all the provisions of the second revision of the negotiating text, it was opposed to the reopening of substantive negotiations.

13. Mr. BIGAY (France) associated himself with the thanks which had already been expressed to the Chairman. He nevertheless wished to remind the Committee that his Government had always had a reservation about article 230. In its opinion, providing only for monetary penalties with respect to violations relating to pollution constituted an infringement of national sovereignty, in particular when such violations were committed in the territorial waters of a State. His delegation therefore hoped that article would be amended.

14. Mr. FERRERO COSTA (Peru) considered that the Chairman had taken a sensible step in asking the Committee to consider suggestions which seemed to be only of an editorial character but in some cases could affect substance. The first examination of the changes proposed by the Drafting Committee had been useful, and it would be advisable to repeat it whenever necessary. In his opinion, it was the responsibility of the Third Committee to consider any amendment that might have a substantive implication, while the Drafting Committee should keep to changes of a strictly editorial nature.

15. Mr. APPLETON (Trinidad and Tobago) congratulated the Chairman on his efforts to ensure the success of the substantive negotiations. He noted with satisfaction that it would still be possible to revert to certain substantive questions, in particular article 263, whose wording he considered unsatisfactory. In that connexion, he was entirely in agreement with the representatives of Brazil and India.

16. Mr. ABD-RABOU (Egypt) thanked the Chairman for his substantial contribution to the success of the Third Committee's work, but noted that there were still wide differences of opinion

on certain articles, in particular articles 253 and 263. In his opinion, therefore, consideration of the text of those articles should be continued.

17. Mr. SREENIVASA RAO (India) associated himself with the congratulations which had been expressed to the Chairman on his efforts to enable the Committee to complete a difficult task. In the opinion of his delegation, the only real problem still to be settled was that of article 263. It was a question not so much of reopening substantive discussion as of finding the right balance between form and substance and eliminating any inconsistency so as to devise an equitable wording. In that connexion, he felt he was perfectly justified in requesting that that article should be reconsidered.

18. Mr. CAFLISCH (Switzerland) thanked the Chairman and reminded members of the reservations his delegation had expressed with respect to the text of article 253 in the negotiating text.

19. Mr. GAVIRIA LIÉVANO (Colombia) noted that the results of the Committee's recent examination of drafting questions were definitely favourable. He thanked the Chairman and

the secretariat staff who had helped the Chairman in his task. Not all the amendments that had been proposed were entirely satisfactory, but his delegation had endorsed them in a spirit of compromise. It was normal for the question of the amendments to be made in certain articles, for example, those relating to the settlement of disputes and interim measures (arts. 264 and 265), to be submitted to the competent bodies, and he paid tribute to the wisdom which the Chairman had displayed in that respect.

20. Mr. HONSALI (Morocco), too, expressed thanks to the Chairman. Like other delegations, his delegation hoped that the Committee would continue consideration of certain articles on which general agreement had not been reached, in particular, articles 230, 254 and 263.

21. The CHAIRMAN, noting that the Third Committee had successfully completed an important task, said he hoped that it would have thus contributed to the success of the current session and, more generally, of the Third United Nations Conference on the Law of the Sea.

*The meeting rose at 6.35 p.m.*

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