

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

A/CONF.62/C.3/SR.29

29th meeting of the Third Committee

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

29th meeting

Friday, 10 September 1976, at 11 a.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Report by the Chairman on the Committee's work

Marine scientific research

1. The CHAIRMAN said he considered it useful, as had been agreed at the previous meeting, to make a complete report to the Committee on the progress made in the discussions, for the most part informal, which had taken place on the key problems, namely, marine scientific research and the régime applicable to research activities in the economic zone and on the continental shelf. He recalled that at the previous meeting he had expressed the opinion that part III of the revised single negotiating text (see A/CONF.62/WP.8/Rev.1)¹ was generally a well-balanced document and that a number of delegations, even the Committee as a whole, accepted it as a basis for negotiations and valid and sound compromise. That was and remained the conclusion that he had reached following the negotiations which had taken place within the Committee and smaller negotiating groups, and during the private consultations he had held. It had seemed to him on several occasions that the more positions departed from the revised single negotiating text, the more the balance of the positions was upset. But he thought that the discussions that had taken place, in whatever form, had been extremely encouraging. A number of delegations had made great efforts to reach agreement on the key problems. There were still of course, on certain points, divergences of opinion and the national positions would need to be reconciled. On the whole, however, the discussions on the key problem of marine scientific research had nevertheless made progress, within both the Committee and the negotiating groups.

2. He had endeavoured to perform his duties both in the informal plenary meetings of the Committee and in the smaller groups, based on the principle of complete participation of all members of the Committee in the negotiations, in order to ensure full effectiveness of the work. The issues had been studied in accordance with the principles of efficiency, democracy, and involvement and a realistic and pragmatic approach. He thanked all the members of the Committee for their sense of responsibility and for the co-operation and understanding they had shown. At the same time, he had conducted negotiations in special groups and in private consultations with individual delegations. His main intention had been to try to harmonize as many of the opposing positions as possible.

3. The method which the Committee had adopted from the outset for the consideration of the issues before it had necessarily been restrictive and selective, but it had nevertheless maintained a certain flexibility so as to be able to consider other matters. The Committee's failure to reach its objective was due solely to lack of time and not to the procedure it had adopted.

4. The question of marine scientific research was of crucial importance not only for the Committee but for the Conference as a whole, as some delegations had rightly pointed out. From the outset, as agreed, the negotiations had been concentrated on particular key issues such as the régime for the conduct of marine scientific research and the question of consent, without closing the door to delegations wishing to bring up matters of special interest to them. The question of marine scientific research had been discussed at 13 informal and group meetings of the Committee and at a number of meetings of a special negotiating group

composed of 15 heads of delegations; he himself had set up that group, as he was entitled to do, on the basis of the principle of equitable geographical distribution and a balanced representation of different interests and trends. The task of the special group was to conduct a substantive examination of the basic principles regarding the conduct of marine scientific research in the economic zone and on the continental shelf, essentially from a political viewpoint. The three principal viewpoints had been represented within that group, namely, the supporters of the régime of consent, the supporters of the régime of absolute consent and States having serious reservations concerning the principle of consent itself. Another group of delegations with a more conciliatory position had also been represented. He would summarize those negotiations at a later stage.

5. After a preliminary exchange of views, several proposals had been made involving formal and substantive amendments to a number of articles in the revised single negotiating text, starting with article 57. Those proposals had been submitted and circulated in an unofficial document to all members of the Committee. On article 57 there had been seven proposals; on article 58 four proposals; on article 59 two proposals; on article 60 ten proposals, subsequently reduced to a smaller number; on article 61 five proposals; on article 62 two proposals; on article 64 five proposals; on article 65 two proposals; on article 67 two proposals; and on article 69 one proposal.

Article 57

6. On article 57 the proposals submitted had been considered at informal meetings and in a smaller negotiating group. Since article 57 referred to the territorial sea, it proved to be less controversial than some of the subsequent articles. The opinion had even been expressed that it was obvious and therefore unnecessary to state that in the territorial sea the coastal State had the exclusive right to regulate, authorize and conduct marine scientific research. But it had been considered logical to incorporate in a convention on the law of the sea provisions which specifically concerned that zone, to which provisions concerning scientific research in the economic zone and on the continental shelf beyond the limits of the territorial sea would form a corollary. Most of the suggestions had proved to be useful and had been incorporated as far as possible into a new consolidated article which was accepted as a possible compromise text pending the resolution of subsequent articles. The preliminary text of the new article was:

"Coastal States in the exercise of their sovereignty have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Scientific research activities therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State."

7. There had also been a proposal for a new article, numbered 57 *bis*, whose intention was to harmonize the approach regarding the régime for the economic zone with the régime to be established for the territorial sea. He had incorporated that principle in the draft of article 60 which he had prepared and submitted as a test proposal. The Committee had agreed to postpone discussion of articles 58 and 59 and had decided to focus its attention on article 60.

Article 60

8. In the general view, article 60 constituted the core of the discussions on the item of marine scientific research. It was felt

¹ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. V (United Nations publication, Sales No. E.76.V.8).

by many delegations that the resolution of the remaining differences would enable the Committee to achieve a substantial break-through, which might facilitate the discussion on key issues in other Committees as well. That is why he had devoted much time and effort and sometimes persistence to the task of combining in a single article ideas which would reflect in a coherent way the concerns of different delegations.

9. Originally, 10 proposals had been submitted to amend the text of article 60 as it appeared in the revised single negotiating text. After some consideration, he had suggested that similar proposals submitted by different delegations should as far as possible be amalgamated and, in that way, the 10 proposals had been reduced to six and later to four. At that stage it became clearly apparent that the positions were moving further away from the revised single negotiating text in divergent directions, furthering the division between existing trends instead of moving to a compromise.

10. The discussions on article 60 had revealed the main points of agreement and disagreement. He had considered that at that stage, as Chairman and leader of the negotiations, he should take the initiative and responsibility of submitting a text so as to break the deadlock by trying to resolve the differences of opinion on certain aspects of the régime of marine scientific research in the economic zone and on the continental shelf.

11. He had set forth on numerous occasions his own opinions without prejudice to the positions adopted by various delegations or of his position as Chairman of the Committee. In his view, there was not a very broad margin for negotiation and manoeuvre regarding marine scientific research and it was unrealistic to think that the Committee could reach concrete results on the basis of divergent positions. The negotiations had almost reached their limit; he would encourage every sincere effort and initiative designed to overcome the problems still unresolved and would welcome any specific proposal aimed at the renewal of realistic and constructive negotiations. Feeling that it was not fruitless at the present stage to continue the negotiations, he had taken the initiative of submitting a proposal which he felt might truly and impartially resolve the difficulties. He had proceeded on the assumption that a proper balance should be struck between, on the one hand, the general consent of the coastal State for the conducting of marine scientific research and, on the other hand, the guarantees which must be provided to States undertaking research activities. In his view, recognition of the principle of the consent of the coastal State—although such consent would be subject to certain exceptions or conditions—was both reasonable and realistic, and a system based on that principle could function perfectly in respect of marine scientific research. In spite of the differences of view, the general attitude appeared to be that research activities in that field should be encouraged and facilitated by all States—coastal, “research”, developed and developing States. There also appeared to be a general feeling that the principle of consent constituted an important element of the future régime to be applied to marine scientific research in the economic zone. He had endeavoured to safeguard the interests of both the coastal and “research” States. It was with that end in view that he submitted the following text, informally and with the reservations which he had already expressed:

“1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their economic zone and on their continental shelf.

“2. Marine research activities in the economic zone and on the continental shelf shall be conducted with the consent of the coastal States in accordance with the relevant provisions of this Convention.

“3. Coastal States shall normally grant their consent for marine scientific research activities by other States or competent international organizations in the economic zone or on the continental shelf of the coastal State. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

“4. Such marine scientific research activities in the economic zone or on the continental shelf shall not interfere with activities performed by the coastal State in accordance with its jurisdiction, as provided for in this Convention.

“5. Coastal States may withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the economic zone or on the continental shelf if that project:

“(a) Bears upon the exploration and exploitation of the living and non-living resources;

“(b) Involves drilling into the continental shelf, the use of explosives, or the introduction of harmful substances into the marine environment;

“(c) Involves the construction, operation or use of such artificial islands, installations and structures as are referred to in article 48 of Part II of this Convention.”

12. After extensive negotiations during which 41 delegations made statements, he had decided to convene a small group consisting mainly of heads of delegations, in the hope that a political decision could be taken on the issue. Following an exchange of views, it had become apparent that delegations were demonstrating substantial goodwill and that there was agreement on sufficient points to give grounds for hoping that a compromise could be reached by accommodating the most extreme views. However, some delegations had had difficulties in reaching a final decision on the issues of consent and its modalities because of the interrelationships, for reasons of substance or simply because of functional connexions, with provisions in other parts of the revised single negotiating text being dealt with by the other Committees, namely questions relating to jurisdiction over the exclusive economic zone—which was being dealt with by the Second Committee—questions being dealt with by the First Committee, and the question of the settlement of disputes which was being considered by the Conference in plenary meetings.

13. He expressed the fervent hope that the efforts undertaken would not be in vain and that it would be possible in the future to capitalize on the gains made during the current session. He also expressed the hope that all delegations would continue their efforts to find a basis for compromise.

Article 64

14. Because of lack of time and of the necessary consensus on article 60, the Committee had been unable to consider the substance of article 64, although some concrete amendments had been proposed. From the discussion, the general view appeared to be that the reference to paragraph 2 (a) of article 60 should be deleted from article 64, subparagraph (a), which would then read as follows: “(a) the withholding of its consent pursuant to article 60”. That amendment could answer the concerns of certain delegations who were afraid that the principle of consent whereby a State or competent international organization could carry out marine scientific research might limit unduly the jurisdiction of the coastal State over its economic zone. Accordingly, the principle of tacit consent would apply to all cases in which the consent of the coastal State was required.

15. The other proposals had not been considered because of lack of time and also because the Committee was of the view that it was not advisable to do so in view of the crucial importance of article 60. Obviously, the Committee could not continue its consideration of the other provisions if it did not agree on the provisions which would govern the conduct of marine scientific research in the economic zone and on the continental shelf.

16. In his view, it was important that the work of the following session should be based on the results achieved at the current session, and not on earlier positions adopted at previous sessions. For his part, he was convinced that the sense of responsibility and the interest of the international community would prevail over the desire to defend extreme national positions. He would welcome any comment on his report, since it would be very useful for future negotiations if delegations would make their

views known on the status of deliberations and on ways in which they felt existing obstacles could be overcome.

17. Mr. BRENNAN (Australia) said that the Chairman had presented a very complete report and thanked him for his contribution to the work of the Committee. His delegation had participated very extensively in all consultations and wished, in the light of those consultations, to make a number of observations, particularly with regard to article 60. His delegation had already said on a number of occasions that the Committee appeared to be very close to agreement on substance, and the remaining difficulties related mainly to presentation and form; of that he was now more than ever convinced. The coastal States had maintained that, if their jurisdiction was recognized with regard to marine scientific research, they would exercise that jurisdiction only in accordance with clearly defined conditions. For their part, the "research" States had not agreed to recognize that jurisdiction in zones in which the coastal States themselves had said that they did not intend to exercise it. However, agreement seemed to have been reached, to a large extent, with regard to the operation of the régime which would govern research activities. Consequently, his delegation's optimism with regard to the outcome of the discussions remained intact.

18. His delegation had held consultations with other delegations representing both "research" and coastal States. Following those consultations, it had prepared a slightly amended text based on the revised single negotiating text, which had aroused the interest of both sides. After reading out the text in question, copies of which had been distributed to each delegation, he said that the main difference between it and the wording of article 60 of the revised single negotiating text was in presentation, since the order of the paragraphs and subparagraphs had been changed and the numbering altered accordingly. Further contacts with other delegations had prompted his delegation to submit the text to the Committee. He expressed the hope that all delegations would be able to agree to consider it at a closed meeting and to authorize his own delegation to hold further consultations to see whether it would be possible to come closer to an agreement on the basis of such a text.

19. The CHAIRMAN thanked the representative of Australia and said that any contribution to the work of the Committee was welcome. It was understood that the text which he had just introduced did not constitute a formal draft amendment or a revision to the single negotiating text, but was simply a suggestion that the Australian delegation would like to have considered and scrutinized by the other delegations with a view to further negotiations.

20. Mr. KATEKA (United Republic of Tanzania), after thanking the Chairman for the role he had played in the Committee's work, presented his delegation's views at the close of the informal consultations in which it had participated.

21. During those consultations, his delegation had indicated its willingness to accept the Chairman's revised article 60 as a basis for further negotiations. It had already had occasion to observe that the developing coastal States, in a spirit of conciliation, had agreed to abandon the principle of absolute consent in favour of qualified consent. Those States had accepted the distinction between fundamental and applied research implied in paragraph 5 of the text proposed by the Chairman. They also accepted some guarantees for the "research" States in accordance with paragraph 3 of that text, which provided that the coastal States should undertake not to withhold their consent. There was no reference to the words "exclusive" and "express" in paragraphs 1 and 2, as originally demanded by the developing coastal States. Furthermore, it did not include the paragraph regarding the security interests of the coastal States. Nevertheless, his delegation, in a desire to show its goodwill, was prepared to accept it as a point of departure for further negotiations. Those concessions, however, had not led the "research" States, which still demanded absolute freedom of scientific research, to be more accommodating. One of them, without specifically rejecting the

principle of consent, proposed a solution which amounted simply to a notification procedure for research in the economic zone and on the continental shelf. Another representative, on the pretext of a need for a package deal, had proposed some kind of a trade-in whereby concessions in other unspecified areas would have to be granted in exchange for recognition of the principle of consent. Subsequent explanations had not convinced his delegation, which felt that such an arrangement had no place in negotiating a package deal when all the other elements of it had not yet been clearly defined. His delegation therefore preferred to seek agreement article by article, feeling that as long as the key problems had not been solved no package deal could be envisaged. Some countries of the European Economic Community had stated their opposition to the Chairman's text unless the question of compulsory dispute settlement were examined at the same time. In that matter as well, his delegation had strong objections because it felt that linking that question with the key problems would hamper any chance of agreement.

22. It was obvious that the requisite goodwill had so far been lacking on the part of the "research" States. They had consistently refused to make any concession and had limited themselves merely to rejecting any compromise solution. Under the circumstances, his delegation had no choice but to revert to its initial position. Hence it demanded that the principle of absolute consent of the coastal States should be recognized. The "research" States persisted in demanding complete freedom of scientific research, arguing on the basis of the traditional freedom of the high seas, a freedom they forgot all about when they declared fisheries exclusive jurisdictions. Accordingly, his country was sorry that, in the absence of any concession, it could not accept the text suggested by the Chairman for article 60. It would not change its position until the other side showed a real wish for conciliation.

23. With respect to Australia's suggestion, at first sight, his delegation did not quite understand the point. It was in principle against replacing the text submitted by the Chairman, which was as far as it could go in any case, with a new text.

24. Mr. LEITZELL (United States of America) said that his delegation could not agree with the Chairman that any compromise must be based on recognition of a total consent régime. It therefore felt it was not useful to place the proposed text in the record because to make official a text which could not be the basis of compromise would only mislead delegations as to the possible direction of compromise. His delegation regretted that the Committee's efforts to reach compromise had failed. It feared that the revised single negotiating text did not by itself provide a final solution to the problem of scientific research, a problem which would nevertheless have to be solved in the future. Although he did note the goodwill of the delegations, he could only hope that the chance for success had not eluded the Committee completely.

25. The CHAIRMAN said that the compromise text which he had submitted to the members of the Third Committee was neither an official text nor a revision of the single negotiating text. He had only submitted it in the hope that it might make it possible to narrow the area of disagreement between the delegations. He wished to point out that in none of his statements had he mentioned absolute consent. The text under consideration did not refer to absolute consent but rather to qualified consent. Of course, every delegation was free to interpret his statements as it wished, but he would be obliged if they would limit themselves to interpreting what he had actually said. He therefore reiterated that the compromise solution which he had recommended was based on recognition of a principle of consent through guarantees to the "research" States.

26. Mr. FIGUEIREDO BUSTANI (Brazil) wished to thank the Chairman for his tireless efforts to facilitate a reconciliation of views. At the close of the informal consultations in which it had participated, his delegation was prepared to accept, as a final

concession, the compromise formula proposed by the Chairman, which could, if amended, provide a good basis for negotiation. In that connexion he would like the word "exclusive" to be inserted before the word "jurisdiction" in paragraph 1 and the word "express" to be inserted before the word "consent" in paragraph 2. He would also like the words "as far as practicable" to be inserted before the word "establish" in paragraph 3. He also thought that it would be better to eliminate paragraph 4 and to convey its substance in paragraph 5 by adding a subparagraph (d) to read as follows: "Interferes with activities performed by the coastal State therein in accordance with its jurisdiction, as provided for in this Convention". It would also be better to eliminate the words "the exploration and exploitation of" from paragraph 5 (a) and replace them with the word "the". He would also like to add a subparagraph (e) to read as follows: "Is not undertaken exclusively for peaceful purposes".

27. If the text submitted by the Chairman were thus amended, his delegation felt that it would be able to accept it as a compromise formula at the next session. With respect to Australia's proposal, he thought that it was designed simply to deny the principle of consent.

28. He was entirely in agreement with the Chairman, moreover, that the work should resume at the next session where it had left off, on the basis of the products, or at least the by-products, of the fifth session.

29. Mr. MBOTE (Kenya) noted that at the outset Kenya had taken an extreme position with respect to marine scientific research and demanded that the principle of absolute and express consent of the coastal State as a preliminary to all research should be recognized. It had demanded, and still demanded, that the coastal State should have exclusive jurisdiction over research in the economic zone and on the continental shelf. The proposals of some delegations, which defended the principle of freedom of scientific research in those two zones and distinguished between the different kinds of research, particularly between applied and fundamental research, had been rejected by his delegation because their only purpose was to weaken the concept of the economic zone. It was prepared, on the other hand, to accept as a basis for negotiation the draft article which appeared in the revised single negotiating text or the new draft article submitted by the Chairman once the very serious gaps in those two drafts had been filled. It was essential to specify in the body of the article that the jurisdiction of the coastal State must be exclusive and that its consent must be express and possibly preliminary. A provision should also be added that marine scientific research must be exclusively for peaceful purposes. With those changes, his delegation would be ready to negotiate on the basis of either of those texts or even to accept them as they were. On the other hand, a number of States, and especially the "research" States, had expressed extremely unfavourable reactions to the Chairman's proposal and had formulated counterproposals which amounted simply to rejecting the draft article. At the meeting of the heads of delegation, some had said that the adoption of the provisions set forth in that article would involve the complete disappearance of marine scientific research. The course of the negotiations continued to disturb his delegation, which noted that, although Kenya had agreed to many concessions and that the members of the Group of 77 had made every effort to reconcile their views, the developed States had remained firm and rejected all of the proposals of the coastal States. His country therefore urged the other States to give serious consideration to the draft article submitted by the Chairman and to agree to a minimum of concessions. He hoped that the next session would not mark a retreat and that the discussions would not be based on national circumstances, which would make failure inevitable.

30. Mr. BAKULA (Peru) observed that at the current stage of the negotiations the Chairman had endeavoured to suggest a compromise and had adopted a constructive approach. Nevertheless, certain important conclusions could be drawn from the negotiations, especially with regard to substantive matters. During the negotiations no one had succeeded in demonstrating the

merits of two principles which a number of countries invoked in support of their positions, namely the principle of freedom of scientific research and the distinction—which they regarded as legitimate and reasonable—between basic research and applied research. With regard to the principle of freedom of scientific research, it would seem that it was all too easy to forget that certain freedoms were often exercised to the detriment of large segments of the human race. To defend the principle of freedom of marine scientific research was to give to those who might avail themselves of that freedom the means to dominate those who were not able to do so. That extremely important issue represented the political aspect of the problem of marine scientific research. By taking into consideration the economic factors which had led to the definition of an economic zone, the Conference had shown its desire to introduce the concept of equity into matters pertaining to the law of the sea. To overlook that concept where marine scientific research was concerned would reduce to naught the efforts so far made. The "research" States admittedly had interests to defend, but they should, for that very reason, recognize the coastal States' right to protect their own interests and to preserve their economic resources intact for the future. The draft article submitted by the Chairman, although it did not fully satisfy his delegation, constituted a perfectly sound basis for negotiation, and he deeply regretted the negative attitude of the "research" countries towards it. The proposal made by the representative of Australia, on the other hand, contained no positive element and therefore did not merit any comments.

31. Mr. LOGAN (United Kingdom) expressed to the Chairman his appreciation of the latter's efforts and of the report in which the Chairman had summarized the deliberations of the current session—a session whose results had been extremely depressing—concerning the question of marine scientific research. The Chairman had said that his text proposal was not a revision of the revised single negotiating text. He accepted that. But if the "research" States were to be asked to accept the revised single negotiating text, that would mean a considerable move on their part towards the position of the coastal States. Contrary to what certain delegations maintained, the "research" countries were not being intransigent. The draft article suggested by the Chairman was unacceptable to his country because in practice it would lead to something approaching a total consent régime, with the result that marine scientific research would not take place. That was the view of research workers who were concerned about the welfare of mankind as a whole. The reduction, and perhaps complete cessation, of marine scientific research—the inevitable consequence of the recognition of the principle of total consent—would unquestionably be damaging to all. He hoped, on the other hand, that careful consideration would be given to the proposal submitted by the representative of Australia, which could serve as a basis for negotiation and lead to an acceptable solution. Articles 64 and 65 and the provisions on the settlement of disputes were also relevant to any solution.

32. Mr. YUSUF (Somalia) said that at the beginning of the session his delegation had stated its willingness to negotiate seriously on the problems pertaining to marine scientific research with a view to achieving positive results. To that end, it had agreed to negotiate on the basis of the draft article submitted by the Chairman. However, since the text of that article had some serious omissions, it had proposed a number of amendments. In the belief that the exclusive jurisdiction of the coastal States over scientific research in the economic zone should be recognized, it had requested that the word "exclusive" should be added in paragraph 1 before the word "jurisdiction". His delegation had also stated that it could not accept the principle of tacit consent and that it would adopt paragraph 2 of the draft article only if article 64 of the revised single negotiating text was deleted or if the word "express" was added before the word "consent" in that paragraph. It had also requested that paragraph 5 of the draft article should be amended so as to incorporate paragraph 4 as a

subparagraph. In addition, a new subparagraph should be added to paragraph 5, which would guarantee that scientific research projects should be exclusively for peaceful purposes. Although Somalia had shown its will to negotiate by accepting the draft article submitted by the President as a basis for negotiation, certain developed countries had preferred to turn a blind eye to concessions of that kind and had displayed a total lack of understanding. If the current deadlock in negotiations was to be broken, those States would have to adopt a more realistic attitude.

33. Mr. KNOKE (Federal Republic of Germany) thanked the Chairman for his report. If article 60 of the revised single negotiating text was to serve as a basis for negotiation, the same treatment should be given to articles 18 and 19 of the Geneva single negotiating text on marine scientific research. It appeared from the statements made by representatives of Kenya, the United Republic of Tanzania, Brazil and Peru that they regarded the concept of the economic zone as very similar to that of the territorial sea. Yet in the beginning there had not been any question of the economic zone being a zone under the exclusive jurisdiction of coastal States when it came to scientific research. If such had been the case, the international scientific community would have been up in arms. The draft article proposed by the Chairman was submitted as a compromise between article 60 of the revised single negotiating text and the viewpoint of the "research" States; indeed it was a compromise between the version appearing in the revised single negotiating text and the point of view of the proponents of "territorialization" of the economic zone. Article 60, paragraph 2 of the revised single negotiating text stated that "The coastal State shall not withhold its consent ..." whereas paragraph 3 of the text proposed by the Chairman read: "Coastal States shall normally grant their consent ...". It was true that the text simply reproduced article 5, paragraph 8 concerning scientific research on the continental shelf, of the 1958 Geneva Convention on the continental shelf² but members seemed to be forgetting that the present situation was completely different in that, under the 1958 Geneva Convention, the régime of the continental shelf and likewise the concept of scientific research on the continental shelf were considerably restricted. Recognition of the principle of express consent, as advocated by Kenya and Brazil, among others, would, in the present circumstances, run completely counter to the interests of mankind. The "territorialists" maintained that the "research" States had not made any concessions; however, they seemed to be forgetting that before the Caracas session the concept of the economic zone, which almost all States now accepted, had not even been established. Moreover, in the earlier stages the "research" States had first proposed a system of freedom of scientific research linked to favourable terms for the coastal States and afterwards—at Geneva—they had acknowledged that once the

principle of the jurisdiction of the coastal State over its resources had been established, the principle of consent to scientific research relating to those resources would be a corollary. His delegation must therefore refute the contention that the "research" countries had not made concessions.

34. Mr. YTURRIAGA BARBERÁN (Spain) expressed his appreciation of the Chairman, who had given unsparingly of his energies in order to advance the work of the Committee. Although the text submitted by the Chairman did not fully reflect the position of his delegation, the latter had nevertheless decided to accept it on the ground that it represented the only possible compromise solution. Contrary to what might have been said, that text introduced a new element in the sense that, while stating the general principle of consent, it provided that in certain clearly defined circumstances consent could not be withheld, which in practice amounted to saying that the coastal State would be required to give its consent. Moreover, it made provision for cases of tacit consent, which implied substantial guarantees for the conduct of scientific research. His delegation could not agree with the United Kingdom representative's statement to the effect that a text of that kind would paralyse ocean research activities. The proof was that since 1958, the date on which the existing régime for the continental shelf—a régime more rigid than the one envisaged—had been instituted, no State, as far as his delegation knew, had complained that research activities were being impeded, slowed down, or paralysed, or that international relations were in any way constrained in the zone subject to the régime. The distance separating the standpoints of various delegations was accordingly not as great as some delegations, which were in the minority, were endeavouring to make out.

35. He expressed regret that the Tanzanian delegation, reverting to its earlier position, had withdrawn its support of the text suggested by the Chairman, blaming the delegations in the other camp for its *volte-face*. His delegation sympathized with the position of the Tanzanian representative, but it hoped that the decision of that delegation was not irrevocable and that it would once again display the spirit of compromise which it had shown throughout the session. He agreed with the representative of Australia—who was to be congratulated on his consistent endeavours to facilitate a compromise—that delegations were now separated rather by questions of presentation than by differences of substance. As far as the remaining substantive problems were concerned, dialogue and negotiation, however brief the latter might be, were still possible.

36. In enumerating the various amendments which had been proposed to a number of articles in the single negotiating text, the Chairman had omitted to mention the amendment to article 66 proposed by his delegation on 9 August, which would delete any reference to the geographically disadvantaged States in both paragraphs of that article.

² United Nations, *Treaty Series*, vol. 499, p. 311.