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A/CONF.62/C.3/SR.20

20th meeting of the Third Committee

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84. Participation in the System was entirely voluntary. However, Governments had agreed at the Intergovernmental Meeting on Monitoring that nations which had agreed to participate incurred an obligation to exchange promptly any appropriate data, especially in relation to the early warning of natural disasters, or disasters occurring as a result of human activities affecting regional or subregional resources. In order to give the System more comprehensive coverage, UNEP would welcome any proposals by States to assume greater responsibility in that regard.

85. UNEP would continue to do its utmost to stimulate and facilitate participation by Governments in environmental monitoring programmes. The Environment Fund was prepared to provide financial and other forms of assistance either by giving aid directly or by mobilizing resources elsewhere. Efforts would also be made to encourage the exchange of experience and expertise.

86. One of the essential tasks of the System was the monitoring of the marine environment in the context of the environment as a whole. As early as 1971, however, Governments had recognized the need to rely largely on regional efforts to attack the problem of marine pollution in individual bodies of water, and the Action Plan being put into operation in the Mediterranean was an example of such an effort. The Programme was planning to take similar initiatives with the Governments concerned in other areas, such as the Red Sea, the Indian Ocean and the Caribbean.

87. Effective implementation of the Global Environmental Monitoring System depended on the co-operation and participation of Governments, and he hoped that any treaty provisions that the Committee might ultimately recommend would help to strengthen such co-operation.

The meeting rose at 1.40 p.m.

20th meeting

Thursday, 10 April 1975, at 10.50 a.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Preservation of the marine environment (*continued*) [Agenda item 12]

1. Mr. YAÑEZ-BARNUEVO (Spain) said his delegation considered that both sets of draft articles (A/CONF.62/C.3/L.24 and 25) failed to provide an integrated and well-balanced approach to the problem of marine pollution; they also constituted a retreat on the part of some of the sponsors from their earlier position on the powers of the coastal State in the territorial sea and on the requirement concerning certificates of compliance with international regulations. Moreover, neither set of draft articles dealt adequately with the vital questions of the areas of jurisdiction of the coastal State, on which a decision could no longer be postponed.

2. With regard to the proposals in document A/CONF.62/C.3/L.24, his delegation did not agree with the emphasis on the role of the port State. It considered that matters of jurisdiction should be settled by the flag and coastal States and that the new provisions concerning the port State might lead to abuses, in the form of excesses or omissions. Moreover, the omission of any reference to the areas of the sea to which the draft articles would apply might be interpreted as an insidious attempt to undermine the coastal State's sovereignty over its own territorial sea. As for areas outside the limits of the territorial sea—the economic zone—little provision was made for the prevention and control of pollution in them, other than the paragraphs on dumping and the designation of special areas with the approval of the competent international organization.

3. The proposals in document A/CONF.62/C.3/L.25, and particularly draft article 2, paragraph 1, were unduly restrictive with regard to the sovereignty of the coastal State. He noted, for example, the use of the permissive "may" in regard to the establishment of regulations by the coastal State, as though it were a matter of a favour, when it was a matter of a right well established in international law and in the 1958 Convention on the Territorial Sea and the

Contiguous Zone,¹ and many States, including the Soviet Union, had already established such regulations. The paragraph in question also provided that such regulations might be established only "in addition to" and "in conformity with" international regulations, which meant that the coastal State would not be a free agent but would be bound by decisions of international organizations in the matter. The provisions of article 3 were likewise inadequate to guarantee straits against pollution—and straits were particularly vulnerable, as had been demonstrated by the recent accidents involving the *Metula* in the Strait of Magellan and the *Showa Maru* in the Malacca Strait.

4. His delegation therefore considered that both sets of draft articles were one-sided in their approach and did not, as they stood, provide any basis for agreement. Spain would continue to work for a set of provisions that would make it possible genuinely to protect the marine environment while safeguarding the interests of navigation.

5. Sir Colin GOAD (Liberia) said that his delegation agreed in general with the proposals in document A/CONF.62/C.3/L.24, which would allow for a fair balance between the interests of international shipping and of the environment, and also between those of flag, coastal and port States. His delegation had some hesitation, however, about the far-reaching powers which the draft articles would vest in a port State which was also the coastal State. For example, a coastal State would be able to take action if an oil slick, well outside its economic zone, was considered likely to affect it and if the suspected ship lay within one of its ports; again, even if the ship lay in a port not within the coastal State, that State could, under paragraph 12, ask the port State to act.

6. The proposals would be improved if provision were included for the flag State to take part in the investigations referred to in paragraph 10; it was not, in his delegation's view, enough for the port State simply to inform the flag

¹ United Nations, *Treaty Series*, vol. 516, p. 206.

State of the results of such investigations. Further, provision should be made for a disputes procedure that would be available both to the States concerned and to shipowners. It was essential to protect officers and crew against prolonged detention by foreign States for alleged pollution offences.

7. Mr. MANSFIELD (New Zealand) said that his delegation considered the draft articles in document A/CONF.62/C.3/L.24 to be deficient in several respects. Draft article 3, for example, made no reference whatsoever to the basic question of the economic zone. His delegation, whose general position on the issue of coastal state jurisdiction within the economic zone remained that set out in document A/CONF.62/C.3/L.6,² had not expected countries that supported the idea of an economic zone to persist in the view that coastal State jurisdiction within the zone should be confined to exploration and exploitation of resources. It was disappointed to note that the draft articles gave the coastal State no power to adopt anti-pollution regulations in its economic zone and even appeared to remove existing regulatory powers over its territorial sea. It was essential that coastal States should have over their economic zones adequate powers to protect their interests in circumstances in which international regulations were non-existent or inadequate subject to appropriate safeguards against abuse of such powers.

8. His delegation welcomed the proposals in document A/CONF.62/C.3/L.24 on flag State and port State enforcement, and in particular the provision in paragraph 8 for severe penalties to discourage violations. The proposals could, however, be improved. Those on port State enforcement, while they represented a significant concession by some of the sponsors, were still unduly restrictive; in particular, the introduction of the idea of damage or likely damage to the coastline of the port State, or another State, weakened the enforcement power. That idea was inconsistent with his delegation's view that the port State should be free to act not only in defence of its own interests and those of other States, but also in the interest of the international community, in preserving the marine environment. Moreover, his delegation could not accept the idea, implicit in paragraph 14, that port State jurisdiction could in any event be set aside at the instance of the flag State.

9. The proposals also failed to provide the coastal State with power to take enforcement action in the event of violations within its economic zone. Such a power—whose precise extent could be the subject of negotiation—was essential to protect the coastal State and the environment generally; to ignore that fact was equivalent to reverting to the situation that had existed prior to the 1973 International Convention for the Prevention of Pollution from Ships.

10. The additional draft articles in document A/CONF.62/C.3/L.25, on the other hand, appeared to limit coastal State jurisdiction to the territorial sea and to restrict the coastal State's existing regulatory powers within it. They did not therefore seem to constitute a suitable starting point for negotiation.

11. Mr. SADEGHI (Iran) said that, as one of the sponsors of the draft articles on a zonal approach to the preservation of the marine environment (A/CONF.62/C.3/L.6), he felt bound to comment on the nine-Power draft articles (A/CONF.62/C.3/L.24), which seemed to take a different

view on the preservation of the marine environment and control of pollution.

12. Iran, as a coastal State, was concerned with the preservation of the marine environment and continued freedom for international shipping; its view that primary jurisdiction should rest with the coastal State was prompted by those considerations. Accordingly, his delegation was in favour of a balanced approach that took account not only of the needs of navigation but also of the need to protect coastal resources against pollution.

13. The nine-Power draft articles required States, including coastal States, to establish international regulations to prevent and decrease land-based sources of pollution, taking into account available scientific evidence and the work of competent international organizations. In other words, States would be bound by uniform international standards. It would be too much to expect countries in the early stages of economic and social development to apply such standards. Earlier provisions, such as those of the Declaration on the Human Environment³ adopted at the Stockholm Conference in 1972, had taken into account the interests of developing countries. Due attention should be paid to economic factors in any proposals for marine pollution control measures. His delegation contended, in fact, that land-based sources of pollution should be controlled through national regulations that took account of international regulations.

14. Draft article 3 emphasized the flag State's powers at the expense of the coastal State's rights by, for example, giving enforcement powers to the flag State regarding pollution from ships and giving the coastal State only the right to ask for information. It was surprising that the draft articles should be silent on the general rights and obligations of States in their different zones of jurisdiction. His delegation maintained that the coastal State should have the right and the power within its territorial sea to prevent pollution and should have rights and obligations in its economic zone. The provisions concerning the port State's inspection and enforcement powers should not be weakened by the inclusion of so many conditions and exceptions.

15. His delegation attached great importance to the establishment of additional or more stringent rules and regulations in special areas because of their peculiar geographical circumstances and their vulnerability to pollution. The relevant draft articles were ambiguous about who had the right to establish such regulations; the provision on that subject stated that that responsibility would lie with "States, acting through the competent international organization". His delegation had some difficulty in accepting that arrangement because it believed that the residual powers should not be given entirely to the competent international organization, but rather to the coastal States, which were in a better position to establish rules and regulations through regional arrangements. In addition, they should have enforcement powers.

16. Mr. SAANIN (Indonesia) said that in his delegation's view the draft articles in document A/CONF.62/C.3/L.24 were too one-sided; they dealt mainly with the rights of flag States and accordingly protected the interests of shipowners. In the case of violations by ships of regulations pertaining to the preservation of the marine environment,

² See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. III (United Nations publication, Sales No. E.75.V.5).

³ See *Report of the United Nations Conference on the Human Environment* (United Nations publication, Sales No. E.73.II.A.14), chap. I.

however, or in the case of accidents, the harmful results would be felt in the first instance by the coastal State in whose jurisdictional area the incident had occurred, inasmuch as the resulting damage to the marine ecology might endanger the livelihood of its fishermen and cause damage to the shore and shore life. However, the draft articles did not give the coastal State the right to take action against the violator or the right of inspection, enforcement or protection.

17. Indonesia was a riparian State of the Straits of Malacca and Singapore, an area in which there was some of the world's heaviest traffic in oil transport, and the possibility of accidents was relatively high. A serious accident in January 1975 had caused substantial oil spillage, and landings of fish in the area affected had not reached their normal level even by the beginning of March. Under the draft articles, Indonesia would not have the right to take any action against the ship in such cases. For that reason, his delegation was of the opinion that coastal States should have the right of enforcement and prosecution in the area under their jurisdiction. Furthermore, the right given to port States under paragraph 14 was too restricted in terms of the time allowed to exercise the right to take proceedings.

18. His delegation welcomed the provision in draft article 3 for the recognition of special areas. He believed, however, that the right to establish regulations to prevent, reduce and control pollution from ships in special areas which were under the sovereignty or jurisdiction of coastal States should remain with the coastal State concerned. In that respect, an organization such as the Inter-Governmental Maritime Consultative Organization (IMCO) might act as a technical and supervisory body but not as a legislative organ.

19. Document A/CONF.62/C.3/L.25 had a limited scope and dealt only with territorial seas. His delegation could accept the provisions of draft article 3, provided recourse to the escape clause at the end of the article did not endanger human life along the coast of the riparian States.

20. Mr. PAPAGEORGIU (Greece) said that document A/CONF.62/C.3/L.4,² which his delegation had submitted at the second session, had dealt with only one aspect of pollution, namely, the enforcement issue. On the other hand, document A/CONF.62/C.3/L.24, of which his delegation was a sponsor, dealt with rule-making, enforcement and other provisions for the prevention, reduction and control of marine pollution. His delegation had submitted document A/CONF.62/C.3/L.4 as a comprehensive text on enforcement which might serve as a basis for compromise; it considered document A/CONF.62/C.3/L.24 a satisfactory amendment which coincided broadly with its current views, and it had therefore been prepared to sponsor it. His delegation had not, however, withdrawn its earlier proposal.

21. Mr. ABD RABBOU (Egypt) said that the draft articles in document A/CONF.62/C.3/L.24 were concerned entirely with maintaining the powers of the flag State vis-à-vis the powers of other States, even in waters under the jurisdiction of the latter. That concept had prevailed in earlier international treaties because of the dominance of international affairs by certain States, but such inequities had become unacceptable, and world opinion had come to reject the hegemony of one group of States over another. His delegation could not accept those provisions of document A/CONF.62/C.3/L.24 which gave pre-eminent rights to the flag State.

22. Such powers as were granted to the port State in the draft articles were hedged about with restrictions. For example, in paragraph 11 of the section dealing with port State enforcement, both the criterion of discharge by a ship in violation of the regulations and that of causing damage to its coastline or related interests had to be satisfied before the port State could take action; in his delegation's view the fulfilment of either criterion should be sufficient. Paragraph 14 was similarly weighted against the port State with regard to time-limits for taking proceedings for a violation.

23. Moreover, the effect of draft article 3, paragraph 4, was that any proceedings in respect of a violation by a ship of the international regulations, even when it occurred within the jurisdiction of the port State, were to be taken by the flag State. That type of thinking had long been abandoned, as could be seen if the provisions of the 1954 International Convention for the Prevention of Pollution of the Sea by Oil were compared with the provisions of the 1973 International Convention for the Prevention of Pollution from Ships. The interests of the coastal State were given equally scant attention. Even when there were reasonable grounds for believing that a ship had violated international regulations, the coastal State was given no authority to intervene otherwise than by recording information about the offending vessel and relaying it to the flag State, as though the coastal State were a mere agency or control entity established in the interests of the flag State.

24. In his delegation's view, many provisions of the draft articles in document A/CONF.62/C.3/L.24 were in direct conflict with those of existing international treaties on pollution and related subjects. In any event, it was the task of the Conference to lay down general rules and principles, avoiding details, but that was not what had been done in the text under consideration. There was no point in overburdening a State, whether a coastal or a port State, with general and special obligations for the protection and preservation of the marine environment, if there was no intention of granting that State the power to fulfil its obligations.

25. Draft article 1 in document A/CONF.62/C.3/L.25 was acceptable to his delegation. With regard to article 2, he pointed out that a similar text had been submitted to the 1973 International Conference on Marine Pollution but had not been adopted because it confined a State's jurisdiction to its territorial waters and did not authorize the State to establish provisions concerning the design, manning, equipment and construction of ships. Instead, the 1973 International Convention for the Prevention of Pollution from Ships had extended the power in question to the whole area under the State's legal jurisdiction. It was that area that the Conference was expected to define, and it was in the light of that definition that the work of the Conference would be judged.

26. The question of passage through straits, dealt with in draft article 3, would be discussed by the Second Committee. Draft article 4 reproduced the provisions of part of article I of the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, but gave the States the right to intervene in emergency cases "beyond the limits of their territorial sea". By implication, therefore, it denied the coastal State any jurisdiction over the contiguous zone, and therefore ran contrary to the general agreement among members of the Conference concerning the definition of the contiguous zone.

27. Miss AGUTA (Nigeria), commenting on the nine-Power draft articles in document A/CONF.62/C.3/L.24,

said that coastal States should have wider powers for the preservation of the marine environment, particularly from pollution by ships.

28. Draft article 3 was very vague. If the special areas referred to were straits or other peculiarly vulnerable areas, that should be stated explicitly and the conditions that made an area special should be specified.

29. Residual powers with regard to pollution should be given to both the flag and port States. Moreover, when the port State was also the coastal State, it should have the power to take legal proceedings against the offending ship.

Scientific research
[Agenda item 13]

30. Mr. TIKHONOV (Union of Soviet Socialist Republics) said that his and other socialist delegations, in a desire to facilitate compromise decisions, were submitting new draft articles (A/CONF.62/C.3/L.26) concerning marine scientific research which, to a great extent, took account of the interests of various groups of member States.

31. At the second session the socialist countries had been willing, as indicated in their proposal in document A/CONF.62/C.2/L.38,² to support the developing countries' insistence on the sovereign rights of the coastal State over the living and mineral resources of the economic zone. The logical consequence of recognizing those rights was the regulation of scientific research connected with the exploration and exploitation of the resources of the zone in such a way that it could be conducted only with the coastal State's consent.

32. With regard to marine scientific research in the economic zone unrelated to the exploration and exploitation of resources, the greatest generally acceptable degree of freedom should be granted, subject, however, to respecting the interests of the coastal States, and particularly those of developing States, in the use of the results of such research. In that context, the phrase "marine scientific research unrelated to the exploration and exploitation of living and non-living resources" covered such activities as research into natural phenomena and processes occurring in the marine environment at the atmosphere-ocean interface, the study of the structure of the earth's crust under the ocean and the phenomena known as continental drift or plate tectonics, and vulcanism in various parts of the oceans. Such research undoubtedly qualified as fundamental research. A knowledge of such phenomena and processes was vital in a world in which many developing countries were permanently short of basic necessities. The forecasting of destructive processes engendered by little-known natural forces depended largely on geophysical research in the world's oceans. In those circumstances, a legal régime which enabled any Government unilaterally to forbid such scientific research would be contrary to the interests of mankind as a whole.

33. It had been repeatedly stated at the Conference that unfettered freedom of scientific research within the economic zone would mean that developing coastal States would not know what research was being done and of what use it would be to them. Such apprehensions were unwarranted and could easily be removed by suitable provisions concerning notification of research unrelated to the zone's resources. Draft article 6 in document A/CONF.62/C.3/L.26, for example, provided that the coastal State must be notified in advance of such research and given a detailed description of the research programme. Scientists of the coastal State would be given the oppor-

tunity to participate in the research. They, and the coastal State itself, could during the actual work assess the progress being made in attaining the objectives set out in the notification, and that State would have access to all data and samples obtained and would receive assistance in the interpretation of the results of the research. In order to take account of the legitimate rights and interests of land-locked and geographically disadvantaged States near the research area, draft article 7 provided that the research State would notify such States of the proposed research and would provide them, at their request, with information about the research programme.

34. The sponsors believed that, in principle, the same régime should apply to scientific research relating to the continental shelf and its resources as applied in the economic zone. All States, on a basis of equality and without any discrimination, and competent international organizations should have freedom to conduct scientific research outside the limits of the economic zone and the continental shelf in accordance with the provisions of the future convention. Furthermore, all States should promote international and regional co-operation in the dissemination of scientific data and information and in establishing a programme for the training of scientific personnel from developing countries.

35. The general conditions and principles for the conduct of marine scientific research by States and competent international organizations in the draft articles were those about which preliminary agreement had already been reached in the Committee. The draft articles also provided that States should be responsible for material damage caused by their research activities to other States and their nationals. Finally, with a view to facilitating the study and use of the world's oceans, they provided that marine scientific research could be conducted with the use of ships of all categories, fixed or mobile installations, and other means. At the same time, such research must not hamper international shipping, maritime safety or navigation.

36. Mr. BRAUNE (German Democratic Republic) said that the draft articles on marine scientific research (A/CONF.62/C.3/L.26) sought to balance the rights of coastal and of research States. The consent of the former was required not only for research in the territorial sea, but also for marine scientific research related to the exploration and exploitation of living and non-living resources of the economic zone and on the continental shelf. That consent was necessary to protect the sovereign right of a State to exploit its own natural resources.

37. The draft articles also made it obligatory for the research State to notify the coastal State of all research activities envisaged in the economic zone and the continental shelf and to give that State the opportunity to participate in them and access to the results. They took account both of the interests of the international community and the specific interests of the coastal State, an approach his country supported, both as a socialist State participating in international marine research activities and as a coastal State pursuing its own legitimate interests.

38. The draft articles also safeguarded the legitimate interests of land-locked and other geographically disadvantaged States. Such States, whether developing or not, normally did not possess sufficient marine research capacity. As States near the research area, they would be notified of the proposed research, informed of its results and helped in interpreting them. They would also have the opportunity of participating in the research, directly or indirectly, at the

expense of the research State. Those provisions would help to meet the special needs of such countries.

39. Mr. SHERMAN (Liberia) said that his delegation had been among the sponsors of document A/CONF.62/C.3/L.19,² submitted at Caracas. He found document A/CONF.62/C.3/L.26 similar in intention; he believed it would constitute a useful basis for discussion and supported it in principle.

40. Mr. KRÁL (Czechoslovakia) said that any draft articles on marine scientific research should take account of the interests of all groups of countries and should not create obstacles to research which was potentially beneficial to all States. Those requirements were met by the nine-Power draft articles in document A/CONF.62/C.3/L.26, which protected the territorial and resource interests of coastal States by requiring their consent for research relating to the exploration and exploitation of living resources when it was carried out in the economic zone and on the continental shelf. For other, more basic, research a less stringent notification régime was being proposed, as the only way out of the existing deadlock.

41. The main virtue of the nine-Power proposal was that it struck a balance between two extreme views: that which advocated unlimited freedom of research and that which insisted on a strict régime. It took into account the interests of all countries. Draft article 7 offered just treatment to land-locked and geographically disadvantaged States in the form of specific rights. In short, the proposal attempted to accommodate as many interests as possible.

42. Mr. MBOTE (Kenya) said that his delegation did not consider it feasible to define marine scientific research. The definition given in document A/CONF.62/C.3/L.26, article 1, referred to research conducted for peaceful purposes, but marine scientific research conducted for other purposes had also produced useful results.

43. In draft article 4, paragraph 1, he would prefer the word "shall" to the word "may" in the first sentence. Moreover, he had doubts about paragraph 2 of that article since under existing international law coastal States already had sovereignty over the continental shelf and were therefore empowered to control scientific research there.

44. He pointed out that the First Committee was discussing the sea-bed and would wish the proposed International Sea-Bed Authority to be responsible for marine scientific research in that area. His delegation could not, therefore, accept draft article 5.

45. It was difficult to differentiate between marine scientific research related to the exploration and exploitation of the living and non-living resources of the economic zone, and research not related to such matters. He therefore believed that all marine scientific research in the economic zone should be required to have the consent of the coastal State, rather than merely being subject to advance notification, as proposed in draft article 6.

46. Draft article 9 provided that scientific research installations should be subject to the jurisdiction of the State which installed them; that provision covered scientific research equipment installed on the continental shelf. His delegation believed that all scientific research equipment within areas under national jurisdiction, namely, the territorial sea or the economic zone, should be subject to the jurisdiction of the coastal State and not to that of the State which had installed them. He could agree that ownership,

management and maintenance might rest with the State or agency which had installed such equipment, but he found it difficult to accept that an outside State could have jurisdiction in matters which were within the national jurisdiction of another State.

47. Mr. KOLCHAKOV (Bulgaria) said that, although his country did not undertake marine scientific research, his delegation had in 1972 been a sponsor of draft articles submitted to the sea-bed Committee on the subject.⁴ At the second session of the Conference his delegation had endorsed the views of those countries, including some developing countries, which had favoured giving the coastal State strong safeguards against any damage to its interests caused by marine scientific research activities.

48. The nine-Power draft articles in document A/CONF.62/C.3/L.26 were the outcome of extensive consultations and their main object was to guarantee the security and protect the interests of coastal States with regard to scientific research conducted by other States near their coasts. The document was intended to strike a balance between the requirements of marine research and the rights and interests of coastal States.

49. The draft articles emphasized the basic principles for the conduct of marine scientific research: that such research should be conducted exclusively for peaceful purposes, that States and organizations conducting such research should take due account of the rights of coastal States and of the interests and rights of land-locked or other geographically disadvantaged States, and that its purpose was to increase man's knowledge of the marine environment. With regard to the last point, it should be borne in mind that the number of States possessing the physical and financial capacity to undertake such research was very limited. Any restriction that was not absolutely necessary might discourage such States. Accordingly, the sponsors had tried to give the research State as much latitude as possible to carry out the research but had counterbalanced it with various duties towards the coastal State.

50. The rights and obligations of the research State varied according to the area in which the rights of the coastal State were exercised. Within the limits of the territorial sea, the conduct of scientific research would be subject to the consent of the coastal State and the conditions with which the research State had to comply would be laid down unilaterally by the coastal State alone. Within the economic zone, research related to exploration and exploitation could be conducted only with the consent of, and according to conditions determined by the coastal State. However, inasmuch as the coastal State did not exercise absolute rights in the economic zone, scientific research unrelated to the investigation of natural resources would enjoy more extensive rights, although remaining subject to certain limitations.

51. It would be noted that, whereas the draft articles submitted by the socialist countries in 1972 had imposed no restrictions on marine scientific research in the economic zone not related to the exploration of living and non-living resources, those countries, wishing to safeguard the security and legitimate interests of coastal States, were proposing in the new draft articles that the research State should be subject to various obligations. Those obligations were specified in article 6. It was the sponsors' hope that

⁴ *Official Records of the General Assembly, Twenty-seventh Session, Supplement No.21, and corrigendum, annex IV, sect. 3.*

the solution contained in that article would be deemed to satisfy the requirements of coastal States and at the same time, without imposing onerous obligations on the research State, to serve the interests of marine scientific research.

52. Miss AGUTA (Nigeria) said that her delegation attached great importance to the consent of a coastal State, as opposed to mere notification of intention, before marine scientific research projects were carried out. Mere notification was a dubious and possibly clandestine method of approach. In the new draft articles the provision concerning the consent of the coastal State was the one on which all the other provisions relating to scientific research activities depended. It would be impossible for the coastal State and the research State, or any international organization involved, to co-operative without prior agreement issuing from that consent. Failing such consent, the activities of both parties involved in the research would be hampered, the security of both threatened, and relationships and interests jeopardized. Beyond the economic zone, of course, there should be the normal freedom of scientific research.

53. Document A/CONF.62/C.3/L.26 appeared at first glance to be comprehensive on the matter of marine scientific research. However, it dealt primarily with research within the economic zone and territorial waters, giving few details on the question of marine scientific research on the high seas. Her delegation hoped that the sponsors would indicate whether they envisaged scientific research in the international area of the seas as being free or as being subject to control and regulation by the International Sea-Bed Authority to be established.

54. Her delegation was gratified to note the provision made for the interests of the developing countries. However, every country, including the Soviet Union and the United States of America, was claiming to be developing and geographically disadvantaged, and her delegation wondered whose interests were being taken into consideration in the document. Her delegation's only concern was that articles should be drawn up that would serve the interests of all.

55. Mr. BOROVNIKOV (Byelorussian Soviet Socialist Republic) said that he entirely agreed with the statements made by the Soviet Union representative and other sponsors of the nine-Power proposals. The requirements listed in draft articles 6 and 7 were designed to promote research, and to protect the sovereignty and interests of all States, coastal or otherwise. He hoped that the proposal would be adopted.

56. Mr. JAIN (India) said that his delegation commended the attempt made in document A/CONF.62/C.3/L.26 to give some limited powers to the coastal State, for example, with respect to scientific research in the economic zone. It therefore welcomed the proposal submitted by the socialist countries. However, the document was based on the assumption that the coastal State's rights were limited to the resources in its economic zone. That issue was being discussed in the Second Committee, and the proposal would have to be reconsidered if that Committee recommended according greater rights to the coastal State with respect to scientific research without limiting those rights to the economic zone.

57. There were other premises in the document with which his delegation did not agree: the distinction made between marine scientific research related to the explora-

tion and exploitation of the living and non-living resources of the zone and that unrelated to such resources was one example. Draft article 1 offered a definition of marine scientific research and draft article 6 attempted to distinguish between types of marine scientific research. Both articles left the definition of marine scientific research rather vague and thus created the possibility of disputes. His delegation believed that any decision on research activities should rest with the coastal State.

58. With respect to the possible abuse of research facilities, the proposal did not state what would happen should the coastal State determine that the facilities were being used for other than peaceful purposes. If such a situation arose, the coastal State should be able to take action against the offender either by suspending the research or by expelling the offender from the area under its jurisdiction. Otherwise the provisions for the coastal State's security were meaningless.

59. Draft article 4 gave the coastal State the right of consent regarding research in its territorial waters and on the continental shelf, but did not state what the situation would be if the continental shelf extended beyond the economic zone. His delegation did not believe, however, that there was any need for a new provision on the continental shelf, since the 1958 Geneva Convention on the Continental Shelf⁵ stated that the consent of the coastal State was required for research on the continental shelf.

60. The interests of land-locked and other geographically disadvantaged States (article 7) were being discussed in the Group of 77, and his delegation would consider the matter in the light of that discussion.

61. With respect to draft article 9, his delegation agreed with the representative of Kenya that jurisdiction over scientific research installations should be such as to enable the coastal State to satisfy itself that they were being used for the purposes for which they had been installed.

62. Mr. NEEDLER (Canada) said that his delegation attached great importance to marine scientific research and wished to encourage it. It realized, however, that scientific research often contributed to strife. The coastal State's control over scientific research in the economic zone was therefore important. In that connexion, draft article 9, as it stood, was unacceptable to his delegation.

63. While it recognized that the mechanism proposed in the draft articles was an attempt at compromise, his delegation believed that to distinguish between marine scientific research related to the resources of the economic zone and research unrelated to those resources was a difficult, and indeed impracticable, undertaking. One way of overcoming the difficulties associated with marine scientific research would be to improve the scientific capability of countries which were less developed in that sphere, and his delegation would support such a move in both practical and theoretical ways.

64. Canada did not wish to be in the position of having one of its research vessels exercising the right of scientific research off the coast of a country without that country's consent. That situation would arise frequently if draft article 6 were adopted. His delegation had confidence in the goodwill, common sense and rapidly developing technical ability of coastal States and believed that delegations were inclined to exaggerate the difficulties which might arise

⁵ United Nations, *Treaty Series*, vol. 499, p. 312.

from a consent régime. Whenever marine scientific research was planned, there would be ample time to consult the State in whose economic zone it was to be carried out. His delegation believed that consent would almost always be forthcoming, and there would be no impediment to research; it accordingly believed that the consent of the coastal State should be required for all marine scientific research.

65. The CHAIRMAN suggested that the list of speakers on the item should be closed later in the day and that the discussion should be continued at the following meeting.

It was so decided.

The meeting rose at 1.10 p.m.

21st meeting

Thursday, 17 April 1975, at 9.55 a.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Organization of work

1. The CHAIRMAN said that he had made a report to the General Committee at its 11th meeting concerning the methods of work of the Third Committee. He had affirmed that the procedural pattern adopted at Caracas and followed at the current session had proved adequate for the negotiating process and for drafting articles. All delegations had been involved in the negotiations, which had been held under the strict supervision of the Committee as a whole. Efforts had been made, with some success, to draw up compromise texts. The results achieved by the small drafting parties or negotiating groups had always been submitted to the Committee at a subsequent informal meeting. He accordingly assumed that the Committee saw no reason to change the procedural pattern; of course, it had to be viewed in a dynamic way, so that it could be amended if the need arose.

2. He had also drawn the General Committee's attention to the need to avoid scheduling meetings of informal groups at the same time as meetings of the Committee itself, which necessarily took precedence.

Preservation of the marine environment (*continued*) [Agenda item 12]

Scientific research (*continued*) [Agenda item 13]

3. Mrs. SAUVÉ (Canada) said that, as her country's Minister of the Environment, she had a direct interest in the work of the Third Committee. Moreover, as a human being she was deeply concerned at the pressing problem of preserving the marine environment and preventing pollution within it before its degradation reached the point of no return—which might happen within 50 years unless strong preventive measures were taken. Already more than five years had been spent in attempting to produce agreed treaty rules imposing obligations on States to preserve the marine environment. The need for agreement was urgent. Although encouraging progress had been made in formulating draft articles on certain issues, she was alarmed at how much remained to be done.

4. Her Government was deeply committed to a negotiated solution to the problems facing the Conference. Like all other Governments, however, it expected tangible results from the negotiations. If the Conference was unable, after years of preparatory work and so many weeks of negotiations, to produce at least a single text of draft treaty articles which could serve as a basis of future negotiations,

the consequences might be very serious. Many Governments, including her own, might feel compelled to take matters into their own hands. She was not forecasting any such action by her Government but, on the basis of discussions with other delegations, she believed that the possibility could not be ruled out on the part of many Governments.

5. The objective was clear. Both the direction of the work and the means of carrying it forward had been laid down in the Declaration on the Human Environment adopted at the Conference held at Stockholm in 1972, and in the statement of objectives for the management of ocean space and the 23 principles for assessment and control of marine pollution which had been endorsed in recommendation 92 of that Conference.¹ Those principles and objectives must be embodied in a global treaty. The sea was crucial to man's survival but even the sea could die if the *laissez-faire* régime which had prevailed in the past was not abandoned.

6. The statement of objectives concerning the marine environment that had been endorsed by the Stockholm Conference surely provided the starting point, the guidelines and the final goal of the deliberations of the Third Committee. That statement emphasized the vital importance of the marine environment and the need for proper management and for measures to prevent and control marine pollution. It provided the rationale for the concept of the 200-mile economic zone on which the success of the Conference depended. That concept did not relate simply to control of resources: the support of her delegation and of many others for the economic zone was based on recognition of the fact that environmental management was inseparable from resource management. Accordingly, there could be no question of a trade-off of environmental objectives against resource objectives or vice versa.

7. The statement of objectives applied equally to the area of the sea-bed beyond national jurisdiction. It was the only basis on which the principle of the common heritage of mankind could be translated into agreed treaty provisions. In her view, that principle implied common responsibility for the preservation of the marine environment as set out in principles 1 and 5 on the marine environment adopted at Stockholm. Furthermore, principle 21 laid down that States had the responsibility to ensure that activities within their jurisdiction or control did not damage the environment of other States or of areas beyond the limits of national jurisdiction.

¹ See *Report of the United Nations Conference on the Human Environment* (United Nations publication, Sales No. E.73.II.A.14).