

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-
A/CONF.62/L.51

Report of the Chairman of the Second Committee

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

*Article 254. Rights of neighbouring land-locked and geographically disadvantaged States**

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research as referred to in paragraph 3 of article 246, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project. Those States or competent international organizations shall notify the coastal State of such notice given to the land-locked and geographically disadvantaged States.

2. After the consent has been given for such proposed research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this Convention, States and competent international organizations undertaking such marine scientific research project, shall provide the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, with relevant information as specified in article 248 and paragraph 1 (f) of article 249.

3. The neighbouring land-locked and geographically disadvantaged States referred to above, shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed research project through qualified experts appointed by them and not objected to by the coastal State, in accordance with the conditions governing the research project as agreed upon, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 of this article, shall provide the above-mentioned land-locked and geographically disadvantaged States, at their request, the

*The terms "geographically disadvantaged States" and "States with special geographic characteristics" (used in article 70), should be harmonized by the Conference.

information and assistance specified in paragraph 1 (d) of article 249, subject to the provisions of paragraph 2 of article 249.

Article 255. Measures to facilitate marine scientific research and assist research vessels

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific activities, conducted in accordance with this Convention, beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their internal law, access to their harbours and promote assistance for marine scientific research vessels, which comply with the relevant provisions of this Part.

Article 264. Settlement of disputes

1. Unless otherwise agreed or settled by the parties concerned, disputes relating to the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with section 2 of Part XV, except that the coastal State shall not be obliged to submit to such settlement any dispute arising out of:

- (a) the exercise by the coastal State of a right or discretion in accordance with article 246; or
- (b) a decision by the coastal State to order suspension or cessation of a research project in accordance with article 253.

2. Disputes arising from an allegation by the researching State that with respect to a specific project the coastal State is not exercising its rights under articles 246 and 253 in a manner compatible with the provisions of this Convention shall be submitted, at the request of either party and notwithstanding paragraphs of article 284, to the conciliation procedure described in annex IV, provided that the conciliation commission shall not call in question the exercise by the coastal State of its discretion to designate specific areas as referred to in paragraph 6 of article 246 or of its discretion to withhold consent in accordance with paragraph 5 of article 246.

DOCUMENT A/CONF.62/L.51*

Report of the Chairman of the Second Committee

[Original: Spanish]
[29 March 1980]

1. Negotiating groups 6 and 7, which deal with issues that are either entirely or partially within the competence of the Second Committee, held consultations and a number of meetings during the first part of the ninth session.

2. The Second Committee, for its part, devoted six informal meetings to the consideration of various informal suggestions for amendments to various articles of the revised informal composite negotiating text (A/CONF.62/WP.10/Rev.1).

3. This report covers all those activities and contains my recommendations based on the outcome of the consultations, negotiations and discussions which have been held.

I. NEGOTIATING GROUP 6

4. Negotiating group 6, of which I am Chairman, deals with the definition of the outer limit of the continental shelf and with the question of payments and contributions with respect to the exploitation of the continental shelf beyond 200 miles or the question of revenue-sharing.

5. The work of the group was carried out primarily in consultations with small groups of delegations in an effort to stimulate dialogue among those delegations most directly interested in the outstanding issues. At this rather late stage in the negotiations, debates can at times be repetitious and sterile. I therefore employed my good offices in seeking compromise solutions. In that connexion, the results obtained in negotiating group 6 with respect to various outstanding questions can be considered encouraging.

6. I shall refer to each of these issues below.

(a) *Submarine ridges*

This point, referred to in a foot-note to paragraph 3 of article 76 was the subject of particularly intense consultations and negotiations. In conjunction with these efforts, I submitted for

the consideration of the group at its informal meeting on 28 March 1980 a compromise formula worded as follows:

Amend the last sentence in paragraph 3 of article 76 to read as follows:

"It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof."

Add a new paragraph 5 *bis* to read as follows:

"Notwithstanding the provisions of paragraph 5, on submarine ridges the outer limit of the continental shelf shall not exceed 350 miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs."

(b) *Commission on the limits of the continental shelf*

At the same meeting on 28 March I put forward the proposal to replace the words "taking into account" by "on the basis of" in paragraph 7 of article 76.

(c) *Annex relating to a commission on the limits of the continental shelf*

At its meeting on 21 March 1980, an informal proposal (NG6/20) was presented to the group, which, according to what was said by various delegations at that meeting, had been drawn up following a series of consultations among various interested countries. In the light of comments made during the discussion of that document, I proposed a number of changes at the meeting on 28 March, as follows: to shorten the term of office of the members of the commission from 10 to 5 years and

*Incorporating document A/CONF.62/L.51/Corr.1 of 3 April 1980.

to amend article 7 in order to take into account the amendment which I had proposed to article 76, paragraph 7, of the revised negotiating text. Accordingly, article 7 would be worded as follows:

“Coastal States shall establish the seaward limits of the continental shelf in conformity with the provisions of paragraph 7 of article 76 of the present Convention and in accordance with the appropriate national procedures.”

(d) *Suggestion of Sri Lanka*

This point was referred to in a foot-note to paragraph 4 (a) (ii) of article 76. At the meeting on 28 March 1980, the representative of Sri Lanka referred to the progress of consultations on that matter. Sri Lanka's suggestion for an exceptional method of delimitation applicable in the specified unique geological and geomorphological conditions of a specified area has been the subject of intensive consultations among the States concerned. There is widespread understanding that such an exception would be accommodated and that provision for it would be made by way of a statement of understanding of the President of the Conference to be incorporated in an annex to the final act of the Conference as part of an over-all settlement. Consultations are continuing regarding the contents of the statement and will be concluded before the end of the ninth session of the Conference.

(e) *Payments and contributions provided for in article 82*

No new informal suggestions concerning this point were put forward in the group; several delegations referred to a number of suggestions relating to this point which were put forward previously in the group.

7. At the end of the work of negotiating group 6, the representative of Iraq, speaking on behalf of the Arab countries, outlined their current position, which can be summarized as follows: agreement with the extension of the continental shelf beyond 200 miles; the extension of the continental shelf must be based on the criterion of distance; there is a need to review the question of arrangements for payments and contributions (article 82).

II. NEGOTIATING GROUP 7

8. At its 130th informal meeting on 24 March 1980, the Second Committee heard the report of Mr. E. J. Manner of Finland, chairman of negotiating group 7 (A/CONF.62/L.47). This group dealt with the delimitation of the maritime frontiers between adjacent States and States whose coasts lie opposite each other—a subject within the purview of the Second Committee—and the settlement of delimitation disputes, an issue dealt with by the plenary Conference. Mr. Manner's report could not be discussed at that meeting as it had not been possible to distribute it to delegations.

9. At the 131st informal meeting of the Second Committee on 25 March 1980, following statements by the co-ordinators of the two groups most directly interested in the question, the Committee decided that the best course was to defer discussion of the report to the plenary Conference. Accordingly, I am unable to make any recommendations on the report of negotiating group 7 in so far as it relates to issues within the purview of the Second Committee. I should like to reiterate my gratitude to Mr. Manner for his tireless efforts as Chairman of negotiating group 7 during the two years in which it conducted its work.

III. OTHER SECOND-COMMITTEE ISSUES

10. In addition to hearing the report of negotiating group 7 (it was deemed unnecessary to discuss the report of negotiating group 6 since the same delegations were involved), informal meetings of the Second Committee were held during the first part of the ninth session to consider other questions not assigned to the two negotiating groups referred to above. As in the past, the suggestions presented were dealt with in accordance with the numbering of the articles of the revised negotiating text.

11. In accordance with the decisions taken at the resumed eighth session, the Committee dealt with two informal proposals not discussed at that session, as indicated in the relevant sections of my report to the plenary Conference (A/CONF.62/L.42).¹² Those informal proposals were the following:

Article 65, informal proposal on marine mammals presented by the United States of America (C.2/Informal Meeting/49) and the proposal concerning article 121 *bis*, informal proposal on islands forming part of the territory of a State which constitute an archipelago presented by Ecuador (C.2/Informal Meeting/47).

12. The new informal proposals presented to the Committee related to:

Article 19, informal proposal on the meaning of innocent passage presented by the Federal Republic of Germany (C.2/Informal Meeting/62);

Article 21, informal proposal on the laws and regulations of the coastal State relating to innocent passage presented by Argentina, China, Ecuador, Madagascar, Pakistan, Peru and the Philippines (C.2/Informal Meeting/58);

Article 36, informal proposal on high seas routes or routes through exclusive economic zones through straights used for international navigation presented by Yugoslavia (C.2/Informal Meeting/2/Rev.2);

Article 63, informal proposal on stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area beyond and adjacent to it presented by Argentina (C.2/Informal Meeting/54);

Article 70, informal proposal on the right of States with special geographical characteristics presented by Romania (C.2/Informal Meeting/51);

Article 73, informal proposal on enforcement of laws and regulations of the coastal State, in cases of arrest or detention of foreign vessels presented by Bulgaria (C.2/Informal Meeting/31/Rev.1);

Article 77, informal proposal on the rights of the coastal State over the continental shelf with respect to objects of an archeological and historical nature presented by Cape Verde, Greece, Italy, Malta, Portugal, Tunisia and Yugoslavia (C.2/Informal Meeting/43/Rev.2);

Article 88, informal proposal on the reservation of the high seas for peaceful purposes presented by Costa Rica, Ecuador, El Salvador, Pakistan, Peru, the Philippines, Portugal, Senegal, Somalia and Uruguay (C.2/Informal Meeting/55);

Article 96 *bis*, informal proposal on the immunity of sunken warships as well as other vessels which are only on government non-commercial service presented by Bulgaria, the Byelorussian Soviet Socialist Republic, Czechoslovakia, the German Democratic Republic, Hungary, Poland, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics (C.2/Informal Meeting/50);

Article 96 *bis*, informal proposal by the Socialist Republic of Viet Nam to amend the preceding suggestion (C.2/Informal Meeting/52);

Article 96 *bis*, informal proposal on the immunity of sunken warships as well as vessels which are only on government non-commercial service presented by Democratic Yemen (C.2/Informal Meeting/57);

Article 98, informal proposal to amend informal proposal C.2/Informal Meeting/44 concerning sunken vessels and aircraft, which was considered at the resumed eighth session (see my report to the plenary Conference in document A/CONF.62/L.42). The amendment was proposed by the Socialist Republic of Viet Nam (C.2/Informal Meeting/53);

¹²*Ibid.*, vol. XII.

Article 111, informal proposal on the right of hot pursuit presented by Indonesia (C.2/Informal Meeting/56):

Articles 122 and 123, informal proposal on enclosed or semi-enclosed seas presented by the Federal Republic of Germany (C.2/Informal Meeting/61):

Article 123, informal proposal on the co-operation of States bordering enclosed or semi-enclosed seas presented by the Republic of Korea (C.2/Informal Meeting/59):

Annex I concerning highly migratory species, informal proposal by Japan and the Republic of Korea (C.2/Informal Meeting/60):

13. Of the informal proposals listed above, those relating to article 65 (C.2/Informal Meeting/49), article 111 (C.2/Informal Meeting/56) and annex I (C.2/Informal Meeting/60), received widespread support in the Committee. The first mentioned of the three suggestions proposed the following wording for article 65:

“Nothing in this part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall co-operate with the view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study”.

14. With regard to paragraph 1 of article 111, the words “archipelagic waters” would be added after the words “internal waters”.

15. With regard to annex I, the southern bluefin tuna, *Thunnus maccoyii*, would be added to the list of highly migratory species.

16. The consideration of all informal proposals in the Committee made it possible for their supporters to have a clear idea of the degree of acceptance which they enjoyed. It is my understanding that a number of delegations which put forward proposals are in the process of revising them in the light of the comments and observations made during the discussion. In the case of informal proposal C.2/Informal Meeting/43, the sponsors put forward a third revision, which the Committee was unable to discuss.

IV. RECOMMENDATIONS REGARDING A SECOND REVISION OF THE INFORMAL COMPOSITE NEGOTIATING TEXT

17. In the light of the intense negotiations in the form of the consultations and discussions to which I have referred in this report, I believe that the compromise formulas set out below offer a substantially improved prospect of a consensus, as envisaged in document A/CONF.62/62.¹³

Article 65. Marine mammals

Nothing in this Part restricts the right of a coastal State or the competence of an international organization, as appropriate, to prohibit, limit or regulate the exploitation of marine mammals more strictly than provided for in this Part. States shall co-operate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 76. Definition of the continental shelf

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (a) For the purposes of the present Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

(i) A line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance from such point to the foot of the continental slope; or

(ii) A line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.

(b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 4 (a) (i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the seaward boundary of its continental shelf where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured by straight lines not exceeding 60 nautical miles in length, connecting fixed points, such points to be defined by co-ordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond the 200 nautical mile exclusive economic zone shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between opposite or adjacent States.

Annex II

Commission on the Limits of the Continental Shelf

Article I

In accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following articles in this annex.

¹³*Ibid.*, vol. X.

Article 2

1. The Commission shall consist of 21 members who shall be experts in the field of geology, geophysics or hydrography, elected by States Parties to the present Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.

2. The initial election shall be held as soon as possible but in any case within 18 months after the date of entry into force of the present Convention. At least three months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties, inviting the submission of nominations, after appropriate regional consultations, within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, and shall submit it to all the States Parties.

3. Elections of the members of the Commission shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Commission shall be those nominees who obtain a two thirds majority of the votes of the representatives of States Parties present and voting. Not less than three members shall be elected from each geographical region.

4. The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election.

5. The State Party which submitted the nomination of the member shall defray the expenses of a member of the Commission while such member is in performance of Commission duties. The relevant coastal State shall defray the expenses incurred in respect of the advice referred to in paragraph 1 (b) of article 3 of this annex. The secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

Article 3

1. The functions of the Commission shall be:

(a) To consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76.

(b) To provide scientific and technical advice, if requested by the coastal State concerned, during the preparation of the data referred to in subparagraph (a).

2. The Commission may co-operate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

Article 4

Where a coastal State intends to establish, in accordance with article 76, the seaward boundary of its continental shelf beyond 200 nautical miles, the coastal State concerned shall submit particulars of such boundary to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members appointed in a balanced manner taking into account the specific elements of each submission by the coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State, by providing scientific and technical advice with respect to the delin-

ation shall not be a member of the sub-commission dealing with that submission but has the right to participate as a member in the proceedings of the Commission concerning said submission. The coastal State which has made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

Article 6

1. The sub-commission shall submit its recommendations to the Commission.

2. Approval by the Commission of the recommendations of the sub-commission shall be by a majority of two thirds of Commission members present and voting.

3. The recommendations of the Commission shall be submitted in writing to the coastal State which made the submission and to the Secretary-General of the United Nations.

Article 7

Coastal States shall establish the seaward limits of the continental shelf in conformity with the provisions of article 76, paragraph 7, and in accordance with the appropriate national procedures.

Article 8

In the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission.

Article 9

The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with adjacent or opposite coasts.

Article 111. Right of hot pursuit

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

Annex I

Add to the list:

17. Southern bluefin tuna: *Thunnus maccoyii*

18. Lastly, I recommend replacing in article 25, paragraph 3, the words "or for the safety of ships" by the words "including weapons exercises". In that connexion, members should refer to the observations on this matter contained in my report to the plenary Conference at the resumed eighth session (A/CONF.62/L.42).

19. Once again I should like to express my sincere gratitude to all the delegations participating in the work of the Second Committee for their valuable co-operation, to the members of the secretariat of the Conference for the dedication and competence they have demonstrated in performing their duties, and to the interpreters, translators and all other staff who have worked with us in this first stage of the ninth session.