

# **Third United Nations Conference on the Law of the Sea**

1973-1982

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## **106<sup>th</sup> Plenary meeting**

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

on the one hand, that parties had an obligation to adopt the conciliation procedure provided for in annex IV of the informal composite negotiating text and, on the other hand, that the report of the conciliation commission should not be legally binding. That provision would, in his opinion, prevent an abuse of legal procedures and would prevent the sovereign rights and discretionary powers of coastal States from being called intermittently into question. Since that point was of vital importance for the exercise and very existence of such rights and powers, the compulsory conciliation procedure had important advantages in that no legal opinions would be binding and problems arising from the improper implementation of the convention would be solved.

94. Mr. BILGE (Turkey) said that his delegation found itself once again obliged to point out that, when disputes existed between two or more States, recourse to judicial settlement or arbitration could be decided on and implemented only by mutual agreement between the States concerned. For that reason, without opposing judicial or arbitration procedures *per se*, his delegation firmly believed that the parties concerned should directly exercise freedom of choice concerning appropriate means of settling each individual dispute. That procedure was implicitly provided for in Article 33 of the Charter of the United Nations.

95. In one of its decisions, the International Court of Justice had stated that the parties had an obligation to undertake negotiations with a view to reaching an agreement. That obligation had been mentioned in particular in the case of enclosed waters in a recent decision handed down by an arbitration tribunal. Meaningful negotiations had become, in State practice, the main tool for the settlement of delimitation disputes.

96. The need for parties to decide by mutual agreement on the means of settling a dispute was of vital importance for States in the case of political and, in particular, territorial questions. In that connexion, the delimitation of maritime zones was no different from that of territorial zones—a point which the International Court of Justice had made, in the decision he had just mentioned, in connexion with the continental shelf.

97. State frontiers had always been determined directly and by mutual agreement by the States concerned, without the participation of third parties. Such frontiers, whether on land or sea, were as much within the domain of State sovereignty as within that of the State's vital interests.

98. In the opinion of his delegation, any dispute between States in those areas should be studied by the parties themselves. That was consistent with the principle of agreement, in accordance with which all delimitation questions could be

settled. For those reasons, his delegation opposed the adoption of a general system of compulsory jurisdiction within the context of the Conference. However, if certain States considered that compulsory jurisdiction would be more appropriate for their situation, the Conference could provide for an optional system of compulsory jurisdiction which could be adopted by those States that favoured it. In that manner, one group of States would be prevented from imposing its views on another, and States which were unwilling to bind themselves in advance to a system of compulsory jurisdiction would still be able to endorse the future convention.

99. If an optional system was not agreed on by the Conference, it was essential that article 297 of the informal composite negotiating text should clearly provide for the exclusion of disputes relating to the delimitation of maritime areas. In that connexion, subparagraph 1 (a) of that article should end after the words "historic bays or titles".

100. Mr. EVENSEN (Norway) said that his delegation had supported the position adopted by the group of coastal States as a whole during the negotiations on the question whether the procedures for the binding settlement of disputes should also apply to disputes which arose from the exercise by the coastal State of its sovereign rights over living resources in the exclusive economic zone. His delegation agreed with the delegations of other coastal States that an exemption from mandatory and binding settlement procedures must be made for such disputes.

101. The compromise formulas contained in document NG5/16 and, in particular, the proposed paragraph 3 of article 296, were far removed from the solution which his delegation would have wished for the important question of mandatory settlement procedures for disputes arising out of the exercise by the coastal State of its sovereign rights with regard to living resources in the exclusive economic zone. On that question the compromise formula would establish a procedure of compulsory conciliation which in practice could turn out to be very burdensome for the coastal State. Nevertheless, his delegation had expressed a willingness to accept a system on the lines proposed in the compromise formula, provided that those proposals met with similar approval by all other groups of delegations, and subject to a satisfactory solution of other issues. That favourable, though conditional, response remained the position of his delegation. In a spirit of compromise, it would be prepared to agree that the texts before the Conference should be regarded as having the broad support necessary for their eventual inclusion in a revised version of the informal composite negotiating text.

*The meeting rose at 1 p.m.*

## 106th meeting

Friday, 19 May 1978, at 3.30 p.m.

*President:* Mr. H. S. AMERASINGHE.

**Adoption of a convention dealing with all matters relating to the law of the sea, pursuant to paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973, and of the Final Act of the Conference (continued)**

REPORT OF NEGOTIATING GROUP 5 (concluded)

1. Mr. HAHM (Republic of Korea) noted with regret that some delegations had refrained from giving their full support

to machinery for settling disputes arising from the interpretation and application of the future convention. Yet such machinery was an integral part of any package deal designed to obtain a consensus. His delegation had always considered that, for a small country, the availability of effective procedures for the settlement of disputes was the best and sometimes the only means of safeguarding its legitimate interests and sovereign rights, particularly with respect to the delimitation of maritime boundaries.

2. As the Chairman of negotiating group 5 had pointed out, document NG5/16<sup>1</sup> represented a conditional rather than a fully-fledged consensus, because so many delegations, including that of the Republic of Korea, had been compelled to enter reservations to it. While his delegation was prepared to accept the system of compulsory conciliation as a compromise, the provisions of paragraph 3 of the new text of article 296 seemed likely to be ineffectual in that they excluded virtually all important disputes from the conciliation procedure.
3. With respect to the procedures for the settlement of disputes concerning the delimitation of sea boundaries, his delegation strongly supported the retention of subparagraph 1 (a) as it stood in article 297 of the informal composite negotiating text.<sup>2</sup>
4. Mr. KOZYREV (Union of Soviet Socialist Republics) said that his delegation, like others, considered that the Conference should continue its efforts to find a generally acceptable solution to the problems of the delimitation of sea boundaries and of the settlement of any disputes that might arise.
5. His delegation was firmly convinced that the delimitation of sea boundaries between adjacent or opposite States would not be realizable except through agreements based on principles of equity that took all relevant circumstances into account, the median or equidistance line being used as appropriate.
6. Any disputes that might arise on the subject, whether procedural or substantive, should be settled by the States themselves without the intervention of third parties. It was no accident that, under the terms of the United Nations Charter and the Statute of the International Court of Justice, the Court was open only to States which freely expressed the wish to apply to its jurisdiction. In the view of his delegation, that was the only equitable solution.
7. To his delegation's regret, it was unable to approve the new text proposed for paragraph 4 of article 296. Despite all its shortcomings, the wording of the paragraph as it stood in the informal composite negotiating text was superior and closer to receiving a consensus. Consequently, further consideration would have to be given to that question at the following session, and his delegation was prepared to cooperate in the preparation of a new text.
8. Mr. VALENCIA-RODRÍGUEZ (Ecuador), while commending the progress made by negotiating group 5 towards a solution, said that his delegation would have preferred paragraph 4 of article 296 to be deleted but that, as a further token of compromise, it was prepared to take the proposal of negotiating group 5 into consideration. Since, however, the questions considered by negotiating groups 4, 5 and 6 were interdependent, his delegation would not be able to agree to a partial or separate solution unless the other questions were also settled in a manner acceptable to the other delegations.
9. With regard to a link with negotiating group 6, his delegation, while reaffirming its support for article 76 of the negotiating text on the definition of the continental shelf, endorsed the position of the coastal States that the link should be established between the work of groups 4 and 5 and the Irish proposal (see A/CONF.62/C.2/L.98).
10. Mr. HAMID (Pakistan) said that, in his delegation's opinion, the text of subparagraph 1 (a) of article 296 as proposed by the Chairman of negotiating group 5 was too broad in its interpretation. The subparagraph in question was subject to article 58 of the negotiating text which, taken as a whole, introduced the concept of the high seas régime into the economic zone. That was unacceptable to his delegation. It would have preferred the words "and other internationally lawful uses of the sea specified in article 58" to be deleted, but in a spirit of compromise it had agreed to the proposal made by the group of coastal States (NG5/2) that the words "in article 58" should be replaced by the words "in paragraph 1 of article 58". As the proposal was not reflected in document NG5/16, his delegation was unable to accept the text of subparagraph 1 (a) of article 296, as set out in that document.
11. Paragraph 2 of article 296, as drafted in document NG5/16, also created certain problems. His Government had always considered that the conduct of marine scientific research in the exclusive economic zone fell within the national jurisdiction of the coastal State. No State or organization was entitled to claim the right to conduct such research without the express consent of the coastal State concerned. Nor could any obligation be imposed on the coastal State to the effect that it should establish rules and procedures to ensure that its consent would be given within a reasonable space of time and would not be denied unreasonably. To impose such an obligation would amount to imposing restrictions on the exercise of sovereign rights by the coastal State. The list of cases referred to in paragraph 4 of article 247 could not be considered as exhaustive. There might be many other situations that would compel a coastal State to withhold consent in the national interest. Under the proposed text, such a refusal would be considered unreasonable. Moreover, a coastal State could terminate the research activities in its exclusive economic zone on grounds other than those mentioned in article 254. His delegation could not agree to such restrictions on the free exercise of the sovereign rights of coastal States in the exclusive economic zone, and therefore opposed the text proposed for paragraph 2 of article 296.
12. So far as paragraph 3 of article 296 was concerned, he said that his delegation was opposed to any procedures for third party settlement of disputes. Although in negotiating group 5 it had supported the proposal by the coastal States for the deletion of paragraph 4 of article 296 of the negotiating text, it reserved its position on paragraph 3 of article 296, as contained in document NG5/16.
13. In conclusion, he said that, in his delegation's opinion, the general provision on abuse of rights should be included in the preamble, since it was not substantive but simply declaratory.
14. Mr. MONNIER (Switzerland) said that a number of delegations of coastal States had spoken of the important concessions they had made concerning the possibility of submitting disputes relating to the exercise of their sovereign rights to a third party. He pointed out that other delegations, including his own, had also made concessions. Further comments could be made on document NG5/16, but his delegation was satisfied with the result obtained, which represented an acceptable solution, although its final implications could not be assessed until more was known about the other elements in the broad compromise on which the success of the Conference depended.
15. Mr. AL-NIMER (Bahrain) endorsed the informal suggestions made by the Netherlands and Switzerland (SD/1) concerning article 284 on conciliation. As to the amendments they had proposed to article 287, he thought it was unnecessary to provide for a new settlement procedure involving the International Court of Justice, for if the parties decided to apply to the Court they were entitled to ask it to set up a special chamber under Article 26 of its Statute and rule 26 of its Rules.
16. Commenting on article 289 of the informal composite negotiating text (Expert advice and assistance), he said that the experts should not have to be chosen exclusively from among the persons on the lists drawn up under article 2 of annex VII to the convention. In article 291, it was premature to mention "States Parties" only, for under the final clauses

<sup>1</sup>Official Records of the Third United Nations Conference on the Law of the Sea, vol. X (United Nations publication, Sales No. E.79.V.4), p. 120.

<sup>2</sup>*Ibid.*, vol. VIII (United Nations publication, Sales No. E.78.V.4).

the settlement procedures might also be open to organizations or territories. Moreover, in article 292 (Prompt release of vessels) a cross-reference should be added to the articles governing the detention and release of a vessel since, as it stood, article 292 was apt to be confusing. It should also be harmonized with article 294 to avoid any clash between the provision allowing 10 days for selecting a tribunal, as from the detention of the vessel, and the principle of the exhaustion of local remedies. Article 297 was unnecessary—as his delegation had stated earlier—and should be deleted. Lastly, he considered that article 2 of annex VI, concerning the list of arbitrators, should specify that the arbitrators should be experienced in legal matters as well as in maritime affairs.

17. Mr. CHEOK (Singapore) said that his delegation supported the principle of the compulsory settlement of all disputes relating to the application or interpretation of the convention, but had become convinced, while participating in the work of negotiating groups 5 and 7, that it should adopt a more flexible position with regard to the settlement of disputes concerning the living resources of the exclusive economic zone. It had associated itself, albeit reluctantly, with the conditional consensus on article 296 because there seemed to be no other solution acceptable to the participants in the Conference.

18. Mr. MANSFIELD (New Zealand) considered that the text of article 296 of the negotiating text was unclear on a matter touching the vital interests of coastal States. In the view of his delegation and of those of other coastal States, it would be impossible for a coastal State to exercise its rights or carry out its obligations in the field of control and management of the living resources of the exclusive economic zone if major decisions were to be subjected to time-consuming and expensive proceedings in an international tribunal at the instance of any State that disagreed with those decisions. The use of third party procedures could undermine the implementation of a coherent and consistent management policy. In that respect, there were difficulties in drafting a satisfactory legal text. It had always seemed reasonable to provide a remedy against gross abuse of power by a coastal State, but any such remedy almost inevitably opened the way to potential harassment of the coastal State in the exercise of its legitimate rights. Because of the overriding importance of those rights, his delegation, as a member of the group of coastal States, had associated itself with the proposal made by that group in negotiating group 5 for the deletion of paragraph 4 of article 296.

19. The compromise text suggested by the Chairman of negotiating group 5 was not wholly satisfactory, in particular because the third party procedures provided for in certain cases, although limited to compulsory conciliation, would be just as onerous for coastal States as binding settlement procedures. The new text of article 296, on the other hand, gave a clear and exhaustive list of cases in which the sovereign rights of a coastal State could be made the subject of judicial or arbitral settlement procedures. More important still, it put beyond any doubt the fact that a coastal State could not be obliged to submit a dispute relating to the exercise of its sovereign rights over the living resources of its exclusive economic zone to third party procedures.

20. His delegation considered that an agreed text on the settlement of disputes concerning the living resources of the exclusive economic zone was an essential element in the package agreement which it had been hoped the Conference would reach at the present session on issues affecting national jurisdiction, and therefore considered that the new text proposed for article 296 was acceptable.

21. Mr. ZEGERS (Chile) said that the compromise formula, which excluded the compulsory settlement of disputes relating to the exercise of the sovereign rights of coastal States, particularly of fishing rights in the 200-mile zone, but provided for a compulsory conciliation mechanism in specific cases, was an important concession on the part of coastal

States and could be considered as a satisfactory achievement.

22. Referring to article 297 of the informal composite negotiating text, he stressed that, while the article needed to be improved in some respects, it was essential to maintain machinery for the compulsory settlement of disputes relating to the delimitation of sea boundaries as envisaged in that article, which reflected the wishes of the majority and the conviction that such machinery was the only possible solution.

23. Mr. LUPINACCI (Uruguay) considered that the compromise formula proposed for article 296 was acceptable, with a few changes. In the Spanish version, the words "*a cualquier Estado*" in subparagraph 3 (b) iii should be replaced by the words "*a Estado alguno*". A similar change should probably be made in the French text. There were other subparagraphs which also required amendment, notably subparagraph (d) of paragraph 3, to which the words "unless the parties decide otherwise" should be added in accordance with general practice in that respect.

24. His delegation had a fundamental reservation to make on the subject of paragraph 3 of article 296 of the negotiating text, which should be brought into line with the terms of article 265 on scientific marine research. The group of coastal States had submitted a draft text in that respect which his delegation supported.

25. The text of article 296 *bis* represented a major technical advance on the corresponding provision of the negotiating text. His delegation also supported the proposal that the convention should contain a general provision on abuse of rights, possibly as one of the final clauses. The article on abuse of rights proposed in document NG5/16 might be used as a basis for preparing a definitive version of such an article, including a definition of abuse of rights.

26. Mr. DE LA GUARDIA (Argentina) said that his delegation opposed any system for the compulsory legal settlement of disputes relating to the exercise of the sovereign rights of coastal States in the exclusive economic zone and the continental shelf, except in very concrete and special cases affecting the fundamental interests of the international community, such as the violation by coastal States of freedom of navigation and overflight. The general position in that respect was not clearly reflected in the negotiating text, which did not satisfy his delegation.

27. The relevant proposal submitted by negotiating group 5 reflected substantial progress, although it too raised some problems for his delegation. For example, his delegation considered paragraph 1 of the new version of article 296 less acceptable than the corresponding draft texts submitted by the group of coastal States. Paragraph 2, which corresponded to paragraph 3 of article 296 in the negotiating text, dealt with a question which remained pending since it had not been considered in negotiating group 5. Paragraph 2 conflicted with article 265 of the negotiating text, and his delegation, like that of Uruguay, preferred the formulation of article 265 to that of article 296. Paragraph 3 was an improvement on the text of paragraph 4 of article 296 in the negotiating text, but presented certain problems. His delegation was prepared to consider the formulation favourably, but as the question was closely connected with the issues dealt with by negotiating groups 4 and 6, his delegation could not accept a definitive formula for the settlement of disputes before it knew what provisions were to be applicable to other substantive issues. Paragraph 4 of article 296 as revised was unclear and the wording should be improved.

28. His delegation considered that the delimitation of sea boundaries should be effected by agreements between the parties concerned in accordance with principles of equity, and it opposed the adoption of the method of equidistance in preference to others even as an interim measure pending a definitive delimitation. In that respect, it associated itself with other delegations in supporting the draft text in NG7/10. Similarly, it objected to the idea of adopting a system of

compulsory settlement of disputes concerning the delimitation of those boundaries, firmly believing that it was exclusively a matter for the States parties themselves to choose whatever mode of settlement was appropriate in each case and that a convention could not impose a solution to problems of a bilateral nature. For the reasons given, his delegation was unable to accept paragraphs 1, 2 and 4 of article 74, paragraphs 1 and 2 of article 83 and subparagraph 1 (a) of article 297 as drafted in the negotiating text. His delegation had proposed to negotiating group 7 that the provisos in subparagraph 1 (a) of article 297 should be removed (NG7/8). It would also like to see the words "subject to the exceptions referred to in article 296" in subparagraph (b) of the same paragraph to be deleted.

29. Mr. BENDIFALLAH (Algeria) said that the question of the settlement of disputes which might arise from the application of the future convention on the law of the sea should be given close attention, and the relevant provision should be drafted with great care and precision. The recognition of the rights and obligations of States in the various marine areas would obviously have no real significance unless provision was made for adequate ways and means of determining the content of those rights and obligations. As to the difficulties which might arise in the exclusive economic zone, he considered that the modes of settlement should reconcile the existence of the new rights of coastal States with the recognition of certain rights of other States, notably the land-locked and geographically disadvantaged countries.

30. The discussions which had taken place in negotiating group 4 were connected with those in negotiating group 5, where the negotiations had been arduous but fruitful. Special attention should be given to the proposed solution, which envisaged compulsory conciliation for the settlement of disputes relating to the exercise of the sovereign rights of coastal States in the exclusive economic zone. That solution could serve as a basis for a consensus or should at least be regarded as having obtained sufficiently broad and solid support for a consensus to be attainable.

31. With regard to the settlement of disputes concerning the delimitation of sea boundaries between States, he said that his delegation was in favour of a compulsory settlement procedure as being the most suitable for forestalling the many potential disputes concerning that particularly delicate area. In that respect, his delegation had no objections to the wording of article 297 of the negotiating text, except for a few purely drafting changes.

32. Mr. ARIAS SCHREIBER (Peru) considered that the compromise formula drafted by negotiating group 5 deserved wide support. However, it went much further than his delegation had been prepared to concede in order to safeguard the sovereign rights of coastal States and was therefore the most that his delegation could accept, provided that all inter-related matters, especially the status of the exclusive economic zone and the territorial sea, could also find a satisfactory solution.

33. His delegation did not agree with the statement made by the delegation of the USSR regarding paragraph 4 of article 296. In his delegation's view, the compromise proposal drafted by Mr. Stavropoulos could bring a large number of coastal States closer to a consensus, while the existing text would be totally unacceptable.

34. His delegation would not comment on the document submitted by the Netherlands and Switzerland (SD/1), for it had been neither introduced nor considered in negotiating group 5.

35. In his delegation's opinion the words "subject to the exceptions referred to in article 296" in subparagraph 1 (b) of article 297 of the negotiating text should be deleted, so that all military vessels would be governed by the same provisions.

36. Mr. IBÁÑEZ (Spain) said he would have liked the compromise formula submitted for article 296 to be more precise and more binding. Nevertheless, the formula seemed to offer a sound basis for reaching a consensus, and his delegation was prepared to take it into consideration.

37. The draft article on abuse of rights was very useful from a legal point of view; however, his delegation hoped to have an opportunity to make a proposal for improving the drafting of the article.

38. He referred to his delegation's earlier comments on the work of negotiating group 7 concerning the delimitation of the maritime zones; he reiterated its support for a compulsory procedure for the settlement of disputes, as being an unquestionable improvement and evidence of the existence of a truly advanced international society.

39. Mr. OMAR (Libyan Arab Jamahiriya) said the Chairman of negotiating group 5 had made a commendable effort to work out a compromise formula. The Libyan delegation had supported the position of coastal countries with regard to the settlement of disputes arising from the exercise by those countries of their rights in the exclusive economic zone. The compromise formula in document NG5/16 represented one step forward on the road to a consensus.

40. In view of the nature of possible disputes, his delegation supported the "exceptions" clause in subparagraph 1 (b) of article 297.

41. Mr. KRISHNADASAN (Swaziland) said that the introduction of the concept of compulsory conciliation struck an acceptable balance between the sovereign rights of coastal States and the very important rights of other States, in particular, land-locked States and geographically disadvantaged States. The concept was a keystone of the future convention as a whole, but it was essential to establish a link in that respect between the negotiations of negotiating group 4 and those of negotiating group 5.

42. The general provision concerning abuse of rights was hardly necessary, for it would be difficult to define the notion of "abuse". Nevertheless, in a spirit of compromise, his delegation would be willing to accept the provision, provided that it was drafted in appropriate language and placed in the right context in the convention.

43. Mr. DROUSSIOTIS (Cyprus), referring to the work of negotiating group 7, said that the position of principle of his delegation on disputes arising from the provisions of the convention concerning sea boundary delimitations between adjacent or opposite States was that the negotiating text offered an acceptable basic solution. However, subparagraph 1(a) of article 297 might be improved so as to express more clearly the binding nature of settlement by a third party. Document NG7/20 was very interesting, as it proposed various possible compromises; it deserved to be studied carefully.

#### *Definition of the continental shelf*

44. The PRESIDENT, referring to the Bulgarian proposal (103rd meeting) that the Intergovernmental Oceanographic Commission should be requested to establish a large-scale map enabling delegations to obtain a better idea of the situation and, in particular, of the outer limits of the continental shelf, pointed out that that request would require a formal decision of the Conference. As only requests on which there was a decision could be submitted to the Secretary-General, and as no consensus had been reached on that request, he would suggest, by way of compromise, and to avoid lengthy discussion, that the Commission should be asked to study the effects of the USSR proposals on the maps already prepared and to inquire into the financial and administrative implications of preparing maps in accordance with the Bulgarian proposal, a task which would be entrusted to the Commission and other competent bodies.

45. Mr. YANKOV (Bulgaria) said he wished to avoid all confrontation at that stage of the session and proposed that the President's suggestion should be modified in the sense that the Commission and the other competent organizations would be invited to prepare a 1:10,000,000 scale map of the various ocean regions of the world, indicating the practical consequences of the different formulas for defining the continental shelf, to inform the Secretary-General of the relevant measures to be taken by international organizations and to determine whether those maps could be prepared within a period of six to ten months. The preparation of those maps should not delay the Conference's decisions on that issue. Meanwhile, if that was easier, the existing maps could be used as a basis for studying the implications of the formula mentioned in article 76 of the negotiating text, and also the Arab, Irish and Soviet proposals.

46. Mr. BRENNAN (Australia) said it was a pity that such a complex suggestion had not been submitted in writing. His delegation would nevertheless be prepared to co-operate with Bulgaria. However, there was a problem. If the map in question was not ready in good time for the consideration of article 76 at the resumed session, its absence might delay the negotiations; alternatively, if the negotiations went ahead without the map, the information would no longer be of any use. It was possible that, as a result of further negotiations, an article might be proposed which differed from the four existing proposals. What would be the point of preparing a map showing the implications of proposals which were no longer under consideration? Moreover, it would probably take two years to prepare such a map. He asked the secretariat to indicate how long it thought the map would take to prepare. Without that information, it was difficult to support the proposal.

47. The PRESIDENT said that the Bulgarian representative had spoken of a period of six to ten months. But negotiations would have to be resumed in less than six months. It was implicit in the Bulgarian proposal that, if the map could not be produced in that time, it would be of little use; but it was for the Commission to give its views on the matter.

48. Mr. ARIAS SCHREIBER (Peru) said that his delegation would have no objection to requesting the Commission to prepare a map, provided that the expense was borne by the States making the proposal. It would be unfair for other States to have to pay for further studies and maps which, in his view, would be unnecessary, for the position of delegations would not change. If no agreement was reached on the matter, he proposed that the Bulgarian proposal be put to the vote.

49. The PRESIDENT said there was a slight contradiction in the proposal by the Bulgarian representative, who had proposed that the Commission should be requested to prepare a map on the scale 1:10,000,000, whereas in fact that organization was to be asked to consider preparing such a map within a period of six to ten months; the executive bodies would then report on its implications, after which a decision could be taken, for it was impossible to decide on the basis of hypothetical data.

50. Mr. YANKOV (Bulgaria) accepted the President's suggested amendment to his proposal. He added that the map would, of course, cover the Atlantic, Pacific, Indian and Arctic oceans.

51. The PRESIDENT said that, in the absence of objections, he would take it that the Conference adopted the Bulgarian proposal as modified.

*It was so decided.*

#### SEAT OF THE AUTHORITY

52. Mr. SALIBA (Malta) said that his Government realized that a number of outstanding issues of special interest to some countries had not been discussed at the current session

of the Conference. There was, however, one question of great interest to the Maltese delegation: the seat of the International Sea-Bed Authority (article 154). In his delegation's view, that article should be revised in such a way as to present an objective picture of the actual situation. Enough evidence was now available to show that that revision was justified and possible. His delegation expressed the hope that the Conference would find time at the next session to examine that question in plenary meetings before the revision of the informal composite negotiating text.

53. The PRESIDENT said that the Maltese Government's request would certainly be taken into consideration.

54. Mr. RATTRAY (Jamaica) drew attention to a proposal made by some members of the group of Asian States that the name of Jamaica should be deleted from article 154 of the negotiating text. Paragraph 3 of that article would no longer contain the name of any country, and the names of Malta, Fiji and Jamaica would appear in a foot-note which, according to the sponsors of that proposal, would ensure equality of treatment for the candidatures of the three countries.

55. The group of Latin American States opposed the deletion of Jamaica. The name of "Jamaica" had appeared in all versions of the negotiating text ever since 1975. That reflected the widespread support given to that proposal by a large number of delegations, by the Latin-American, African and Asian groups and, more particularly, by the Group of 77 at Caracas in 1974. That was why the Chairman of the First Committee had inserted Jamaica's name in the text. The candidatures of Fiji and Malta had not received the same support, and to place them on an equal footing with Jamaica would be to discriminate against his country.

56. Moreover, the Conference had decided on the rules to be followed for any modifications or revisions of the informal composite negotiating text. According to recommendation 10, document A/CONF.62/62, any modifications or revisions to be made in the negotiating text should emerge from the negotiations themselves and should not be introduced on the initiative of any single person. In view of the widespread support for the candidature of Jamaica, the deletion of its name from the text would constitute a flagrant violation of those rules. The rules had to be applied uniformly to the entire negotiating text. If they were not, a large number of blank spaces would appear in the text—a situation which, at that stage of the negotiations, would be disastrous and lead to the failure of the Conference.

57. Mr. NANDAN (Fiji) confirmed that his Government had made an offer for the Authority to have its seat in Fiji. He hoped that that proposal would be taken into consideration at the same time as that of other countries when the question was examined in the plenary Conference.

58. Mr. ARIAS SCHREIBER (Peru) pointed out that the Group of Latin American States had considered the question, had approved the position of principle adopted by the Group of 77 with respect to Jamaica and had sent a letter to the President of the Conference on the subject.

59. Mr. OMAR (Libyan Arab Jamahiriya) said that his delegation had entered reservations to the decision taken by the Group of 77 with regard to the seat of the Authority. The reason why the name of one country had been inserted in article 154 was that there had been no other candidates. Since then, other countries had made offers, and he considered that the Conference should study the question at a subsequent session.

#### Report of the Credentials Committee

60. The PRESIDENT drew attention to the report of the Credentials Committee (A/CONF.62/67). The Committee, having unanimously adopted its Chairman's proposal, rec-

ommended that the Conference adopt the draft resolution in paragraph 9 of the report.

*The draft resolution was adopted.*

#### Report of the Drafting Committee

61. Mr. BEESLEY (Canada), Chairman of the Drafting Committee, said that the Drafting Committee had held four informal meetings during the current session. On the proposal of members of the Committee, the secretariat had been entrusted with certain specific tasks, one of which, already accomplished, was the preparation of an informal paper on internal references in the informal composite negotiating text.

62. The secretariat was now working on the compilation of a list of words and expressions requiring harmonization. It had not yet completed that task, but was endeavouring to speed up its work. The document in question would be circulated to members of the Drafting Committee, as well as to members of delegations not represented in that Committee.

63. The Drafting Committee recommended that, first, for legal, practical and financial reasons it would be inappropriate for the Committee to hold an intersessional meeting at that stage; secondly, in the meantime, the secretariat study would be prepared and distributed to members of the Drafting Committee in due course; and thirdly the Drafting Committee should be given adequate time during the next session or resumed session of the Conference to carry out its work, as it was quite clear that there were some tasks which it could undertake.

64. The PRESIDENT suggested that the Conference should take note of the Drafting Committee's report.

*It was so agreed.*

#### Proposal for a declaration or resolution on international institutional arrangements in ocean affairs

65. Mr. RUIVO (Portugal), introducing document A/CONF.62/L.30, explained that the proposal had resulted from informal contacts and consultations among various delegations on the initiative of his delegation. The sponsors had been encouraged by the constructive comments and support of many other delegations. They would examine with interest any suggestion for improving the proposal, which was expected to be considered in detail at a later stage of the Conference.

66. As was stated in the preamble of the proposal, the implementation of the convention on the law of the sea would call for an active and increased role of the appropriate international organizations with competence in ocean affairs, specially those which are part of the United Nations system.

67. The informal composite negotiating text included 76 articles making more than 100 specific references to functions to be performed by different organizations. An improvement in institutional arrangements and closer co-operation among those organizations seemed necessary, therefore, to enable them to meet their responsibilities in the field of maritime scientific research, protection of the marine environment, transfer of technology, conservation and management of resources and other relevant activities.

68. Because adjustments in international institutional arrangements were a lengthy process, the proposal envisaged action as soon as possible by States, the Secretary-General of the United Nations and the executive heads of the specialized agencies. States were urged to co-operate actively in the work of the global, regional and subregional organizations of which they were members and to consider ways and means of rationalizing further the work of the international organizations through the improvement and strengthening of co-ordinating mechanisms. The Secretary-

General of the United Nations was requested to take the necessary measures to update periodically the "Annotated directory of intergovernmental organizations concerned with ocean affairs" (A/CONF.62/L.14 and Add.1 and 2), and to include in future revised issues information of a factual nature on institutional changes, programmes and activities of those organizations. He was further requested to arrange for the preparation of a report containing proposals aimed at improving the effectiveness of the United Nations system in that sector. The report, together with the recommendations of executive heads of the specialized agencies and other United Nations organizations, should be submitted to the General Assembly. In view of the complexity of preparing such a report, it was proposed to establish an *ad hoc* study group composed of eminent persons intimately acquainted with international ocean affairs.

69. The proposal rested on the idea that the successful application of the convention and constructive collaboration among States in the context of the new ocean régime depended to a great extent on the efficiency and capacity of the international organizations concerned. In the view of the sponsors of the proposal, the Conference on the Law of the Sea offered a unique opportunity to put in motion the necessary adjustments and improvements. They knew that their proposal could not be discussed at the current session, but had wished to submit it without further delay, for general information, in order that it might be studied during the intersessional period.

70. He added that the proposal in question was quite distinct from other proposals submitted by Portugal (A/CONF.62/L.23) and by Peru (A/CONF.62/L.22).

#### Establishment of a common heritage fund

71. Mr. UPADHYAY (Nepal), referring to the memorandum accompanying his letter addressed to the President on 5 May 1978, thanked the President for having arranged for its circulation as document A/CONF.62/65.

72. He realized that the issues raised in the memorandum could not be the subject of an immediate debate, but he stressed the importance of his delegation's proposal. In its opinion, the success or failure of the Conference depended upon the consideration of such a proposal. Its purpose was to ensure that the mineral wealth of the oceans would make a major and immediate contribution to third world development and help to preserve the marine environment, speed up the transfer of marine technology and support the work of the United Nations, especially in the area of peace-keeping. Given the enormous riches of the oceans and the immense needs of the poorer countries, it was reasonable to insist that any common heritage plan should provide substantial annual revenues.

73. The proposal did not raise any problem regarding the legal status of the exclusive economic zone, nor did it question the sovereign jurisdiction of the coastal State in that zone. It provided that a certain percentage of the revenue generated in the zone should be paid into the fund, taking into account the interests of mankind in general and the needs and interests of developing countries in particular. A plan was envisaged whereby the richer countries would pay a higher contribution and the poorer countries receive a larger share of the available funds, which would help to bridge the gap between rich and poor.

74. His delegation was aware that the proposal needed to be studied, discussed and perhaps clarified and that it was impossible to consider it immediately. It should therefore be studied during the intersessional period, in private meetings, informal meetings and meetings of individual delegations. At the next session, his delegation would seek the support of members of the Conference to ensure that the proposal would be considered as one of the main items for discussion.

75. He thanked the delegations which had made their views known, or which had supported the idea of forming a common heritage fund. He proposed to make greater efforts to interest world public opinion in such a project and to obtain the support of members of the Conference.

#### Organization of the future work of the Conference

76. The PRESIDENT noted that the Conference had not had sufficient time to revise the informal composite negotiating text, but that progress had been made in that direction and that, having regard to the questions on which a consensus had been reached, those on which there was a reasonable hope of achieving a consensus and the other two categories of questions mentioned in document A/CONF.62/L.28, members of the Conference should decide whether they wished to suspend the session and resume it later or, if not, when, where and for how long they wished to meet again for an eighth session.

77. Mr. ARIAS SCHREIBER (Peru), speaking as the representative of Peru and not as the co-ordinator for the group of Latin American States, said that during the current session the Conference had made very substantial progress and the results deserved close study by Governments. Moreover, countries whose positions were close should co-ordinate their viewpoints, while those whose positions diverged should make fresh contacts. All that could not be done before the end of August. Neither an official session of the Conference, nor a three- or four-week intersessional meeting would suffice to reach satisfactory agreements. Besides, attendance at the Conference was so costly that delegations could not afford the luxury of organizing fruitless meetings. The great majority of the developing countries and some developed countries would find it very difficult, for financial and personnel reasons, to participate in any kind of meeting in August and September, with the consequence that the results so far achieved would be at risk. Nor were the advances made or the prospects of agreement on the regime for the exploitation of the international sea-bed zone such as to justify States in adopting hasty measures that might jeopardize the outcome of such an agreement. There was no external economic factor compelling countries to act precipitately, nor were there any conceivable internal pressures in that sense. In his delegation's view, it was not a persuasive argument to say that the momentum gained in dealing with such delicate matters should not be lost. For all those reasons, it considered, like many delegations of the different regional groups, that members of the Conference had no other choice than to make appropriate preparations, earnestly and taking the necessary time, so that in 1979 Governments would be able to work out formulas likely to obtain the widest support.

78. His delegation proposed, therefore, that two official five-week sessions should be held in 1979, the first at Geneva in March/April to complete the negotiations and revise the consolidated text, and the second in New York in August/September to settle the revised text and to adopt decisions. However, it was prepared to consider any other proposal.

79. Mr. EVENSEN (Norway) noted that the current session had brought the Conference closer to its objective of consensus on a law of the sea convention. Nevertheless, negotiations had not yet been conclusive and it was essential that they should be continued at the earliest possible date so that the momentum and the tentative results achieved were not lost. The Norwegian delegation would therefore favour a suspension of the session and its resumption in August/September, for a period of three to four weeks. That would be compensation for the three weeks which had been lost at the beginning of the session, and it would be possible to carry out the programme of work adopted by the plenary Conference for the current session and to conclude the session with

the submission of a revised informal composite negotiating text. His delegation would not wish to press its point of view if other delegations should disagree with its position, as the usefulness of a resumed session would depend to a great extent on the attitude of delegations.

80. If the Conference decided to conclude the current session and to convene its eighth session in the first half of 1979, there would still be a need to continue consultations on the major outstanding issues.

81. His delegation considered that the results of the past five weeks should be incorporated in a report by the President, with an addendum containing the reports of the chairmen of the three committees and of the various negotiating groups.

82. Mr. ADIO (Nigeria) said that he fully supported the view of the Norwegian delegation, even though admittedly the Conference had become very expensive for the developing countries. A resumed session in August/September 1978 would make it possible to consolidate the results achieved, lest they should evaporate and lest the Conference should be back where it had started at the seventh session. The economic constraints and the disadvantages of Geneva were such that meetings in that city were not very attractive to the developing countries. He favoured a resumed session in August/September, in New York, for a period of about two weeks, without prejudice to a further session which might be held at Geneva in the spring of 1979.

83. Mr. AGUILAR (Venezuela) considered that a session in August/September would not only be too close to the current session, as the interval would be barely three months, but also too short. In such a brief period, governments would not be able to make a comprehensive evaluation of results nor take decisions—not always easy ones—on very controversial questions. The Conference had entered the final phase of its work on the most delicate questions, and governments would not retreat from positions which they had held for years without undertaking a thorough evaluation of the results of the current session. In the light of the considerable progress made, haste not justified by any special circumstance would risk endangering the results achieved and even lead to a set-back and a sense of frustration in the future. On the other hand, it would seem desirable to organize intersessional meetings in order to expedite the study of certain questions, e.g., the final clauses, and to intensify the work of certain groups on questions such as those referred to the First Committee and the financial regulations. His delegation therefore supported the Peruvian delegation's proposal that a six- or seven-week session should be held in New York during the first quarter of 1979 and that a further session might be scheduled about the middle or towards the end of 1979, if the results of the earlier one should justify it.

84. Mr. GOERNER (German Democratic Republic), speaking on behalf of the group of Eastern European States, proposed that a regular session of six to eight weeks' duration should be convened at the beginning of 1979.

85. The reports of the chairmen of the three committees and of the chairmen of the negotiating groups had shown that many delegations had gone as far as they could in the negotiations on the hard-core issues. It had proved impossible to reconcile opposing views on a number of other questions. Since all the key issues of a new convention on the law of the sea were inseparably linked in substance and since they could only be resolved by way of consensus, it had not proved possible to revise the negotiating text. Governments would therefore have to examine carefully the results of the seventh session and take the necessary political decisions, which could not be done in the space of a few weeks. Moreover, bilateral negotiations and consultations within the various geographical and interest groups would have to be organized with a view to reaching consensus. The holding of



two sessions in 1976 had shown that it was not possible to create the necessary conditions for a successful Conference on the law of the sea within a few weeks. The risk of failure was too great, and nobody could assume the responsibility for such failure before the public. Since the beginning of the Conference, it had always proved possible to build on the results of the previous session, even where there had been a lapse of one year between two sessions, and Governments had always been prepared to make the necessary effort to achieve progress towards solving the complex problems involved in the creation of a new convention on the law of the sea.

86. The group of Eastern European States would not, however, object to informal consultations being held on selected issues in New York in the autumn of the current year, if that idea was generally acceptable. Experience had shown that such consultations, open to all States participating in the Conference, could be very useful in preparing for formal sessions.

87. Mr. VALENCIA-RODRÍGUEZ (Ecuador) said that, owing to lack of time, the Conference had not been able to undertake the revision of the negotiating text, that a partial revision would have upset the balance of the text, and that the document should indicate solutions to problems as a whole, whether they were the most controversial ones or others which, though of lesser priority, were yet very important to a number of delegations. At the same time, however, some written record of the results achieved was needed, *perhaps in the form of an addendum to the negotiating text which would include the reports of the chairmen of the committees and of the negotiating groups as well as the proposals submitted by those groups.* The addendum would be a supporting basic document which would make it possible to follow up the work during future negotiations. The *de facto* situation should be described objectively, without giving the impression that substantial progress had been made when in fact there had been none.

88. Acting on Government instructions, he said that his delegation could not agree to the convening of a further session in 1978, whether as a resumed seventh session or as an eighth session. It was clear from the experience in 1976 that it was impossible to hold two sessions in quick succession, for, if the interval was too short, the second session was but a repetition of the first. Besides, for administrative reasons governments would be unable to analyse the results of a Conference in the space of three or four months and to draft fresh instructions to their delegations. The delicate questions under consideration could not be settled by ministries alone, and consultations with other bodies consumed more time. Sending large delegations twice during the same year created considerable financial and manpower problems for many developing countries, which had to be represented at other meetings as well. Accordingly, his delegation would be in favour of scheduling another session, of not more than six weeks' duration, in the spring of 1979, at Geneva, New York or elsewhere.

*The meeting was suspended at 6 p.m. and resumed at 6:30 p.m.*

89. Mr. ZEGERS (Chile) noted that the negotiating text had not been revised, even though important progress had been made. But Governments and international public opinion would judge the success or failure of the Conference on the basis of such a revision. The year 1978 should not, therefore, be allowed to elapse without such revision taking place and, for that purpose, a document reflecting the results achieved to date should be annexed to the negotiating text or to the Conference's report.

90. Like the representatives of Norway and Nigeria, he considered that a four-week summer session should be scheduled in New York, probably from 14 August to 8 Sep-

tember, in order to continue the negotiations. He also considered that a further or resumed session during the year would be preferable to informal meetings.

91. Mr. MORALES-SUÁREZ (Colombia), agreeing with the opinion of the representative of Ecuador that it would be premature to convene an autumn session, said he would be in favour of a session of not more than six weeks' duration being scheduled early in 1979, either in New York or at Geneva. Like the representative of Peru, he would prefer an official session to intersessional meetings.

92. Mr. NANDAN (Fiji), speaking on behalf of the Group of 77, considered that a single document should be drawn up for the guidance of future sessions, incorporating the results of the work performed during the Conference, as reported to the plenary by the chairmen of the three committees and of the negotiating groups, as well as the main documents to which reference had been made.

93. The Group of 77 had not reached any decision regarding the convening of the next session other than that the eighth session should be held early in 1979, preferably in New York, for a period to be determined later in the light of the decisions taken by the Conference.

94. In any case, the Group of 77 had decided to meet for one week before the opening of the session in the city in which it was to be held.

95. Mr. WOLFF (Federal Republic of Germany) considered that the Conference should meet during August, for three or four weeks, in order to continue the debate, as proposed by Norway, Chile and Nigeria. He doubted that the results of the current session would be compromised by such a meeting. If he were asked whether the desired objectives had been reached, whether delegations had come up to the expectations of those whom they represented and whether they would be right to interrupt their meetings for almost nine months, his reply would be in the negative. The questions might, of course, be answered differently, but no delegation's reply could help reflecting its reaction to an over-hasty conclusion of the work of the Conference.

96. Mr. MAÏGA (Mali) said that a majority of the group of African States considered, notwithstanding the financial, economic and material difficulties involved, that the Conference should resume its seventh session in New York from 21 August to 15 September and should hold a final session in 1979. Some progress had been made during the current session and, if the Conference maintained its momentum, it would be able to finish its work in 1979 at one session.

97. Mr. SOLANO (Mexico) said his delegation wished, above all else, to see the speedy achievement of the objectives which the Conference had set itself for the current negotiating session which was about to end. His delegation was optimistic regarding the results obtained and had no doubt that they would represent a solid base for the future work of the Conference.

98. His delegation had an open mind regarding the organization of future work. Despite the economic, administrative and other difficulties due to the frequency of the Conference's sessions, it was ready to join the majority, whether the decision was to hold an intersessional meeting, to continue the current session or to organize a further session on the basis of a clearly defined programme of work, in order that the Conference could complete its work quickly and successfully.

99. Mr. ENGO (United Republic of Cameroon) said the Conference had reached the point at which it ought to continue the efforts to conclude a task that had been well begun. In 1979, the negotiations should be concluded and the convention signed, at Caracas or in some other capital. He thought that the possibility of meeting between January and March could be ruled out because his delegation, like many

others, could not be obliged again to meet during periods when climatic conditions made rational thinking impossible. For a number of reasons (meetings of the General Assembly, of the International Law Commission, of various committees, of the Organization of African Unity, as well as climatic conditions, etc.), the idea of holding two sessions in 1979 was unrealistic. Psychologically it would be very difficult for delegations to defend such a decision vis-à-vis their Governments.

100. He was convinced that a meeting in August/September 1978 would improve the chances of success for a long session in 1979. Substantial progress had been made during the current session but no conclusive result had been reached and, if the session had lasted two weeks longer, no delegation would have requested a suspension in order to consult its Government. Noting that most of the delegations which had opposed a meeting in August 1978 were members of the First and Second Committees, he asked them if it was really desirable to adjourn the meeting for too long a period, bearing in mind the delicate character of the questions under consideration. Besides, the delegations proceeding to New York in August would at the same time be able to attend the General Assembly session, and their Governments would not need to make provisions for additional expenditure in their 1979 budgets.

101. Mr. ADDAE (Ghana) said that his delegation supported the proposal made by the representative of Mali in his capacity as Chairman of the group of African States. If the majority of the Conference should decide to schedule a session early in 1979, as proposed by the representative of the German Democratic Republic, then such a session should be held after 16 April 1979, so that time precious to delegations would not be wasted by a series of holidays and so that the secretariat would not be irritated if the Conference decided to ignore the holidays. His delegation therefore proposed that the eighth session should open in New York during the last week of April and should be of seven to eight weeks' duration.

102. Mr. PERIŠIĆ (Yugoslavia) said that it would be difficult to resume the session in August/September 1978, for the meeting of the Group of 77 would have to precede the resumption. His delegation would prefer a regular session early in the spring of 1979 but would accept the decision of the Conference. The results achieved to date must be recorded for later negotiation in the form of an addendum to the President's report, but only if the next meeting was a regular session; if the seventh session was resumed, such action would not be necessary and the composite negotiating text would represent the only valid basis of negotiations.

103. Mr. ARCULUS (United Kingdom) said that the Conference should continue its work without losing its momentum and that his delegation was prepared to participate in an August meeting if it was so decided; a five-week meeting seemed appropriate. It opposed the scheduling of an intersessional meeting, for that would not be fair to delegations which could not attend. The next session of the Conference should be its last, and it was premature to look beyond that stage.

104. Mr. NJENGA (Kenya) said that by August governments would not have had sufficient time to evaluate the results of the current session, especially as many small delegations had not been able to attend every meeting whose work required analysis. There was a risk that the outcome of a premature meeting might prove disastrous. His delegation would therefore prefer that another session should be scheduled early in 1979 of sufficient duration to enable it to complete the work. He was also in favour of a meeting of the Group of 77 before the session.

105. As a compromise, he proposed that an intersessional meeting should be arranged between the last week of August

1978 and the beginning of 1979, and that it should be left to the President to decide whether such a meeting was necessary and to identify the problems to be considered at the meeting.

106. Mr. STRÖMHOLM (Sweden) said that his delegation supported the Norwegian delegation's proposal, also supported by Nigeria, Chile and the Federal Republic of Germany. The ideal solution would have been to continue the Conference, without interruption, to make up for the three weeks which had been lost at the beginning of the session but, as that was impossible, the only logical solution was to resume negotiations as soon as possible. His delegation therefore supported a resumption of the session in New York in August for a period of at least four weeks.

107. Mr. TORRAS DE LA LUZ (Cuba) said that the delegations which opposed a resumed session in August (Peru, Colombia and the countries of Eastern Europe) outnumbered those in favour of such a resumption. His delegation considered that such a course would involve a needless risk for the Conference. Certain problems called for bilateral negotiations, including those under consideration in the First Committee, the voting system in the Council and the fixing of contributions. Furthermore, as the representative of Yugoslavia had pointed out, the Group of 77 was to meet before the session in order to adopt a common position. His delegation was therefore in favour of convening another session early in 1979.

108. Mr. YOLGA (Turkey) said he agreed with the representative of Kenya that delegations required a sufficient pause in which to evaluate the results of the current session and to prepare for the next one. A short session in August/September would be a waste of time, having regard to the time required to organize work, establish negotiating groups, etc. Ever since the beginning of the Conference, Turkey had counselled patience, for it was impossible to carry out such epoch-making work in haste. Accordingly, his delegation would support the convening of a session during the spring of 1979 and thought that, in the light of the results achieved, it would be possible to schedule a second session during 1979; in that event, the first session should be held early enough to leave a sufficient interval between the two sessions. Agreeing with the opinion of the United Kingdom delegation regarding intersessional meetings, his delegation would prefer a regular session, while having an open mind as regards the place where it would be held.

109. Mr. SHEHAB (Egypt), speaking on behalf of the group of Arab countries, said that those countries were in favour of convening a meeting in 1978 or 1979 to the extent that positive results might be expected. They were not opposed to a summer meeting lasting three or four weeks, or to the resumption of the current session. They considered however that the positions of the groups of African and Asian States should be identical.

110. Mr. TUERK (Austria) said that a meeting of three or four weeks' duration might be unproductive, for it would be too short for serious negotiations and it was doubtful whether the negotiating text could be revised in such a short time. Like the representative of Peru, he considered that the important results achieved during the current session should not be jeopardized. An interval of three months was not long enough to enable delegations to review their positions and to obtain fresh instructions. In any case, an addendum to the President's report on the current session would constitute a record of the results achieved. His delegation would not, however, object to the compromise proposed by the representative of Kenya, though it considered that the next session should take place early in 1979.

111. Mr. RICHARDSON (United States of America) said that the representative of Kenya had proposed a constructive compromise, which he could support. The arguments against

the idea of a resumed session would be persuasive if it was planned to schedule a meeting with a heavy agenda. The situation was otherwise if the premise was accepted that work would be concentrated on specific questions, narrow enough to be capable of solution but broad enough to be dealt with independently. An intersessional meeting of that kind would perhaps make it possible to maintain the momentum gathered in Geneva.

112. He proposed an amendment to the compromise suggested by Kenya: the President, in consultation with the chairmen of the committees and of the negotiating groups, should be given discretion to decide what kind of unofficial meeting would be most useful and to identify the questions on which little or no progress had been made and which offered prospects for constructive work during a meeting lasting three or four weeks. Some of the issues referred to the First Committee might be studied in that way, including the financial arrangements, annex II and its applicability to the Enterprise, as well as the settlement of disagreements regarding the Authority. The Chairman of the First Committee might himself initiate the study of questions regarding the arbitration of disputes. Since the delegations most familiar with those questions would be present in New York at the time, the Conference would be able to make progress in dealing with questions that would otherwise have to be held over until the next regular session. He considered that postponing the next regular session until April 1979 would involve an excessive delay, particularly if the opportunities offered by intersessional meetings were not used to good advantage. Delegations had come to the current session fully determined that it would be the last and they should make the most of the time remaining until the end of the year.

113. Mr. DE LACHARRIÈRE (France) considered that a three-week meeting in August/September would be both too short and too soon for reasons already given. Besides, it would mean that a meeting for which there was little enthusiasm would be taking place under the worst psychological conditions. Even in normal circumstances it was difficult to reach a compromise, but if some delegations announced their negative attitude in advance, how could they be asked to make the necessary compromise? That would be counter-productive. His delegation, while having an open mind on the subject, would prefer a session, carefully prepared by intersessional meetings, to be scheduled in 1979.

114. Mr. ATEIGA (Libyan Arab Jamahiriya) considered that the advancement of the Conference's work would depend on its continuance in August or September 1978. He supported the view expressed by the Chairman of the group of Arab states but considered that a short meeting was necessary in order to ensure continuity. On the other hand, he would oppose an intersessional meeting, for many countries would not be able to attend. A further session would in any case be required some time in 1979.

115. Mr. CALERO RODRIGUES (Brazil), supported by Mr. WALDEN (Israel) and Mr. KUME (Japan), expressed support for the idea of a resumed session of three or four weeks duration in August/September 1978, to be held in New York or Geneva.

116. The PRESIDENT said that it was clear from the discussion that the Conference would still require two sessions in order to complete its programme of work. Among the basic issues still to be settled were those regarding financial arrangements, the agencies of the Authority, their powers and functions, as well as a number of special—yet vital—questions affecting a few countries, such as the regime of islands, enclosed or semi-enclosed seas, the preamble and the final clauses. He gathered that many delegations would like a four-week session to be convened in August/September 1978, as a resumption of the current session, in order to continue the work under way and bring it to a suc-

cessful conclusion. He suggested the period 21 August to 15 September for the resumed session.

117. Mr. NANDAN (Fiji) said that, because the Group of 77 wished to meet for one week before the beginning of any official meeting, the members of the Group had expressed a preference for a three-week meeting, for they would be unable to meet in the week before 21 August.

118. Mr. ARIAS SCHREIBER (Peru) said that the only clear conclusion to be drawn from the discussion was that there was no consensus in favour of a resumed session. He was therefore opposed to the adoption by consensus of the proposal concerning the holding of a formal session.

119. The PRESIDENT said that he had merely made a suggestion; if it was not adopted by consensus, he would leave it to the Conference to decide, by a vote, if necessary.

120. Mr. ZEGERS (Chile) said that a considerable majority seemed to want a further meeting during the year, which was also the position of the groups of African and Arab States; however, any such session should consider critical issues only, and no new items should be added to its agenda.

121. Mr. ZULETA (Special Representative of the Secretary-General) said that the Secretariat was at the disposal of the Conference and prepared to respond to any of its requests. He pointed out, however, that in planning for any meeting the Secretariat had to make sure that interpretation and translation services would be available to meet the quite considerable demands of negotiating groups, regional groups, special interest groups and sub-groups.

122. He requested representatives to forgive the Secretariat if the translation and interpretation teams had not always been able to be available around the clock, including Sundays and holidays.

123. Mr. RUTLEDGE (Deputy to the Under-Secretary-General, Department of Conference Services) said that three of the six main conference rooms at Headquarters were under repair and would not be available for use until just before the opening of the thirty-third session of the General Assembly. Three conference rooms large enough to accommodate all delegations would therefore be available from 21 August to 15 September, and also four smaller rooms for small groups. A good many meetings of bodies which were to report to the General Assembly were scheduled for late August and early September. If the Conference should decide to meet during that period, the meetings of many of the other bodies would have to be cancelled or rescheduled. Particular concern had been expressed in New York at the possibility of having to change the meetings of the Committee of the Whole established under General Assembly resolution 32/174, which had wished to meet in June but had been unable to do so; its meetings had been rescheduled for the period from 5 to 15 September. If the Conference insisted on the same level of services which it had traditionally enjoyed, its session and that of the Committee of the Whole could not be accommodated at the same time. It was for delegations to make the decision, and the Secretariat would inform the Committee on Conferences, which would take appropriate action.

124. Mr. KOLOSOVSKY (Union of Soviet Socialist Republics) said that more than half of the speakers had opposed the holding of a session in August and supported a regular session of five to six weeks in early 1979. In the judgement of the group of socialist countries, as the Conference had heard from the representative of the German Democratic Republic, the success of the next session would depend on adequate preparation. The difficulties in New York would be aggravated because the participants in the working groups might be as numerous as the delegations to the Conference. In view of the difficulties mentioned, the compromise proposed by Kenya and the United States looked even more attractive.

125. The PRESIDENT suggested that the Conference should vote by secret ballot on whether to meet in New York from 21 August to 15 September.

126. Mr. ENGO (United Republic of Cameroon) proposed that the proposal by the representative of Kenya should be adopted by acclamation.

127. The PRESIDENT said that the representative of Kenya had proposed that an informal intersessional meeting should be scheduled from 21 August to 15 September. The proposal had met with the objection that not all delegations would be able to attend a meeting that was not official; hence it would be preferable to schedule a formal session.

128. Mr. MINKO (Gabon) said that some African delegations had already left Geneva but that the African group's position as stated by the representative of Mali had met with general approval in the group.

129. Mr. KOH (Singapore) said that his delegation would be prepared to agree to a resumed session during the summer of 1978 but considered that the decision should not be taken by a vote. A resumed session would be undesirable if opposed by a large number of delegations that would be unable to come to the session sufficiently well prepared. He appealed to the representatives of the African and Arab States not to press their group position and to agree to a meeting in the spring of 1979.

130. The PRESIDENT said that, if the chairmen of the groups of African and Arab States agreed to withdraw their proposals, it would be easy to decide that the eighth session of the Conference would be held in the spring of 1979.

131. Mr. EVENSEN (Norway) agreed with the representative of Singapore that it would be a mistake to try to settle the issue by a vote; he proposed that the compromise proposed by Kenya should be adopted.

132. Mr. MWANGAGUHUNGA (Uganda) said that, in keeping with standard procedure, the group of African States should be given a chance to confer with its chairman before a decision was taken.

133. Mr. MINKO (Gabon) said that few representatives of African, Asian or Latin American states had attended intersessional meetings in the past. In the case under discussion, the issue was not one affecting specific groups: the Conference concerned all States. The group of African States was not able to reconsider its position, but the other groups should take account of the importance of the African countries in the Conference.

134. Mr. MAÏGA (Mali) said that it was difficult to respond favourably to the appeal by the representative of Singapore. The group of African States had held long consultations before taking its decision. In view of the substantial progress made during the seventh session, the Conference should be able to meet in August/September 1978 in order to achieve more tangible results. He considered that the delegations of the socialist countries would have sufficient time to obtain the necessary instructions in order to continue to work in the same spirit.

135. Mr. SHEHAB (Egypt), reiterating his support for a September session, said that he associated himself with the decision taken by the groups of African and Asian States.

136. Mr. CALERO RODRIGUES (Brazil) said that, like the representative of Singapore, he considered it undesirable to settle the issue by a decision that would be at variance with the position of a great many delegations, but he would not press his view. In any case, a decision by acclamation would be inadmissible. He pointed out that if an intersessional meeting was scheduled, some delegations would in effect be prevented from participating in the Conference, whereas the problems under consideration concerned all countries.

137. Mr. UL-HAQUE (Pakistan) said that, like the representative of Singapore, he thought that the issue should not

be settled by a vote. The inevitable consequence of such a decision would be a "rump" session without proper conference services. Furthermore, it would be unthinkable to cancel the session of the Committee of the Whole established by the General Assembly, which was scheduled for 5 September in New York, where the Group of 77 was also to meet two weeks earlier to concert its position with respect to the various questions to be considered by the Committee.

138. Mr. ZEGERS (Chile) thought that the Conference should either meet in formal session or not meet at all, since it would probably be unable to obtain the necessary facilities for an informal meeting. He asked the Secretariat whether the Conference would be able to obtain the same rooms for an informal meeting and whether it would be possible for it to hold an informal four-week meeting instead of a formal session.

139. Mr. ARIAS SCHREIBER (Peru) said that a third possibility would be a convene a further session in early 1979.

140. Mr. ENGO (United Republic of Cameroon) said the issue was not whether there would be a session in 1979 but whether the Conference should meet again in 1978.

141. Mr. DE LACHARRIÈRE (France) suggested that, before taking a decision, the Conference should be told what meetings were scheduled to be held in New York during August and September.

142. Mr. RUTLEDGE (Deputy to the Under-Secretary-General, Department of Conference Services) read out a list of the meetings to be held during that period. Several bodies, for example, the Special Committee on Enhancing the Effectiveness of the Principle of Non-Use of Force in International Relations, the Committee for Programme and Co-ordination, the Intergovernmental Working Group on a Code of Conduct of the Commission on Transnational Corporations and the *Ad Hoc* Committee on the World Disarmament Conference, were meeting in specific sessions. Others, for example the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Special Committee against *Apartheid*, the United Nations Council for Namibia, the Committee on Relations with the Host Country, the Special Committee on Peace-keeping Operations and, of course, the Security Council and its subsidiary bodies, met as required. In addition, the United Nations Conference on Technical Co-operation among Developing Countries would be meeting at Buenos Aires and the servicing of that Conference, together with the remainder of the programme, could give rise to staffing difficulties.

143. Mr. RICHARDSON (United States of America) proposed, without pressing his earlier suggestion, that during the year a resumed session should be scheduled to deal with certain specific questions; it would last for three and a half weeks and be preceded by a few days' meeting of the Group of 77.

144. The PRESIDENT suggested a suspension of the meeting, to allow the chairmen of the various groups to confer with each other on the question of the next session.

*The meeting was suspended at 8.30 p.m. and resumed at 10 p.m.*

145. The PRESIDENT said he gathered that it had not been possible to reach agreement. The group of African States insisted on a resumed session in August/September, whereas the majority of the group of Latin American States—subject to reservations on the part of some of its members—apparently would prefer a further session in February/March 1979. Accordingly, a vote seemed unavoidable; that being so, he invited delegations to vote on the convening of a resumed session in New York, from 21 August to 15 September 1978.

146. Mr. ARIAS SCHREIBER (Peru) noted that the President had referred to the position of the group of African and Latin American States. Could he also indicate the position of the other groups?

147. The PRESIDENT replied in the negative, explaining that he had had no contact with the Chairmen of the other groups.

148. Mr. ZEGERS (Chile) pointed out that there had been no consensus within the group of Latin American States.

149. Mr. ARIAS SCHREIBER (Peru) said that the Chilean delegation had been the only one in the group to express disagreement; Mexico had merely indicated its preference for January.

150. Mr. VALLARTA (Mexico) endorsed the comment of the Chilean representative. The Mexican delegation had said that it wished the session to be resumed as soon as possible, and he indicated that it would cast its vote accordingly.

151. Mr. TORRAS de la LUZ (Cuba) said that Mr. Arias Schreiber, Chairman of the group of Latin American States, whose remarks he endorsed, had expressed the view of virtually all the members of the group.

152. Mr. CALERO RODRIGUES (Brazil) inquired whether the choice of the date (21 August) made allowance for the one-week meeting of the Group of 77 before the beginning of the session.

153. The PRESIDENT replied in the affirmative.

154. Mr. TUERK (Austria), referring to the President's earlier suggestion for a vote by secret ballot, moved that the Conference should proceed to such a vote.

*At the invitation of the President, the representatives of Canada and Brazil acted as tellers.*

*A vote was taken by secret ballot.*

<i>Number of ballot papers:</i>	110
<i>Invalid ballots:</i>	1
<i>In favour:</i>	51
<i>Against:</i>	46
<i>Abstentions:</i>	12

*The proposal for a resumption of the seventh session of the Conference on the Law of the Sea from 21 August to 15*

*September 1978 in New York was adopted by 51 votes to 46, with 12 abstentions.*

155. Mr. NANDAN (Fiji), speaking as Chairman of the Group of 77, said that in view of the decision just taken, the Group of 77 would meet in New York as from 14 August.

156. Mr. WITEK (Poland) asked what would be the agenda of the resumed session.

157. The PRESIDENT replied that the agenda would be the same as that of the Geneva session.

158. Before suspending the session, he wished to express his gratitude to all participants for their active co-operation during the past weeks of intensive and difficult work. In his opinion, although it had not been possible to work out a revised text, substantial progress had been made thanks to the efforts and goodwill of all, in particular the chairmen of the committees, negotiating groups and other groups to which he expressed his special thanks, as well as the secretariat of the Conference and the Secretariat of the United Nations Office at Geneva. He thanked the Special Representative of the Secretary-General and the Executive Secretary for their valuable assistance. He expressed gratitude to the language services, which had been called upon to make a great effort and especially the translation services, which had performed beyond the call of duty in order to provide the Conference with a mass of documentary material in all the working languages. He also thanked all the other persons who had worked for the current session of the Conference on the Law of the Sea.

159. Mr. ZULETA (Special Representative of the Secretary-General) announced that the document which consolidated, for the purposes of recapitulation and for the convenience of delegations, the reports of the committees and the negotiating groups on the negotiations which had taken place at the seventh session would be prepared during the night and issued the following morning, 20 May.

*The President declared suspended the seventh session of the Conference on the Law of the Sea.*

*The meeting rose at 10.40 p.m.*

## 107th meeting

Wednesday, 23 August 1978, at 11 a.m.

*President: Mr. H. S. AMERASINGHE.*

*Tribute to the memory of Mzee Jomo Kenyatta,  
President of the Republic of Kenya*

1. The PRESIDENT said that the name of Jomo Kenyatta would occupy a prominent and revered place in the history of modern Africa and in the chronicles of man's fight for freedom and self-determination. For 15 years he had led his country with the benevolent paternalism that was the essence of the African genius, and had brought it prosperity and stability. Out of a diversity of tribes and races he had forged a single nation, a multiracial society, where all could live in freedom and security, in confident assurance of being treated as equals. That was an example many would do well to emulate and it was to be hoped that Jomo Kenyatta's work would continue to be an inspiration to those who had the arduous task of succeeding him. He expressed condolences on behalf of the Conference to the Government and people of Kenya, and to the bereaved family of the late President.

*On the proposal of the President, the representatives observed a minute of silence in tribute to the memory of Mzee Jomo Kenyatta, President of the Republic of Kenya.*

2. Mr. ZULETA (Special Representative of the Secretary-General) conveyed sincere condolences on behalf of the Secretary-General to the delegation, Government and people of Kenya on the death of one of the great liberators of the century. He recalled that, in his message to the Conference on the occasion of the preparatory meeting held in Nairobi, Mzee Jomo Kenyatta had revealed a profound interest in its endeavours, a clear understanding of the problems of the law of the sea and devotion to the cause of a new legal order in ocean space. He hoped that the memory of Mzee Jomo Kenyatta would serve as an inspiration to the Conference.

3. Mr. HOUNGAYOU (Benin), speaking on behalf of the group of African States, said that Africa had lost one of its