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36th meeting of the Third Committee

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which maintained a fairly good balance; but it would be prepared to consider amendments to improve certain provisions in the text.

58. Colombia wished to extend its deepest sympathy to France in connexion with the disastrous effects on the French coast of the wreck of the *Amoco Cadiz*. Colombia understood the feelings of France because it, too, had suffered the ill effects of pollution from tankers, although on a smaller scale. His delegation was accordingly prepared to accept changes in the text that would allow a coastal State to prevent and control pollution off its coast.

59. Mr. SHERMAN (Liberia) said he agreed that the Third Committee had produced a well-balanced text, although it was still capable of improvement. He would like to see some improvements made on the key issues of marine scientific research, pollution, and the transfer of technology. The wording of article 253 on implied consent was not acceptable to his delegation, which would be proposing changes in the text.

60. With reference to the wreck of the *Amoco Cadiz*, he said that Liberia, as the flag State, had been co-operating with France in dealing with that regrettable incident. He supported the proposal that technical problems should be referred to IMCO, as suggested by France and the United Kingdom.

61. Mr. BOROVNIKOV (Byelorussian Soviet Socialist Republic) said that his delegation had come to the conclusion that the present text of parts XII, XIII and XIV, which had been elaborated in the Third Committee as a result of long and difficult negotiations, was a finely-balanced compromise which could in its entirety be acceptable to all delegations. Like all compromises, of course, it could not be to the liking of every delegation in every respect. His own delegation, in

fact, was not altogether satisfied with the text and, like other delegations, it had specific proposals and observations to make on many articles. However, it believed that, in the present final stage of the Conference's work, it would be inadvisable to start a further general discussion, which might upset the delicate balance that had been achieved with so much difficulty. Many delegations had made a number of concessions with a view to arriving at compromise formulations; and it would be unfair and even dangerous to ask them now for further concessions, since such a request might merely induce them to revert to their original positions.

62. Many delegations had said that there was a need for further discussion on problems of preventing pollution, and particularly vessel source pollution, because of the recent wrecking of the *Amoco Cadiz* off the coast of France. On learning of that tragic event, his delegation had felt great sympathy and understanding for France. However, as the French representative himself had said, such cases were numerous; and events relating to the Conference's work (shipwrecks, arrests of vessels, imposition of fines, etc.) could happen every day. The Conference would never be able to conclude its work if, after every such event, it decided to reopen its discussion on issues relating to the event. Even when the Third Committee had first begun its work, there had already been sufficient examples of such incidents to provide a basis for elaborating provisions for preventing pollution of the marine environment.

63. The foregoing observations did not, of course, mean that his delegation was opposed altogether to any negotiations in the Third Committee. The Committee might discuss the need for additions to article 222 in the light of the disaster which had occurred on the French coast.

The meeting rose at 1 p.m.

36th meeting

Thursday, 20 April 1978, at 3.25 p.m.

Chairman: Mr. A. YANKOV (Bulgaria).

Organization of work

1. Mr. LUKASIK (Poland) said his delegation was prepared to consider ways in which the proposals made by the French delegation (35th meeting) following the *Amoco Cadiz* disaster could be incorporated in the informal composite negotiating text.¹ Some delegations seemed to find a great deal to criticize in the existing text of part XII (Protection and preservation of the marine environment), but it would be dangerous to use the *Amoco Cadiz* affair as a pretext for reintroducing proposals that had already been considered and might disrupt the compromise which the Committee had reached with so much difficulty. If that were to happen, his delegation would feel free to revert to its former positions and to revive old proposals as well.

2. The real cause of catastrophes such as the *Amoco Cadiz* disaster was not the lack of international rules and standards—of which there were enough already—but the failure of the countries concerned to comply with international rules, and also the attitude of the oil companies which were anxious to make as much profit as possible and were using flags of convenience to circumvent the laws and regulations in force.

It was essential for certain countries to compel the owners of oil tankers, whether they were nationals of those countries or companies registered there, to comply with the international rules and standards. There was no need to add a new provision to the informal composite negotiating text for that purpose. As the French delegation had suggested, minor amendments could be made in the text to take into account the events that had occurred: his delegation considered that the best course would be to amend article 222 (Measures relating to maritime casualties to avoid pollution) but not to touch the other articles, so as not to jeopardize a delicate compromise.

3. Mr. APPLETON (Trinidad and Tobago) said that the provisions of the informal composite negotiating text on marine pollution and marine scientific research were clearly far from perfect, and his delegation was inclined to be sceptical about several articles, notably articles 21, 212 and 247. At the present stage, it shared above all the concern that had been expressed by a number of delegations with respect to the power of the coastal State to enact laws and regulations governing the innocent passage of foreign vessels in its territorial sea and, in particular, the design, construction, manning and equipment of such vessels. The disasters that had occurred in the last few years had made it even more obvious that it was necessary to strike a balance between the powers of coastal States in their territorial sea on the one hand, and respect for the right of innocent passage on the other hand.

¹Official Records of the Third United Nations Conference on the Law of the Sea, vol. VIII (United Nations publication, Sales No. E.78.V.4).

His delegation thought that more extensive consideration should be given to the articles concerned, but without disturbing the text as a whole which was the result of intensive effort.

4. Mr. EL-SBRASHI (Egypt) said his delegation fully agreed with the views expressed by the French delegation on the *Amoco Cadiz* affair. Egypt, with its Mediterranean and Red Sea coasts, was exposed to the very serious accident risks presented by the thousands of tankers passing through the Suez Canal. The informal composite negotiating text was a sound basis for negotiation, but it must result in an international convention which would be a major element in the international law of the sea. One wondered therefore, following the *Amoco Cadiz* disaster, which raised a number of problems concerning coastal States' rights, crews, flags, etc., whether it might not be advisable to make some amendments and additions to the text in the light of the proposals to be submitted by the French delegation.

5. With regard to the programme of work suggested by the Chairman, his delegation was not in favour of setting up one group on the protection and preservation of the marine environment and another group on marine scientific research. As the Spanish representative had pointed out (*ibid.*), there should be some co-ordination between the Second and Third Committees on a number of common issues. His delegation proposed that special attention should be given to the problem of the development and transfer of marine technology, which was of vital importance for the developing countries.

6. Mr. FERRER (Chile) supported the observations by the French delegation on the consequences of the *Amoco Cadiz* incident. Chile had experienced two similar disasters, and his delegation was anxious to hear the specific proposals of the French delegation. It was necessary to establish close co-operation with the Inter-Governmental Maritime Consultative Organization, particularly on questions relating to the separation of traffic in areas where sea lanes converged. Special measures of solidarity should also be envisaged when the State that had been a victim of pollution was a developing country.

7. Mr. TIWARI (Singapore) considered that the informal composite negotiating text was a satisfactory compromise, and that it would be a pity to amend it except in specific points of detail. His delegation would carefully study the proposals by the French delegation, since the question of pollution from vessels was of special interest to Singapore, in view of its situation on the Straits of Malacca-Straits of Singapore route, a route which was one of the busiest straits in the world.

8. Mr. MAHIOU (Algeria) supported the procedural suggestions made by the Chairman (*ibid.*). He also thought that it would be undesirable to embark on too general a debate or to reintroduce proposals that might lead to counterproposals and eventually to deadlock. In compliance with the compromise achieved, and in a spirit of co-operation, it would be better to try to improve certain precise and limited provisions, particularly those concerned with pollution. In that connexion his delegation extended its sympathy to the French delegation, and hoped that the damage caused by the *Amoco Cadiz* would soon be made good. It should not be forgotten that the consequences of such accidents could be even more tragic in certain ocean areas, such as semi-enclosed seas. The Second Committee, which was responsible for dealing with that issue, should consider it in all its aspects.

9. His delegation thought that the informal composite negotiating text was a reasonable compromise. Even if some of the provisions in the text were not entirely satisfactory, the Committee should be realistic and should avoid an excessively general debate. It would be better merely to make

specific proposals on two questions, namely, marine pollution and the development and transfer of marine technology.

10. Mr. BOHTE (Yugoslavia) agreed with the Chairman concerning the organization of work; but, like the delegations of Pakistan and Egypt, he thought that the Committee should also deal with part XIV of the negotiating text (Development and transfer of marine technology) and should do so in close co-ordination with the work of the First Committee. With regard to part XII, it was true that the present text was the outcome of a hard-won compromise; but, in view of the recent accident off the French coast, it was necessary to clarify the provisions on the right of States to protect the marine environment without at the same time prejudicing the interests of navigation. In part XIII (Marine scientific research), it was necessary to improve the wording of articles 247, 253, 255 and 257, in the light of the legal régime of zones under the sovereignty or jurisdiction of a coastal State or situated within the area beyond the limits of national jurisdiction.

11. Mr. STANG LUND (Norway) said that the Conference was required to elaborate a convention of a general nature, which need not reflect a particular event, however important or however serious its consequences. Also, care should be taken to preserve the compromise achieved in parts XII and XIII of the informal composite negotiating text. His delegation had some reservations regarding the interpretation of that text, especially in respect of the contradictions that might arise between the régime of innocent passage through the territorial sea and the provisions concerning marine pollution. It hoped that the Chairman would clarify that question in due course.

12. Mr. KHOURY (Syrian Arab Republic) agreed with the delegations of Pakistan, Egypt and Yugoslavia that the Committee should discuss the transfer of marine technology. He also agreed with the representatives of Malaysia and Singapore on the question of the legal régime of busy shipping areas, though due regard must be paid to the interests of geographically disadvantaged States.

13. Mr. TIMAGENIS (Greece) expressed the sympathy of his delegation to the delegation and the people of France for the recent pollution disaster off the coast of France and confirmed the willingness of his country to assist in eliminating such incidents. However, he said that the Committee should refrain from revising articles that were the outcome of laborious negotiation. The most that could be done within the Law of the Sea Conference was to make a few amendments in articles that had not been studied exhaustively. In any case, the convention under consideration was not intended to solve all problems that arose in the marine environment, including the problem of pollution. It was not a code of conduct or a technical treatise but an instrument of a general nature which would lay the foundations for a more detailed elaboration of the law of the sea and of measures to safeguard the marine environment. The convention under preparation was due to become the constitution for the protection of the marine environment and for apportioning jurisdiction in the establishment and enforcement of rules for the protection of the marine environment by States and appropriate organizations.

14. Mr. BRAUNE (German Democratic Republic) said he too was opposed to changes that might destroy the balance of the informal composite negotiating text. However, in view of the disaster which had struck the French coast, he would be prepared to reconsider article 222, if that was the wish of other delegations.

15. Mr. BENTEIN (Belgium) said he realized that no compromise could satisfy all delegations, particularly on the subject of marine pollution. It was essential to find a formulation that would reconcile freedom of navigation with the protection of the marine environment. His delegation was in favour

of pragmatic rules rather than provisions based on theoretical considerations: it was therefore prepared to consider any proposal specifically designed to reduce the risk of pollution arising from the presence of vessels in offshore waters, provided that the recent accident off the French coast was not used as a pretext for upsetting the delicate balance of the text prepared by the Third Committee.

16. Mr. McKEOWN (Australia) said that, for the protection of the marine environment, it was essential to establish a régime that would give the coastal State the power to protect its territorial waters and would at the same time safeguard the right of innocent passage and freedom of navigation. The informal composite negotiating text seemed to have come close to achieving a balance that would command general assent. However, in view of the recent cases of marine pollution by vessels, the Committee should examine proposals made in the light of those events, and also any proposal designed to remove ambiguities in the present text or to bring it more into line with the objective sought. Accordingly, he thought that it would be best merely to consider a small number of proposals for specific amendments on specific points in the text.

17. Mr. DIA MASSAMBA (Zaire) agreed with the French delegation that the provisions on vessel source pollution needed improving and, in particular, that the coastal State's right of intervention needed to be clarified. His delegation also thought that the Committee should consider the provisions on international co-operation, which was a topic of major interest to the developing countries and was related to the question of pollution. Those countries had the power to adopt legal measures to combat marine pollution, but they did not always have the resources to apply them.

18. Mr. MANANSALA (Philippines) welcomed the balance that had been achieved in parts XII, XIII and XIV of the negotiating text, and said he was prepared to co-operate in the Committee's work within the procedural framework defined by the Chairman. He also expressed his sympathy to France in connexion with the disaster caused by the *Amoco Cadiz*, and urged the Committee to persevere in its efforts to elaborate international regulations to prevent marine pollution. Some of the articles on the subject should be improved.

19. Mr. CHANDARA-SOMBOON (Thailand) considered that the informal composite negotiating text, in its present form, was the result of a compromise between the interests of developed and developing countries. He expressed his sincere sympathy to the French delegation in connexion with the *Amoco Cadiz* incident, but thought that that incident should be regarded as exceptional. He realized that certain articles in the negotiating text would have to be amended in order to prevent similar incidents in the future; but amendments should be accepted only on condition that they did not upset the delicate balance established in the text between the interests of developed and developing countries.

20. Mr. RAVELOJAONA (Madagascar) said he too wished to convey his sympathy to the French delegation in connexion with the recent *Amoco Cadiz* incident. His country had a direct interest in problems of marine pollution because of its geographical situation, since it lay on the route of the giant oil tankers going to and from the Persian Gulf. In view of the direction of the currents and the prevailing winds, an accident such as the wrecking of the *Amoco Cadiz* would be catastrophic for Madagascar, which would not have the technical facilities to deal with it.

21. However, there were other questions, particularly marine scientific research and the development and transfer of marine technology, which were just as important as the question of pollution and he hoped that the Committee would give them equal attention.

22. Mr. SUKAT (United Arab Emirates) said that part XII of the negotiating text on the protection and preservation of

the marine environment represented a satisfactory compromise for all delegations. He too expressed his sympathy to the French delegation in connexion with the *Amoco Cadiz* disaster, but hoped that the French proposals on vessel-source pollution would not disturb the balance of the text. If they were intended solely to improve certain articles, he would be prepared to give them favourable consideration.

23. With respect to marine scientific research, he recalled that he had submitted specific proposals from the Arab group at the sixth session of the Conference, and he reserved the right to speak about them in greater detail at the meeting that was to be devoted to that question.

24. With regard to the development and transfer of marine technology, he agreed with the representative of Yugoslavia that the Third Committee should co-ordinate its work with that of the First Committee.

25. Mr. DE LACHARRIÈRE (France) thanked the delegations which had expressed their sympathy to France on the occasion of the recent disaster caused by the *Amoco Cadiz*.

26. Mr. KATEKA (United Republic of Tanzania) asked whether the Chairman was intending to set up working groups to consider the issues before the Committee.

27. The CHAIRMAN said he understood, from the discussion that had just taken place on the protection and preservation of the marine environment, that members of the Committee would prefer to hold informal consultations to study the proposals relating to that question. Some delegations had even indicated their intention of making specific comments during the consultations. He therefore proposed that the procedure hitherto adopted should be continued, i.e., that informal consultations should be held on parts XII, XIII and XIV of the informal composite negotiating text.

28. Mr. FIGUEIRÊDO BUSTANI (Brazil) remarked that, with regard to part XII of the negotiating text, specific proposals had been made for the reconsideration of certain articles, but that no such proposal had been made in respect of parts XIII or XIV. He wondered therefore whether it was necessary to devote two meetings to marine scientific research, and whether those meetings should not rather be devoted to the question of marine pollution.

29. The CHAIRMAN said he was aware that specific proposals had been made on part XII of the text but the proposals on part XIII had been worded in much more general terms. At the present stage, however, he thought it was necessary to provide for the possibility of devoting one or two meetings to proposals which might be made in regard to parts XIII and XIV of the text, on the understanding that those meetings would be used for discussing the protection of the marine environment if no specific proposal were made on the subject of marine scientific research or the development of marine technology.

30. Mr. SHERMAN (Liberia) thought that article 253 would have to be reconsidered because it infringed upon the sovereignty of independent countries.

31. Mr. HUSSAIN (Pakistan) said he had asked for at least one meeting to be devoted to the transfer of marine technology but that, in view of the explanations given by the Chairman, he would not press his proposal.

32. The CHAIRMAN suggested, in conclusion, that during the next few days delegations should hold informal negotiations on the protection and preservation of the marine environment, under the chairmanship of Mr. Vallarta of Mexico. They might start by examining the French proposals relating to the articles on pollution by vessels; afterwards they could turn to the other proposals which had been made. The Committee could meet in plenary on Friday, 28 April, to consider the results of the informal consultations.

It was so decided.

The meeting rose at 5.15 p.m.