

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.2/SR.50

50th meeting of the Second Committee

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

SECOND COMMITTEE

50th meeting

Thursday, 23 June 1977, at 10.45 a.m.

Chairman: Mr. A. AGUILAR (Venezuela).

Request for a study by the Secretariat on the implications of various formulae for the definition of the outer edge of the continental margin

1. Mr. MORALES-SUAREZ (Colombia) proposed that the Secretariat should prepare a study demonstrating the implications of the 200-mile formula, the 500-metre isobath formula, and the formula contained in the Irish proposal. Such a study would be of great assistance to delegations, including his own, which lacked the necessary scientific and technical data for taking a decision on the issue.
2. Mr. CAFLISCH (Switzerland) supported the proposal made by the Colombian delegation. Although the request to carry out a study at short notice might cause difficulties, there could be no meaningful negotiations on proposals whose practical implications were at present largely unknown.
3. Mr. CHAO (Singapore) also endorsed the Colombian proposal.
4. Mr. WARIOBA (United Republic of Tanzania) asked how long the Secretariat would require to prepare the proposed study and whether participants would be able to discuss it at the current session of the Conference. He observed that the Committee had reached a very advanced stage in its negotiations on the subject, and it might well be that the study would take a considerable amount of time to prepare and to discuss.
5. Mr. MWANGAGUHUNGA (Uganda) supported the request made by the Colombian delegation and hoped that it would be possible to submit the study for consideration at the current session.
6. Mr. LAPOINTE (Canada) said that his delegation had some misgivings regarding the Colombian proposal. Although a number of charts already illustrated the approximate extension of the 200-mile zone around the continents and islands of the world, none of those charts was accurate or gave more than a very sketchy picture of what the final result of the delimitation exercises would be. He wondered whether the Secretariat would be prepared to undertake the responsibility of drawing 200-mile lines in the semi-closed seas and in certain areas of the world where the coastline was deeply indented or where islands existed. He further wondered from what baselines the lines would be drawn, bearing in mind that it had been understood from the outset that the coastal States would draw their own straight baselines.
7. With regard to the Irish formula, which relied on the identification of certain thicknesses of sediment on the

continental rise of the coastal shelf, his delegation was of the view that such a formula could be applied already in some areas but not in others in which it had not yet been possible to ascertain, except with a margin of error of 50 or 100 miles, what the thicknesses were and where they were situated.

8. It therefore seemed highly unlikely that the Secretariat could produce a meaningful chart at the current session and doubtful whether it could do so at the next session. It was highly improbable that the Special Representative of the Secretary-General or any single country had at its disposal the data required to indicate the practical implications of the Irish formula with any degree of precision. His delegation had earlier offered to demonstrate to any interested delegations how the Irish or a similar formula would be applied in areas on which it had sufficient data.

9. Apart from the practical difficulties involved, it was improper to ask the Secretariat to make decisions on important issues which were the subject of intergovernmental negotiations.

10. Mr. WITEK (Poland) supported the Colombian proposal and said that delegations should have at their disposal as much scientific and technical data as possible on which to base their decisions.

11. Mr. REBAGLIATTI (Argentina) said that it was extremely doubtful whether the Colombian proposal could be implemented by the Secretariat. In any event, the time had come to take political decisions, not to ponder over legal or scientific considerations. At the present stage of the deliberations, all energies should be devoted to seeking formulae which would ensure a successful conclusion to the Conference.

12. Some years earlier, the Colombian delegation had submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction a series of proposals which envisaged as the limit the external edge of the continental rise. It seemed unlikely that the Colombian delegation would have submitted those proposals had it not known what the implications were.

13. The political thrust of the Irish proposal could be understood without the assistance of any additional scientific data; clearly, it was aimed at restricting the claims of coastal States. As the representative of Canada had said, it was improbable that any State, much less the Secretariat, had sufficient information to give an exact picture of the effects of the Irish proposal. At the same time, a number of delegations, including his own, were prepared to

demonstrate the general implications of the proposed formula.

14. Mr. ARIAS SCHREIBER (Peru) said that the charts supplied by the United States delegation a few years earlier showing the implications of various proposals before the Conference should suffice to give some idea of the implications of the Irish formula. It was to be hoped that the Colombian proposal would not be adopted, because it would be costly and would mean that the negotiating process would have to be suspended until the study was ready.

15. Mr. PRANDLER (Hungary) said that the data requested by the Colombian delegation were required by participants before a political decision could be taken. It would be improper for delegations to take a vital decision which affected future generations without having at their disposal the necessary information. Many similar requests had been complied with in the past, and it was strange that some delegations were showing a lack of good faith by opposing the proposal under consideration. They had advanced the argument that the Secretariat would experience difficulties; however, no one expected the Secretariat to produce a definitive study.

16. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat was, of course, duty bound to prepare studies on issues which fell within the purview of the Conference when requested to do so by the Conference. He emphasized that the terms of reference of any study entrusted to the Secretariat should be extremely specific.

17. A study prepared by the Secretariat in 1973 had in fact reflected the possible implications of various proposals before the Conference concerning the limits of national jurisdiction. That study had been based on working hypotheses which at that time had been acceptable to the delegations participating in the work of the Sea-Bed Committee. However, there had been developments since 1973 affecting certain issues relating to the extension and nature of the national jurisdiction of States over ocean space—developments which made it necessary to determine new and specific terms of reference before any study on the subject was undertaken. With regard to the Colombian proposal, it would at least be necessary for the Conference to state the manner of calculating marine areas, to identify the baselines from which the Secretariat would make its hypothetical calculations and to determine whether such calculations applied to all land territory which could form a basis for claims to marine spaces. Furthermore, the aims and purposes of the Charter would not be served if the Secretariat were to be placed in a situation in which it would have to prejudge issues still under negotiation.

18. Mr. LUPINACCI (Uruguay) said that the argument advanced by a number of delegations and the difficulties referred to by the Special Representative of the Secretary-General sufficed to demonstrate that the study should not be requested at the present stage.

19. Mr. MORALES-SUAREZ (Colombia), speaking with reference to the comments of the Argentine delegation concerning the proposal submitted by his own delegation to the Sea-Bed Committee in 1973, said that the situation had changed so radically since 1973 that a technical study was now indispensable. The Special Representative of the Secretary-General was right to state that the terms of reference must be set forth clearly and that the Secretariat could not be expected to prejudge any issues. The essential purpose of the request was to provide delegations with

some graphic material which would give a clearer picture of what was being negotiated.

20. Mr. GARDINER (Ireland) said that his delegation appreciated the problems that would arise in demonstrating, on a global scale, at this particular time, the precise limits which might be applied as the result of its proposal.

21. One of the concerns underlying that proposal was the need to ensure that recognition of the limits of the continental margin should be based upon a natural feature and that coastal States with wide continental margins should never at any stage be permitted to go beyond the natural prolongation of their land territory.

22. He wished to make it clear that the proposal would represent a major compromise on the part of coastal States, since it would prevent them from claiming the full extent of their adjacent continental margin.

23. Another point which deserved emphasis was that the concept of determining a limit by means of the thickness of sediments, as was outlined in paragraph 3 (a) of the Irish proposal, was entirely practicable, techniques were available for that purpose and the data at present available had confirmed that such determination was possible. However, it was unlikely that countries would wish to undertake the work involved unless required to do so under the convention and it was therefore virtually impossible to do so currently on a global scale. The Irish proposal further provided for two alternative methods of delineation, both of which relied on the continental slope, and coastal States would be able to choose the method which they preferred.

24. His delegation would be glad to make available to any interested participants the information on its own continental margin and to demonstrate how the new technique would be applied and how the limits would be determined.

25. Mr. GUINNESS (United Kingdom) said that the Colombian proposal posed a number of problems. It would be easy, for example, to draw a 500-metre isobath on the maps, but the effect in his country, at least, would be to exclude all its continental margin beyond 200 miles. That would certainly be inequitable. The 200-mile economic zone also posed a number of problems because many such limits were disputed, and the Secretariat would therefore require impossibly detailed guidelines. The Irish formula, as scientists from Nigeria and from the group of land-locked countries and geographically disadvantaged States had agreed, was a workable one. It was pointless to undertake an expensive study at the current stage to cover a situation which would not arise for another 15 or 20 years. Such a study was therefore impractical and could only prolong the Conference unreasonably. It would be better to make use of information which was already, or could be made, available.

26. Mr. TOWO ATANGANA (United Republic of Cameroon) said that the arguments that both time and funds were lacking were irrelevant. It was the Secretary-General's obligation to prepare such a study and the General Assembly could provide the funds. The Secretary-General must simply be instructed what to do, so as to provide delegations with the information they needed in order to take intelligent decisions. Delegations should make the information at their disposal available to the Secretariat, so that the study could be produced before the end of the session. He therefore endorsed the Colombian proposal.

27. Mr. UPADHYAY (Nepal) said that the substantive problem was to reconcile the interests of the coastal countries with the concept of the common heritage of mankind,

as affected by an extension of the continental shelf. The Irish proposal appeared to be workable, but his delegation wished to scrutinize it more carefully. Although lack of time might prevent a final decision from being taken at the current session, and the problem of money was also involved, no decision could be taken without an understanding of the impact of the criteria adopted. He therefore favoured the study proposed by Colombia.

28. Mr. KUME (Japan) said that his delegation understood the Colombian proposal, and also welcomed the flexibility and spirit of compromise shown by those countries which insisted upon a 200-mile limit. It agreed, however, that it was difficult to provide material which would indicate the practical implications of the Irish formula on a world-wide scale. His own delegation had made every effort to do so, using all available means, but without success. The thickness of the sedimentary outer edge of the continental margin was difficult to measure. He therefore stressed his delegation's opposition to using thickness of sediment as a criterion for delimiting the outer edge of the continental margin and urged that a compromise formula should be evolved on the basis of the objective criterion stated in paragraph 3 (b) of the Irish formula.

29. Mr. WARIOBA (United Republic of Tanzania) said that he did not object to the idea of the study but only to the time it would take. The success of the Conference, after all, depended upon the political commitment of States rather than upon technical studies. Disagreement as to whether there should be such a study was understandable, since some delegations wanted such a study to confirm their own positions while discrediting others, and some wanted an impartial study. He had no objection to the study proposed by Colombia provided that it could be considered at the current session.

30. Mr. RANJEVA (Madagascar) noted that there was a definite desire to take a decision on delimitation seriously. He wished to stress, however, that the decisions involved were fundamentally political rather than academic ones. The chart proposed by Colombia might be useful, but would be difficult to draw up objectively and would merely defer the necessary political decisions.

31. Mr. CHAO (Singapore) said that the Conference should be informed of the practical implications of the Irish proposal prior to taking a political decision on it. If global data were insufficient, the study should report that fact, but delegations must be informed in order to give the Irish formula intelligent consideration. It was not enough to examine the individual applications of the Irish formula; it was essential to know what its global impact would be, and for that purpose the views of objective experts were required. Those countries which had pertinent data should make it available to the Secretariat. If broad-shelf countries wanted the Conference to consider their rights beyond the 200-mile limit, they should be willing to supply that information.

32. He agreed that time was of the essence and that the study should be made available as soon as possible. He was convinced that it could be prepared within four months, just as the 1973 study had been. The difficulties mentioned by the Special Representative of the Secretary-General should not be insurmountable.

33. Mr. ARIAS SCHREIBER (Peru) asked what limits would be used in preparing the study requested by the representative of Colombia. If the 200-mile limit was to be used, how would the Secretariat proceed in cases where

those limits were disputed? Furthermore, if maps based on the limits suggested in the Irish proposal did not exist for all countries, how would the Secretariat determine those limits? It was also essential to know how long the Secretariat would need to prepare the study, and what the cost and practical effects would be. The results of the study conducted in 1973 had not changed political positions regarding the 200-mile limit. If the Committee asked the Secretariat to undertake such a study without specific answers to those questions, it would simply be delaying the work of the Conference.

34. Mr. MHLANGA (Zambia) said that the study prepared in 1973 had enabled his delegation to be better informed regarding the issues under negotiation. He asked the Special Representative of the Secretary-General to continue to make that study available.

35. His delegation supported the proposal made by the representative of Colombia. The proposed study would enable the Committee to reach a more informed decision. However, that position did not mean that his delegation supported the concept of the continental shelf as contained in the Irish proposal. In cases where the land mass included land-locked States, the question arose whether the continental shelf was to be considered a natural prolongation of the coastal State alone, or of the land mass as a whole. There was also the question whether the régime of the economic zone was meant to subsume to a great extent the régime of the continental shelf, whether national or international.

36. Mr. GARDINER (Ireland) said that, while he did not oppose the Colombian proposal, it should be borne in mind that the completion of such a study would require several years.

37. He disagreed with the view expressed by the representative of Japan that calculations based on the thickness of sedimentary rocks would be imprecise and could lead to major discrepancies. The very fact that the Irish proposal was supported by a number of delegations, after careful consideration, indicated that such a method was technically accurate and entirely feasible. In all cases, the use of such a method would restrict the claims of coastal States.

38. Mr. GUPPY (Australia) said that his delegation, like others, appreciated the overriding importance of the question under consideration. For a number of years the Australian Government had carried out widespread surveys, on the basis of which it had been possible to prepare maps and obtain data showing the extent of the continental margin beyond the 200-mile limit. Those data and maps were widely available and had been incorporated into world maps. As far as the practicability of the Irish proposal was concerned, it should be pointed out that some of the procedures advocated in that proposal had been used by the Australian authorities in conducting the comprehensive surveys of the continental margin. One new effect of that procedure was to reduce the area of the continental margin substantially, a factor which could have far-reaching effects on Australia's existing jurisdiction. Using modern geophysical techniques, it was quite possible to obtain the data required for the procedure proposed by the delegation of Ireland.

39. With regard to the preparation of maps, he said that coastal States such as Australia were reluctant to carry out costly and time-consuming surveys. His Government had tested the procedure advocated in the Irish proposal, had found it to work satisfactorily, and would complete the surveys necessary to delineate the continental shelf at the appropriate time.

40. Mr. KNOKE (Federal Republic of Germany) wondered whether the purposes of the Irish proposal could not be served by the application of the Hedberg formula, which did not involve the measurement of the thickness of sedimentary rocks, thereby making it easier for the Secretariat to carry out the study proposed by the representative of Colombia, and perhaps even obviating the need for such a study.

41. Mr. NNAMANI (Nigeria) said that, while a study of the criteria for determining the limits of the continental shelf would be useful, it would be both time-consuming and costly and, as the Special Representative of the Secretary-General had pointed out, could not be undertaken by the Secretariat without specific guidelines. His delegation, while supporting the Irish proposal, felt that the Conference should not become bogged down in too many technicalities. The time might be appropriate for the Conference to decide if it was able to take political decisions based on technical advice provided by members of delegations. His delegation supported the provisions of article 64 of Part II of the negotiating text¹ and was prepared to accept the concept of the natural prolongation of the land territory of the State concerned.

42. The Conference had sufficient criteria to enable it to take a decision without waiting for the completion of yet another study, which would delay the work of the Conference and could set a precedent for other Committees, a precedent which his Government could not accept.

43. Mr. TUERK (Austria) said that it was essential to establish clear criteria for the delimitation of the continental shelf, since the Authority would be unable to offer mining sites to potential bidders without knowing whether the sites concerned were in the international area or on the continental shelf of a coastal State.

44. His delegation supported in principle the proposal made by the representative of Colombia, since it believed that as much information as possible should be made available before any decision was taken on the Irish proposal. In that connexion, the proposed study should also compare the limits proposed under the Irish formula with those proposed in article 4 of the revised single negotiating text. However, it would be both technically difficult and time-consuming to conduct such a study on a global scale. Consequently, he proposed that the Secretariat should prepare a preliminary study of selected areas on the basis of information already available. Although such a study might not be completely accurate in every respect, it would enable the Conference to decide whether a global study could be carried out before the following session.

45. Mr. AL-HAJ HAMOUD (Iraq) supported the Colombian proposal since, at the current phase, the Conference was in dire need of such a study in order to clarify certain concepts. However, in view of the short time available, his delegation could accept the Austrian compromise proposal.

46. Mr. KOLBY (Norway) said that, while he understood the motivation of those delegations which had requested a study of the implications of the Irish formula, he was not convinced that such a study would provide all the clarifications asked for, or justify the cost and effort involved. The Irish proposal was designed to provide more precise and detailed criteria for the definition of the con-

tinental margin than was contained in the revised single negotiating text. It also provided for the measurement of the continental margin and the prevention of excessive claims on the basis of data obtained from geotechnical and seismic surveys. Such methods were costly and obviously beyond the scope of a Secretariat study. The delegations supporting the Irish proposal were prepared to provide detailed explanations based on the results of such surveys.

47. Mr. MESLOUB (Algeria) said that it was very difficult for those delegations which believed that the continental margin should not extend beyond the limit of 200 nautical miles to accept the Irish proposal without further clarification. Consequently, those delegations in possession of relevant information should make it available to the Secretariat so that it could be passed on to the Conference.

48. Mr. SHEHAB (Egypt) supported the Colombian proposal. In spite of the difficulties involved, the data requested must be made available, particularly to those developing coastal States which did not have the technical ability to obtain them themselves. No objective decision on the criteria to be applied could be reached without such information.

49. His delegation was able to accept the Austrian proposal as a reasonable compromise solution.

50. Mr. UPADHYAY (Nepal) agreed with those delegations which considered that the time had come to take a political decision. More than 90 delegations, including the African, Arab and land-locked and geographically disadvantaged States, had declared themselves in favour of limiting the continental margin to 200 nautical miles. If the Conference adopted that criterion, there would be no need for a further study. If any other political decision was to be taken, those delegations concerned with safeguarding the common heritage of mankind must be informed of the effect of the various criteria proposed.

51. Mr. ZULETA (Special Representative of the Secretary-General) said he wished to reply to the points raised during the debate. With regard to the time required to prepare the proposed study, he said that, although he had not had time for detailed consultations with experts in the Secretariat, earlier studies on less complex subjects had taken from six months to one year to prepare. Naturally, it would take much less time to prepare preliminary studies, like the one on the financing of the Enterprise prepared for the First Committee. He pointed out, however, that that study had been based only on documentation readily available to the Secretariat.

52. The Secretariat had previously prepared a document for the Sea-Bed Committee in which very useful information had been presented on the nature of the resources situated in various areas of the sea-bed on the basis of bathymetric, morphological and, to some extent, distance criteria. In his view, the information that had become available since the preparation of that document would not change very substantially the conclusions which the Secretariat had reached at that time. On the other hand, there would be a change in the terms of reference under which the Secretariat had prepared that document, which had been based on preliminary investigations by States of the possible limits of national jurisdiction.

53. In contrast to the situation prevailing at that time, the final stage in the negotiations was now approaching, in which States had set forth their official positions on certain aspects of the definition of the limits of national jurisdiction, and it was therefore not possible for the

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), document A/CONF.62/WP.8/Rev.1.

Secretariat to proceed with studies that might prejudice the positions of States.

54. The Secretariat had also made available to delegations a library relating to the law of the sea, including maps on various scales prepared by a number of international and national organizations which might be used to illustrate the possible implications of the various proposals put forward during the negotiations, but for which the Secretariat could take no responsibility.

55. The Secretariat also had the means of reproducing and translating, if the Conference so desired, any documents which delegations might wish to make available to other delegations in order to illustrate the issue under discussion.

56. He had, however, heard no reply to his question concerning the terms of reference for the proposed study; more specifically, it was a question of which baselines would be used for making a geographical projection, and which territories would serve as a basis for the projection. He felt that the Secretariat did not yet have adequate guidelines.

57. In conclusion, he recalled the words of the Secretary-General in his statement at the opening of the current session at the 77th plenary meeting, in which he had drawn the Conference's attention to certain dangers which went beyond issues relating to the law of the sea, and had urged it to move forward in recognition of the very grave responsibilities placed upon it. He had pointed out that failure to produce a convention after such a long and arduous process would seriously undermine the credibility of the United Nations as a forum for international negotiations, and had appealed to Governments to act at once.

58. Mr. MOMTAZ (Iran) said that he, too, found it very difficult to comprehend the practical consequences of the Irish formula. It was absolutely necessary, especially for the smaller delegations, to have before them all the relevant technical elements before taking decisions. His delegation accordingly supported the Colombian proposal. Some delegations had stated that fairly precise information was already available on that question. He therefore welcomed the Austrian proposal, which he felt would greatly facilitate the work of the Secretariat.

59. Mr. RANJEVA (Madagascar) said that he found it difficult to accept the Austrian proposal, since he feared that any decisions taken on the basis of preliminary studies might be the wrong ones. He therefore wondered what kind of decision would be taken, pending the preparation of the maps in question, if the Colombian proposal was taken as a working hypothesis.

60. TOWO ATANGANA (United Republic of Cameroon) emphasized that political decisions should not be taken out of ignorance.

61. Furthermore, he took the view that general interests, which should take precedence over individual interests, could be preserved by adoption of the 200-mile limit.

62. Accordingly, his delegation could accept the Austrian proposal, which might lead to a compromise.

63. Mr. BOS (Netherlands) supported the Austrian proposal, which he felt was reasonable and made a useful contribution to a solution. He understood the proposal to mean that the Secretariat should collect data available from the various delegations relating to the outer edge, and to the Hedberg and Irish formulas, projected from the outer edge. In the light of those data, it might be easier to judge at a later stage whether additional data were necessary. It would thus be possible to avoid the difficulties mentioned earlier in the debate.

64. Mr. WITEK (Poland) said that he fully understood the hesitation of the Special Representative of the Secretary-General and realized the heavy burden which would be placed on the Secretariat. He wondered whether the difficulties were not being exaggerated, since many delegations had stressed that the material to be made available would be only of an informative nature. That material would be helpful, since the demonstrations proposed by individual delegations would not help much in solving the problem. In that sense, the Austrian proposal might be a useful compromise, providing the Committee with a further insight into the consequences of a decision on that issue.

65. He emphasized that the problem of delimiting the continental shelf was closely related to that of participation by third countries in the economic zone. If there was a desire to reach a compromise, consideration should be given to the question of access on the part of the landlocked and other geographically disadvantaged States, to the living resources of the economic zone, a question which the Committee had not sufficiently discussed. Pending the outcome of current negotiations on that question in other forums, the letter of 8 April 1976 from the Chairman of the group of 52 countries addressed to the Acting Chairman of the Second Committee should be taken as the only valid statement of the position of that group on the question of access to the economic zone.

66. Mr. VELLA (Malta) said that, since some delegations had referred to the common heritage of mankind, his delegation wished to point out, without reiterating its position—which was that the 200-mile zone should apply for all purposes—that the Committee was confronted by a political rather than a technical decision.

67. However, his delegation welcomed the Colombian proposal, since the proposed study would highlight the continuing encroachment on the common heritage of mankind. Perhaps a compromise might be reached on the basis of the Austrian proposal.

68. The CHAIRMAN suggested that the delegations of Colombia and Austria should consult with the Special Representative of the Secretary-General with a view to formulating as precisely as possible the terms of reference which would determine the action of the Secretariat.

It was so decided.

The meeting rose at 1.15 p.m.