

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

1973-1982

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Document:-  
**A/CONF.62/L.61**

## **Report of the Chairman 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)*

the interpretative declarations contemplated in article 304. They are of a different character and nature and are not prejudiced by article 304.

*Article 305—Relation to other conventions and international agreements*

This article, as appearing in document FC/21/Rev.1 and as modified by the corrections in document FC/21/Rev.1/Add.1, was accepted by the informal plenary meeting of the Conference.

Article 305 will contain a new paragraph 6 the text of which was adopted by the Conference when it dealt with the question of general provisions as reported in document A/CONF.62/L.58.

Paragraph 5 of this article was considered redundant by some delegations as its provisions were governed by the Vienna Convention on the Law of Treaties.<sup>13</sup> The provision was, however, maintained as it was found preferable to duplicate the content of the relevant provision of the Vienna Convention on the Law of Treaties rather than to eliminate this paragraph.

*Article 306—Amendment*

The text of this article as appearing in document FC/21/Rev.1 and as changed in document FC/21/Rev.1/Add.1 was accepted. As referred to in that document, paragraphs 1 and 2 would remain as article 306, while paragraphs 3 and 4 would constitute a new article to appear after article 307.

As this new article had no title the President has appended a title to it to read "Amendments to the provisions of the Convention relating exclusively to activities in the Area".

It is to be noted that the reference to paragraph 3 in the fourth paragraph will have to be changed accordingly and the subsequent articles will have to be re-numbered.

The question was raised as to whether the articles on amendments to the convention and its annexes were exhaustive of all types of amendments and whether there was a lacuna which had to be filled. It was understood that this matter required careful examination.

As special emphasis was being placed on consensus, it was considered desirable that the term be defined having regard to the statement made on the subject by the President at the 17th meeting of the Conference on 26 June 1974,<sup>14</sup> and the meaning given to that term in the report of the co-ordinators of the working group of 21 in the context of paragraph 7 (e) of article 16j (see A/CONF.62/C.1/L.28/Add.1).

<sup>13</sup> See *Official Records of the United Nations Conference on the Law of Treaties. Documents of the Conference*, (United Nations publication, Sales No. E.70.V.5).

<sup>14</sup> See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. I (United Nations publication, Sales No. E.74.V.3).

*Article 307—Amendment by simplified procedure*

The article as appearing in document FC/21/Rev.1 was accepted subject to the changes referred to in document FC/21/Rev.1/Add.1.

*Article 308—Signature, ratification of, accession to and authentic texts of amendments*

This article as appearing in document FC/21/Rev.1 was accepted without change.

*Article 309—Entry into force of amendments.*

This article as appearing in document FC/21/Rev.1 together with the addition of paragraph 1 *bis* as referred to in document FC/21/Rev.1/Add.1 was accepted by the Conference.

The following minor drafting changes which do not touch upon the substance, will have to be effected for the purpose of clarity: in paragraph 1, after "following the" insert "deposit of instruments of"; in paragraph 4, after "one year following" insert "the deposit of the instruments of"; in paragraph 5, "paragraph 3" should read "paragraph 4".

*Article 310—Denunciation*

This article as appearing in document FC/21/Rev.1 together with the change referred to in document FC/21/Rev.1/Add.1 was also accepted.

*Article 311—Status of annexes; Article 312—Depositary; Article 313—Authentic texts*

These three articles were accepted by the Conference as they appear in document FC/21/Rev.1.

As regards subparagraph (d) of article 312, it was considered by some delegations to be covered by the Vienna Convention on the Law of Treaties, in that the circulation of amendments was part of the functions of a depositary. It was found desirable, however, to retain this paragraph as the provision for adoption of amendments by simplified procedure could not have been contemplated by the Vienna Convention on the Law of Treaties. The simplified procedure provided under article 307 would seem to impose an additional function on the depositary.

*Annex VI, article 42—Amendments to the statute of the International Tribunal for the Law of the Sea*

The text as appearing in document FC/21/Rev.1/Add.1 for article 42 of annex VI was accepted by the Conference. This would replace the text as appearing in A/CONF.62/WP.10/Rev.2. This item was considered in the course of the discussion on the subject of settlement of disputes and is referred to in the report on that subject—document A/CONF.62/L.59.

The President recommends that these decisions of the informal plenary Conference be included in the next revision of the informal composite negotiating text.

The President also recommends that the general provisions accepted by the Conference together with these articles on Final Clauses be included in a separate part of the informal composite negotiating text entitled "Final Provisions".

## DOCUMENT A/CONF.62/L.61

### Report of the Chairman of the Third Committee

[Original: English]  
[25 August 1980]

1. I have the honour to inform the Conference of the developments that have taken place in the Third Committee. You may recall that the programme of work adopted by the Conference at the 130th plenary meeting on the recommendation of the General Committee set aside the initial weeks of this resumed session to enable different constituent bodies of the Conference at this ninth

resumed session to complete negotiations on the outstanding issues. This particular procedure did not apply to the Third Committee since, as had been pointed out in my last two reports to the Conference contained in documents A/CONF.62/L.34,<sup>15</sup> and

<sup>15</sup> *Ibid.*, vol. IX.

A/CONF.62/L.50,<sup>16</sup> 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) have been completed. The result of these negotiations are reflected 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. This assessment has emerged in the Committee itself and consequently has been brought to the notice of the Conference and it is my considered view that the Conference has subsequently confirmed it.

2. Since the substantive negotiations in the Committee have been completed, I considered that it was 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 a few 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.

3. The letter to the Chairman of the Drafting Committee and the statement I was requested to make at the meeting of the Drafting Committee was motivated by my earnest desire to enhance further the co-operation between the Committee and the Drafting Committee, whose work I have always highly appreciated. I have also had in mind the provisions of Rule 53 of the rules of procedure of the Conference with regard to the terms of reference of the Drafting Committee which states that the Drafting Committee "without reopening substantive discussion on any matter, formulate drafts and give advice on drafting as requested by the Conference or by a Main Committee, co-ordinate and refine the drafting of all texts referred to it, without altering their substance, and report to the Conference or to the Main Committee as appropriate. It shall have no power of or responsibility for initiating texts".

4. In accordance with the procedure agreed upon by the Committee 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.

5. 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 text and would make more coherent the provisions of the negotiating 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.

6. Following my examination of the text 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 was able to prepare a list of suggested changes contained in document A/CONF.62/C.3/L.34/Add.1 and 2. These suggested changes were considered by the Third Committee during the course of two formal and four informal meet-

ings. A large number of the changes were accepted, some as originally suggested and others after being amended during the discussion. The accepted changes are both of a drafting nature as well as having bearing on the substance of certain provisions. I intend to reflect these changes in the text, by proposing to the Collegium that they be incorporated in the next revision. I would also inform accordingly the Chairman of the Drafting Committee on the changes agreed upon by the Third Committee. At the same time, I expect that the Drafting Committee, in accordance with Rule 53 of the rules of procedure I have already mentioned, would be also kind enough to inform the Third Committee on any advice or recommendation it would deem necessary to make on matters within the terms of reference of the Third Committee.

7. In the deliberations which have taken place in the Committee some delegations expressed the view that further drafting improvements should be made on a few draft articles, particularly on article 263 of the second revision of the negotiating text. It was also pointed out that any drafting changes within the terms of reference of the Committee which may alter the substance of any provision should be considered and agreed by the Committee itself.

8. At the end of the 46th meeting of the Committee on 20 August, I referred to a letter addressed to me by the Secretary-General of the World Meteorological Organization (A/CONF.62/80)<sup>17</sup> in which was expressed the concern that some provisions on marine scientific research might have direct consequences on operational and research activities of the World Meteorological Organization over the oceans, particularly in areas off the coast of the coastal States, including the exclusive economic zone. The World Meteorological Organization had specifically in mind activities carried out under its Voluntary Observing Ships' Scheme which is an important element of the World Weather Watch and activities carried out under the projects and programmes of organizations such as the Marine Meteorological Services, the Tropical Cyclone Project and the Integrated Global Ocean Station System. The letter expressed concern that some provisions on marine scientific research might have a restricting effect on those activities of the World Meteorological Organization. I informed the Committee that in my reply to the Secretary-General of the World Meteorological Organization I will state that in my view the pertinent provisions of the second revision of the text on marine scientific research would not create any difficulties or obstacles hindering adequate meteorological coverage from the ocean areas, including areas within the exclusive economic zone since such operational and research activities have already been recognized as routine activities within the terms of reference of the World Meteorological Organization and are of common interest to all countries with an undoubted universal significance.

9. All the improvements in the text agreed to by the Third Committee would not have been possible without the active participation of delegations in the work of the Committee itself and the contribution of several delegations in the language groups of the Drafting Committee and in the Drafting Committee for their tireless efforts to bring about greater precision and clarity of the text. I would like to express my sincere gratitude to all the members of the Committee, especially those who have approached me and offered advice and suggestions. I hope that this spirit of understanding and co-operation that has existed between us during these past sessions of the Conference will continue until the successful conclusion of our work.

10. 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.

<sup>16</sup> *Ibid.*, vol. XIII.

<sup>17</sup> *Ibid.*, vol. XIII.