

Third United Nations Conference on the Law of the Sea

1973-1982

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A/CONF.62/C.3/SR.22

22nd meeting of the Third Committee

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

73. The International Convention on Civil Liability for Oil Pollution Damage, which would enter into force on 19 June 1975, had been the first effort by Governments to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation to persons affected by oil pollution damage resulting from the escape or discharge of oil from ships. There were 14 contracting parties to that Convention.

74. Those developments were a significant advance in Governments' over-all efforts to provide new law for the prevention and control of pollution from ships and for the related problems of liability and compensation for victims of such pollution. It was to be hoped that the number of States agreeing to be bound by those Conventions would

increase rapidly in view of the prospect that they would soon become part of the international treaty law of the sea.

75. Mr. YAÑEZ-BARNUEVO (Spain) supported by Mrs. PULECIO de GUARIN (Colombia) requested that information concerning the status of all conventions or other instruments relating to marine pollution should be made available to delegations.

76. Mr. BUSHA (Inter-Governmental Maritime Consultative Organization) said that IMCO would be happy to provide information concerning any instruments adopted under its auspices.

The meeting rose at 12.35 p.m.

22nd meeting

Friday, 25 April 1975, at 10.05 a.m.

Chairman: Mr. A. YANKOV (Bulgaria).

In the absence of the Chairman, Mr. Ospina Hernandez (Colombia), Vice-Chairman, took the Chair.

Development and transfer of technology (continued)* [Agenda item 14]

1. Mr. AL-HAMID (Iraq), introducing document A/CONF.62/C.3/L.12/Rev.1 on behalf of the Group of 77, said that making the best use of the seas meant preserving the marine environment, controlling pollution from all sources and controlling the exploitation of marine biological and non-biological resources. That called for efforts by every country, separately or through international organizations, to develop marine technology and facilitate its transfer to countries that needed it, especially the developing countries.

2. The proposed draft articles accordingly provided that States and international organizations should actively promote the development of the marine scientific and technological capacity of developing States, whether coastal or land-locked, by such means as training, the establishment of regional scientific research centres, joint projects for exploration and exploitation of sea-bed and marine biological resources, the exchange of technologists, and conferences and seminars, and by making the results of research available to all States without discrimination. If technology were the monopoly of a few States it would not serve the interests of all mankind. The Group of 77 therefore considered that the way to promote the balanced development of technology throughout the world, for the well-being and economic development of all countries, was through international, regional and bilateral co-operation. The draft articles were a compromise designed to meet the aspirations and desires of all countries.

3. Miss AGUTA (Nigeria) said that the draft articles were an improved version of proposals submitted at the second session of the Conference in document A/CONF.62/C.3/L.12.¹ The original draft articles had been sponsored by a large number of delegations and had received support—at

least in principle—from others, including the delegations of New Zealand, India, Australia, Malta, Kenya, China, Bulgaria, Greece and France. The fact that the new document was sponsored by the Group of 77 was indicative of the efforts that had been made to produce a text acceptable to all delegations.

4. Draft article 1 imposed an obligation on all States to promote the transfer of technology with a view to enabling developing countries to participate in the exploration and exploitation of the resources of the marine environment and ocean space—in other words, of all areas of the sea, whether international or national. Draft articles 2, 3 and 4 dealt with the role of the international area and the proposed International Sea-Bed Authority and their function in the development of countries and the transfer of technology. They took account of the interests of the land-locked and geographically disadvantaged countries. Since scientific research in both national and international areas would play an important part in the transfer of technology, reference had had to be made to the International Authority, but the sponsors realized that the way in which the Authority should be established and run was not a matter for the Third Committee. The Committee would, however, be acting within its competence in discussing the Authority in the context of the transfer of technology.

5. The purpose of article 5, a new article, was to emphasize that the transfer of technology was not just another form of aid to developing countries: it involved the purchase and sale, import and export of commodities, against payment in cash or in kind. The transfer of technology as a means to speed the development of the developing countries was not a new idea; recent work in the General Assembly, the United Nations Conference on Trade and Development (UNCTAD), the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Industrial Development Organization (UNIDO) had produced a number of schemes for the process. The new draft articles however, were far more comprehensive and, as part of the convention on the law of the sea, with its vast scope, would ultimately override earlier provisions.

6. The draft articles on the transfer of technology were vital to the work of the Conference, since they were linked

* Resumed from the 18th meeting.

¹ 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).

with scientific research, the concept of the common heritage of mankind and the universal concern for progress in the developing countries. The Conference would have failed in its purpose if it concluded a treaty which lacked the means of implementing the transfer of technology.

7. Mr. YUSUF (Somalia) said that all delegations recognized the urgent need to bridge the ever-widening gap between developing and developed countries. The Conference would fall short of its objectives if it did not agree upon precise terms for the transfer of technology to the developing countries. The General Assembly at the sixth special session had emphasized the need for the transfer of technology within a new international economic order; the basis could be laid only through international co-operation if all mankind was to share in the use of advanced technology. The sponsors viewed the proposed draft articles as a compromise text for adoption by the Committee.

8. Mr. AL ASFOOR (Oman) said that, as the representative of a developing country, his delegation supported the draft articles in document A/CONF.62/C.3/L.12/Rev.1. They expressed in realistic terms the views and hopes of the developing countries, both coastal and land-locked, on the transfer of technology.

9. Mr. LO Yu-ju (China) said that the proposals gave expression to the desire of the developing countries to exploit their marine resources and to enhance the level of their marine science and technology, with due regard to the situation of land-locked and geographically disadvantaged countries. The proposals in article 1 concerning the development of the marine scientific and technological capacity of developing States and the transfer to them of all kinds of marine technology were reasonable and proper, and his delegation supported them as deserving consideration by the Conference.

10. Many of the developing countries were adjacent to vast areas of the sea with abundant natural resources, and had a wealth of manpower. They could certainly build up their own marine scientific and technological capacity if they relied on the strength and wisdom of their own people, and on mutual exchanges and support. China had always supported intensive transfer of marine science and technology to the developing countries as a means of promoting the exploitation of their marine resources and raising their level of technology. It believed, however, that the transfer of any kind of technology to developing countries should, as proposed in the new draft articles, take account of the economic capacity and development needs of the receiving country, strictly respect its sovereignty, and be unconditional—in other words, not associated with the grant of special privileges or excessive profits. It should be practical and cost-effective, and care should be taken to ensure that the technology was fully mastered by the developing countries, so that they could gradually move forward on the road to economic independence. In short, the transfer of technology should not serve as a means of plundering and controlling developing countries.

11. Mr. JARAMILLO DEL CASTILLO (Ecuador) said that the transfer of technology was a vital element in helping the developing countries to achieve the goal of rational development. It was regrettable that the developed countries had submitted no proposals on that subject, and the sponsors hoped that they would support the proposals. It should be noted that the transfer of technology was one question on which there had as yet been no negotiations, and his delegation urged that arrangements should be made for informal discussions on it to start the following week.

12. Mr. VARGAS (Mexico) said that the sponsors realized that the proposals were by no means perfect and intended to improve them. One of the main purposes of the new draft articles was to stress the importance of the transfer of technology, particularly to the developing countries. It was essential in the future convention on the law of the sea to avoid the errors of the past and to ensure that all advances in technology were covered by the provisions of the convention. In the countries of the third world the transfer of technology was valued as a means of raising living standards by strengthening economic and technological development and ensuring better and more rational utilization of marine resources, while protecting those resources and the marine environment.

13. The second purpose of the proposals was to outline the manner in which the transfer of technology should operate. In that connexion, a number of guidelines had been formulated in relation to properly co-ordinated work by international organizations, the development of indigenous technologies, a regional approach and an important future role for the proposed International Authority. The transfer of technology was a two-way process, involving responsibility and effort on the part of both developing and developed countries. In practice, it would almost invariably operate at the bilateral level. His delegation hoped that the proposal would provide a constructive basis for international co-operation and the promotion of a new world economic order.

14. Mr. TIKHONOV (Union of Soviet Socialist Republics) said that his delegation's position on the transfer to the developing countries of technology related to the exploration and exploitation of marine resources was reflected in the draft articles on the prevention of marine pollution (A/CONF.62/C.3/L.25) and on scientific research (A/CONF.62/C.3/L.26) sponsored by his delegation.

15. His delegation had just received the draft articles in document A/CONF.62/C.3/L.12/Rev.1 and could make only preliminary comments. They contained some reasonable elements, but also some unacceptable provisions. Articles 3 and 4 were based on the assumption that the future International Authority would undertake all forms of marine scientific research. His delegation did not endorse that approach; in its view, the Authority would exploit and explore only the resources of the international area.

16. His delegation had already stated that it would view sympathetically the inclusion in any rules for the conduct of marine scientific research of provisions on the transfer of technology to the developing countries. The Soviet Union was accordingly prepared to co-operate in devising and implementing on a multilateral and bilateral basis the necessary programmes and measures. It should be borne in mind that the success of the Conference depended on the readiness of all States to consider each other's interests.

17. Mr. MANSFIELD (New Zealand) said his country attached the greatest importance to the transfer of technology to the developing countries as a means of enabling them to explore, exploit and manage the marine resources under their jurisdiction. Although its marine technology had not reached the highly efficient level achieved by its land-based food producers, New Zealand was willing to share with the developing countries whatever technology it possessed.

18. Document A/CONF.62/C.3/L.12/Rev.1 went a long way towards achieving the desired objective. While the draft articles would require careful study, they seemed at first glance to be generally acceptable.

19. Mr. CLINGAN (United States of America) said that his country recognized the concerns of the developing countries and had been working for some time on the transfer of marine scientific research technology to them. It therefore welcomed any proposal which furthered that effort and provided a reasonable basis for negotiation. In his delegation's view, document A/CONF.62/C.3/L.12/Rev.1 could serve that purpose.

20. Certain aspects of the document did, however, create difficulties. One example was the connexion made between the transfer of marine technology and the International Authority. In his delegation's view, that connexion was a matter for the First Committee. Another feature with which his delegation had difficulty was the reference to the transfer of patented technology: in the United States, such technology was private property and therefore not subject to Government transfer. His delegation would find it impossible to agree to any such provision.

21. Mr. RAMADAN (Egypt) said that the relationship between those who possessed and those who did not possess marine technology was clear: the exploitation of marine resources required scientific co-operation among all States on the conditions set forth in document A/CONF.62/C.3/L.12/Rev.1. Marine technology should be available to all members of the international community.

22. Mr. KOLCHAKOV (Bulgaria) said that his delegation took great interest in all questions involving the transfer of technology. Unfortunately, it had not yet been able to study the provisions of the document in detail. It would have difficulties with some provisions—for example, articles 3 and 4 concerning the role of the International Authority. His delegation believed that the matter deserved more careful study, but it was prepared to support all the reasonable ideas contained in the document.

23. Mr. BRANKOVIĆ (Yugoslavia) emphasized the importance of the transfer of marine technology, particularly to the developing countries. His delegation supported the new draft articles on the subject.

24. Mr. JAIN (India) said that he did not agree that the role of the proposed International Authority was purely a matter for the First Committee; the mandate of the Third Committee required it to consider all aspects of the transfer of marine technology by States and by international organizations, including the Authority, which had acquired experience in technical matters concerning the marine environment.

25. The revised draft articles represented the hopes and wishes of the developing countries. His delegation was pleased to note that they had received support not only from the developing countries but also from some of the developed countries, which would be instrumental in transferring the technology in question.

26. Mr. HUSSAIN (Pakistan) said that his delegation fully supported document A/CONF.62/C.3/L.12/Rev.1. The establishment of regional centres, referred to in draft article 4, would have a far-reaching effect on the transfer of technology.

27. In the absence of any draft articles on the subject submitted by the developed countries, he took the view that the document before them, although capable of being improved, should be acceptable as a basis for negotiations.

28. Mr. BELDESCU (Romania) said that the draft articles constituted a constructive contribution to the Conference's

work on the question of the transfer of technology, which had so far received very little attention. The programmes proposed in that document would give all States, and especially the developing countries, access to marine science and technology on an equitable basis.

29. His delegation urged that, although the transfer of technology should be organized, first and foremost, for the benefit of the developing countries, the draft articles should also provide for more intensive co-operation among all States.

30. Mr. AHMED (Bahrain) stressed the crucial importance to his country of the transfer of marine technology.

31. He supported the draft articles and appealed to those developed countries whose delegations had expressed doubts about the document to be flexible in forthcoming negotiations on the subject.

32. Mr. DA CONCEIÇÃO (Portugal) said that a brief study of the revised draft articles indicated that they proposed ways of transferring marine technology to the developing countries which seemed effective. His delegation agreed in principle with the draft articles, but reserved the right to express its views in greater detail after further study of the document.

33. Mr. BANGOURA (Guinea) said that the transfer of technology was a means of rectifying past injustices and bringing about a more equitable distribution of the world's wealth. The draft articles were based on that fact, and he hoped that they would receive wide support.

34. Mr. MBOTE (Kenya) said that fears had been expressed elsewhere that increased exploitation of marine resources, particularly by coastal States, might lead to a deterioration of the marine environment. The developing countries, however, did not possess the necessary technology either to exploit marine resources or to protect the environment.

35. His delegation supported document A/CONF.62/C.3/L.12/Rev.1 mainly because it held that those States able to assist in the transfer of technology—principally the developed countries—had the duty to do so in order to ensure the proper utilization of resources and the protection of the marine environment. If sweeping environmental provisions were to be imposed on coastal States, they should also be given access to the appropriate technology for discharging their obligations. The document was therefore an extremely important one.

36. His delegation did not agree that the role of the International Authority did not fall within the competence of the Third Committee; the Committee was empowered to consider all aspects of the transfer of marine technology, whether or not the process involved the Authority.

37. His delegation regretted that the subject had received little attention from the developed countries at the Conference. He hoped that some practical ideas would be forthcoming from them, and that further study would be given to the question.

38. Mr. SHERMAN (Liberia) said that article 1 of document A/CONF.62/C.3/L.12/Rev.1 clearly reflected his delegation's concern that international co-operation should be intensified with a view to bringing about the best possible utilization of marine resources and a new world economic order. The draft articles had probably not solved all the

technical problems involved in any rules for the transfer of technology, but his delegation supported them in principle and hoped that they would be adopted.

39. Mr. BRAUNE (German Democratic Republic) said that the document contained many constructive features, but that it needed careful study. While the text embodied a number of acceptable provisions, his delegation had serious difficulties with regard to draft articles 3 and 4, in so far as they sought to establish the competence of the International Authority for the whole of ocean space.

40. His delegation was prepared to co-operate in working out a generally acceptable solution on the basis of the document.

41. Mr. GÜVEN (Turkey) supported document A/CONF.62/C.3/L.12/Rev.1; it was, in his view, a useful working document.

42. Mr. LEGAULT (Canada) said that, in order to make the most efficient use possible of marine resources, preserve the marine environment, understand the interaction of the oceans with the atmosphere and predict changes in the environment, it was essential that all States should be able to participate in, and benefit from the development of marine technology.

43. The Secretariat had provided two excellent documents (A/CONF.62/C.3/L.3² and 22) containing a clear statement of what was needed for the transfer of such technology and a proposal on how the needs might be met. The draft articles in document A/CONF.62/C.3/L.12/Rev.1 suggested a way of embodying those proposals in effective treaty articles.

44. His delegation had not yet had time to study the document in detail, but it sympathized with the sponsors' objectives and was anxious to take part in further work on the subject. The document had some very positive features, including provisions based on the Charter of Economic Rights and Duties of States. There were other provisions, however, about which his delegation had some reservations.

45. The exchange of technology should be promoted between all States: from developing to developing, from developed to developing, and from developed to developed countries. In all such exchanges there had to be respect for the rights of both the supplier and the recipient of technology. The reason was that marine technology was both expensive and, sometimes, specifically related to the circumstances of a certain geographical area. In order to facilitate the transfer of technology, the development of new technology had to be encouraged; but if the developer of new technology lost all incentive to develop new instruments and techniques for studying such matters as ocean circulation and the quality of the marine environment, man's survival might be threatened. On the other hand, if, in the interests of all mankind, technology needed to be developed in a certain geographical area, then the rights of the States in that area had to be recognized and protected.

46. His country's Minister of the Environment, in the statement she made at the previous meeting, had expressed the view that the developing countries were not trying to evade their environmental obligations, but rather looking for some way of accepting their full share of the common responsibility for man's survival. Emphasizing the im-

portance of the transfer of technology and the provision of assistance to the developing countries, she had pointed out that Canada was already involved in a number of bilateral and regional programmes in the transfer of marine technology, and hoped to continue and expand them.

47. Mr. ROA GALLEGOS (Peru) said he had taken an active part in the deliberations which had produced document A/CONF.62/C.3/L.12/Rev.1, and he fully endorsed it. The main purpose of the draft articles was to provide machinery for the transfer of technology in order to benefit the people of the developing countries.

48. Mr. APPLETON (Trinidad and Tobago) said that the draft articles were not perfect but they formed a good basis for discussion. He disagreed with those who objected to the references in the text to the International Authority: some degree of overlapping in the work of the three Main Committees was inevitable, and an International Authority would be performing an essential service in the transfer of technology.

49. Mr. YABOURI (Togo) said that the revised draft articles would make for better international co-operation. They reflected the desire for co-operation and justice of the third world countries. He recommended that the Committee should adopt the document.

50. Mr. GUEYE (Senegal) associated himself with those representatives who had expressed the hope that there would be prompt and constructive negotiations on the proposals in A/CONF.62/C.3/L.12/Rev.1. He regretted that no proposals had been made by developed countries, since the transfer of technology also benefited such countries in so far as it helped to reduce the gap between them and the developing world. The role of the International Authority as proposed in articles 3 and 4 should be seen in an over-all context of co-operation between all countries.

51. Mr. TAYLOR-THOMAS (Gambia) said that the draft articles were of paramount interest to underprivileged developing countries such as his own. His Government was anxious to take advantage of any assistance offered by international bodies for the development of its marine resources and to collaborate with like-minded States in bilateral, regional or any other arrangements to transfer technology. His delegation fully supported the draft articles.

52. Ms. HÄMÄLÄINEN (Finland) said that document A/CONF.62/C.3/L.12/Rev.1 constituted a valuable basis for further negotiation. Her delegation supported the basic thinking behind it, but had some doubt with regard to articles 3 and 4. She was gratified that the subject was at last receiving more of the Committee's attention.

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

53. Mr. AL-HAMID (Iraq), introducing revised draft articles on scientific research (A/CONF.62/C.3/L.13/Rev.2), said that the purpose of the document drafted by the Group of 77 was to preserve the legitimate rights of States in zones under their national jurisdiction and at the same time express that Group's conviction that scientific research was essential for the conservation of living and non-living maritime resources. The draft articles were designed to ensure that research was carried out in an atmosphere of international co-operation and in the interests of all parties concerned. Developing countries hoped to engage in marine research, and to that end they welcomed the possibility of specialized international organs conducting such research in

² Mimeographed.

areas under national jurisdiction, subject to the prior consent of the coastal State concerned. The most important requirement for such consent was that research should be conducted solely for peaceful purposes. A consent régime was also in the interests of the parties carrying out research, since research vessels and personnel needed the collaboration of the coastal State. Furthermore, the conditions proposed in the draft articles were in tune both with the true objectives of scientific research and with the economic interests of the coastal States.

54. With regard to marine research in the international zone, it was the view of the Group of 77 that the International Authority should be responsible for regulating it, either by conducting the research itself or by some other means under its direct control. He was gratified to report that land-locked and geographically disadvantaged developing countries had endorsed as satisfactory the provision whereby coastal States should give preferential treatment to them in the matter of conducting marine research. The Group of 77 had also deemed it necessary to include a provision regarding marine research not conducted directly in the marine environment. He hoped that the revised draft articles would prove acceptable as a satisfactory compromise based on justice and equality.

55. Mr. WALKATE (Netherlands), introducing the draft amendments (A/CONF.62/C.3/L.18) to the draft articles on marine and scientific research contained in document A/CONF.62/C.3/L.19,¹ on behalf of the 48 members, developed and developing, of the group of land-locked and geographically disadvantaged States, said that the group had interests in all the fields covered by the Conference and insisted on being granted the same rights in appropriate cases as the coastal States, in return for their readiness to accept the same obligations. Accordingly, the group had drafted an improved version of article 6, paragraph 2 which dealt with the rights and interests of land-locked and geographically disadvantaged States. The draft amendments also took into account comments received since the second session. They dealt, in particular, with the procedure to be followed when a research State or organization which, in the opinion of the coastal State concerned, had not properly fulfilled the conditions laid down in draft article 6 of document A/CONF.62/C.3/L.19 during previous research, gave notice of its intention to undertake another project in the same zone or when a coastal State considered that a new research project did not conform to the provisions of that article. Provision was therefore made for the settlement of disputes, in the first instance, at an expert level. If the experts of the parties could not agree, they might request assistance from experts nominated by the Director-General of UNESCO after consultations with the executive heads of competent international organizations. There was a good chance that such objective assistance would lead the coastal State to withdraw its objections. That procedure was set out in the proposed amendment to article 6, paragraph 5. If the procedure did not lead to agreement, according to a proposed new paragraph 6 the normal procedures for the compulsory settlement of disputes, to be provided for in another chapter of the convention, would have to be followed.

56. The proposed amendments were proof that the system set out in document A/CONF.62/C.3/L.19 was not rigid; it would be further modified in order to achieve a compromise text.

57. Mr. MBOTE (Kenya) said that, because there had as yet been no attempt to draft a definition of "marine research", most of the documents relating to the subject

were open to misconstruction, since they might be held not to refer to some kinds of research activities conducted in the marine environment.

58. During the informal consultations on the proposals in document A/CONF.62/C.3/L.13/Rev.2, there had seemed to be a feeling that they would inevitably complicate marine research, but that was not the intention of the developing countries which had prepared them. The main purpose of the document was to establish a consent régime: it had been said that support for such a régime was prompted by the mistrust of other groups by the Group of 77, but it might equally well be contended that opposition to it was based on mistrust of coastal States.

59. The revised draft articles made no attempt to distinguish between resource-oriented and non-resource-oriented research; it was not practicable to do so. An important feature was the statement of principle in draft article 6 on research activities conducted outside the marine environment.

60. Mr. KRÁL (Czechoslovakia) said that, as a member of the group of land-locked and other geographically disadvantaged States, his delegation had participated in the drafting of document A/CONF.62/C.3/L.19. It had no difficulty in supporting the amendments in document A/CONF.62/C.3/L.28, although it reserved the right to make some further comments on them, particularly with regard to the proposed procedure for the settlement of disputes.

61. As far as scientific research was concerned, his delegation stood by the comments it had made in support of document A/CONF.62/C.3/L.26 at the 20th meeting. Document A/CONF.62/C.3/L.13/Rev.2 was disappointing in that it adopted a very restrictive position on the conduct of scientific research and that its provisions were completely unsatisfactory to the land-locked countries. For example, the document made a distinction between developing and developed land-locked countries—a differentiation that was morally wrong—and offered the land-locked countries nothing more than empty promises of preferential treatment. Draft article 6 in document A/CONF.62/C.3/L.19 and draft article 7 in document A/CONF.62/C.3/L.26, on the other hand, offered the land-locked and other geographically disadvantaged States the opportunity to participate in marine scientific research projects within the economic zones of the coastal States of the region, as well as access to information and assistance.

62. Mr. CLINGAN (United States of America) said that his delegation had noted with disappointment the hardening of positions reflected in document A/CONF.62/C.3/L.13/Rev.2, a development that ran counter to the general spirit of compromise which had so far marked the current session. Two of the concepts on which the document was founded were quite unacceptable: the proposal for a consent régime governing scientific research in the economic zone and the proposal for the regulation by the International Authority of research in the international area. His delegation agreed that the interests of the coastal State should be protected, but it did not believe that a consent régime was required. Furthermore, it failed to understand why any restriction on scientific research was required in the international area. He appealed to all delegations which supported the draft articles in question to show a greater spirit of accommodation and to permit the preparation of a text that would both protect the interests of coastal States and allow the conduct of scientific research for the benefit of everyone.

63. Mr. VON WELCK (Federal Republic of Germany), supported by Mr. WALKATE (Netherlands), requested that the observer for the International Council of Scientific Unions should be invited to speak next.

64. The CHAIRMAN said he took it that the suggestion made by the representative of the Federal Republic of Germany was acceptable to all delegations.

It was so decided.

65. Mr. POSTMA (International Council of Scientific Unions) said that the structure of his organization, whose members were national scientific bodies, guaranteed that scientific opinions and ideas generated nationally came to the attention of the international scientific community, and vice versa. Some 75 countries were associated with the Council's activities; they included countries from every region and at every stage of scientific development, some of them land-locked States.

66. He himself was the president of the Scientific Committee on Oceanic Research (SCOR), the specialized body within the Council responsible for marine affairs. SCOR also advised the Intergovernmental Oceanographic Commission of UNESCO. The written statement entitled "Characteristics of marine scientific research", which had recently been distributed to all delegations, was a product of extensive discussion within the Council and SCOR and its national commissions.

67. All scientific research was international and could thrive only in an atmosphere of free exchange of information and ideas. Marine scientific research was more dependent than any other field of science on the free exchange of ideas, since its object of study—the ocean—was an indivisible system. What happened in one part of that system could, and usually did, influence all the other parts. Ocean currents were guided by physical forces and did not stop at artificial barriers erected by man. Variations in the rainfall in India or North Africa, in the winters in northern Europe and in the yields of the fisheries along the coast of Peru depended on oceanic processes. It would become possible to predict such variations only if more information was collected over vast ocean areas.

68. An intensive effort was being made to improve the scientific community's knowledge of the ocean in both temperate and tropical zones. Marine research of that kind, to be efficient, required the free movement of scientists and ships. Many of the most fertile scientific ideas inherited from the past would never have emerged if a system of mutual isolation had prevailed. There was a widespread feeling among oceanographers that to impede marine scientific research would have disastrous consequences; for one thing, many of the best scientists might turn to fields of research unrelated to the ocean. Without adequate input from fundamental science, industrial and applied research would soon be reduced to collecting useless data. Moreover, the principal victims of legal and geographical restrictions would be the developing nations, many of which were on the threshold of contributing independently to marine science. To cripple research in that way, at a time when many intergovernmental organizations, including UNESCO, FAO and SCOR itself, were intensively assisting the developing countries to expand their own scientific potential, would be deplorable.

69. The fear that marine science as such would be of benefit to only a few privileged countries was, in his opinion, unfounded. It was true that many developing

countries did not have enough scientists to be fully involved in marine scientific affairs. Nevertheless, if the Conference were to place unnecessary restrictions on marine research, the development of independent scientific potential in many countries would undoubtedly suffer. It was for that reason that he urged the Conference to draw up articles that would foster creative marine science, not erect barriers against it.

70. Miss MARIANI (France) observed that document A/CONF.62/C.3/L.13/Rev.2 made no attempt at a compromise, whereas the draft articles prepared by the socialist countries in document A/CONF.62/C.3/L.26 showed a clear desire to maintain a balance between the interests of coastal States and those of States undertaking research.

71. Under the draft articles introduced by the delegation of Iraq (A/CONF.62/C.3/L.13/Rev.2), the coastal State was given extensive rights but had no obligations, whereas in the case of the research State only obligations were mentioned. The only improvement over the original version was the proposal for preferential treatment for developing neighbouring land-locked and other geographically disadvantaged States. To delete, from the title of the draft articles, the word "marine" before the words "scientific research" was a departure from the terms of reference of the Third Committee and from the objective of the Conference itself, since the marine environment was at once the object of the research and the place in which it was carried out; that point was rightly stressed in draft article 1 in document A/CONF.62/C.3/L.26. It was difficult to see, moreover, how the coastal State alone could regulate research activities carried out by satellites, as was proposed in the final paragraph of the new document. In short, the whole proposal was unilateral and unbalanced; it sought to impose a very restrictive régime without distinguishing between research activities by reference to their nature and objectives and it envisaged unconditional and discretionary rights for the coastal State. No mention was made of a procedure for the settlement of disputes, of dialogue or friendly settlement between the parties concerned, or of protection against arbitrary action by the coastal State. Finally, draft article 2 prejudged the outcome of the First Committee's deliberations with regard to the powers of the International Authority.

72. Document A/CONF.62/C.3/L.13/Rev.2 was based on an unjustified spirit of mistrust: the coastal State was, after all, guaranteed the right of exploitation, since all Governments recognized that scientific research could not form the basis for claims of any kind. The proposed régime would discourage research useful to all mankind and the coastal State in particular. It was a great pity that the sponsors had made no effort to understand the needs and concerns of the research States.

73. In contrast, the procedure described in paragraphs 2 and 3 of document A/CONF.62/C.3/L.28 offered the coastal State and the research State or organization an acceptable way of reaching agreement in the event of a dispute. The procedure would safeguard the interests of the coastal State and at the same time obviate arbitrary action and bureaucratic delay. It was modelled on the procedure established by the Intergovernmental Oceanographic Commission in a resolution which had gained the support of the coastal States of the third world and industrialized countries alike. Her delegation accordingly believed that the amendments in document A/CONF.62/C.3/L.28 provided a useful basis for negotiations.

74. Mr. TAYLOR (United Kingdom) said that the chief differences between the revised articles in document A/

CONF.62/C.3/L.13/Rev.2 and its predecessors were the change in the title from "marine scientific research" to "scientific research" and a new paragraph, under item 2 (b), which extended preferential treatment to developing neighbouring land-locked States and other geographically disadvantaged States. The change in the title appeared to confer far wider powers on the coastal States and consequently represented a hardening of positions. The new provision was not nearly as specific as the relevant articles of documents A/CONF.62/C.3/L.19 and 26.

75. The degree of control which the draft articles sought to impose would be counterproductive. His delegation preferred the system outlined in document A/CONF.62/C.3/L.26, under which the consent of the coastal State was required only in the case of research relating to the exploration and exploitation of the living and non-living resources of the economic zone, while other scientific research could be conducted after advance notification to the coastal State. Indeed, a better balance of interests was to be found in documents A/CONF.62/C.3/L.19 and 26 generally, although the latter granted rather too many concessions to coastal States.

76. Mr. YUSUF (Somalia) said that his delegation fully supported document A/CONF.62/C.3/L.13/Rev.2. It was only by a consent régime that the rights of coastal States could be adequately safeguarded. A coastal State would obviously not withhold its consent if it considered the research objective appropriate and if it was allowed to participate in the research activities. The draft articles introduced by the representative of Iraq rightly presupposed a clear demarcation between national zones and the international area; jurisdiction would be meaningless if free scientific research was permitted. Paragraph 4 under item 2 (b) was a realistic provision, and it had been endorsed by many of the land-locked and geographically disadvantaged countries belonging to the Group of 77.

77. Mr. LO Yu-ju (China) expressed his delegation's support for the provisions of the document, which conferred on the coastal State the exclusive right to authorize and regulate scientific research in the area within its jurisdiction and required all scientific research activities in the international area to be conducted under the direct control of the proposed International Authority. Those provisions were entirely reasonable, and they fully reflected the common interests and aspirations of many developing countries, while giving due weight to the interests of the land-locked and other geographically disadvantaged countries.

78. In his delegation's view, any single negotiating text would necessarily have to reflect the positions and interests of the majority of countries; in particular, it would have to be consonant with the interests of the developing countries, as voiced by the Group of 77. His delegation therefore believed that documents A/CONF.62/C.3/L.13/Rev.2 and 12/Rev.1 should be used as the basis for single negotiating texts on scientific research and the transfer of technology respectively.

79. Mr. HUSSAIN (Pakistan) said that coastal States should not be subject to the mandatory obligation to notify land-locked and other geographically disadvantaged States of proposed research projects, as was provided in paragraph 1 of document A/CONF.62/C.3/L.28; such notification should be left to the coastal State's discretion. With regard to the second provision of that paragraph, he agreed that neighbouring land-locked and other geographically disadvantaged States should be given the opportunity to participate in research projects, but only after any foreign experts appointed by them had been approved by the coastal State. The procedure outlined in paragraph 2 of the same document caused his delegation serious difficulties, since it believed that the coastal State should have the right to terminate any activities of which it did not approve.

The meeting rose at 1 p.m.

23rd meeting

Friday, 2 May 1975, at 12.05 p.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Scientific research (continued) [Agenda item 13]

1. Mr. LUKASIK (Poland) expressed his delegation's general support for document A/CONF.62/C.3/L.28, although, as a sponsor of document A/CONF.62/C.3/L.26, his delegation's approach to the question of scientific research was different from that outlined in the original draft articles (A/CONF.62/C.3/L.19).¹ As a geographically disadvantaged State, his country welcomed the provisions of the proposed new paragraph 2 of article 6 in document A/CONF.62/C.3/L.28 under which, in appropriate cases, both developed and developing land-locked and geographically disadvantaged States would have the same rights as coastal States in the conduct of scientific research.

2. His delegation did not fully understand the concept introduced in the first sentence of paragraph 5 (a) and

¹ 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).

reserved the right to comment on the paragraph at a later stage. However, it considered that the provisions of paragraph 5 as a whole were very useful.

3. He regretted that the revised proposals submitted on behalf of the Group of 77 (A/CONF.62/C.3/L.13/Rev.2) showed no evidence of a desire to achieve compromise or to maintain a balance between the rights and obligations of coastal States and States undertaking research. His delegation had earlier advocated full freedom of scientific research. Since that approach had been strongly criticized by coastal States, his delegation, together with other socialist countries, had submitted draft articles (A/CONF.62/C.3/L.26) requiring the consent of the coastal State to research relating to the exploration and exploitation of the living and non-living resources of the economic zone, and providing for other forms of scientific research to be conducted subject to prior notification of the coastal State. His delegation considered that the deletion of the word "marine" before the words "scientific research" throughout the revised text was a departure from the terms