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Report of the Chairman of the Third Committee

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that even investments made before and outside the convention would be protected. The list is very long.

61. The oceans may well be man's last outpost before disaster. The convention we are to adopt must be an instrument of justice to all and a haven for new forms of co-operation for harnessing our energies in a process of development. We must co-operate in every sphere of international life in pouring the waters of peace on regions of conflict or we are all condemned to the same annihilation by the same threatening conditions of global war. This breathes justification on our labours here.

62. I wish to assure all delegations that although the formal negotiating phase in our programme has ended, President Koh and I do not consider the door to be closed on further efforts at seeking consensus. On our behalf, I appeal to all delegations to undertake with us a crusade for agreements that should widen still further the scope of the consensus we have obtained so far. We must match our desire for a universal treaty with a conscious effort to ensure that we attain it.

63. I should like finally to appeal to members of the press. Freedom of the press has become a sacred norm and I cherish it. Yet you must, in reporting about our historic endeavours, be mindful of the great ethics of your profession. The opinion of the public needs to be based on sustainable facts and on correct information. There is a distinguishing feature between fact, on the one side, and comment or the opinion of a few journalists, on the other.

64. On an issue of such complexity and historic importance, it would appear irresponsible for any of us to allow comment and uninformed opinion to masquerade as information. We must not be seen to exploit the ignorance of the vast majority of the public about the issues before this Conference and the effort that has been heroically made to resolve them.

65. Many members of the press have shown restraint and ethical balance; but there are a few who still appear to seek vain fame through the abuse of a sacred power and responsibility. It is to them that my final appeal must go.

66. There are always those who, for one reason or another, must decry the creation of new international institutions. They did this for the United Nations at the San Francisco Conference; they did this at the establishment of the European Economic Community, the Organization of African Unity and kindred organizations. Let them note that the course of history cannot be changed. It is better to herald a new era of international action and explain to the public the new adjustments that novel challenges must bring, than to appear to snore in a childlike fashion through a revolution.

67. I should like, in closing, to express my profound thanks, first to you, Mr. President, for the fraternal co-operation that I have continued to enjoy while working with you. I reaffirm my determination to place my services at your disposal and at the disposal of the Conference in the difficult times ahead.

68. I wish to seize this opportunity also to recognize the tremendously helpful services of the Special Representative of the Secretary-General and the excellent staff and experts whose co-operation has sustained my spirits in the task assigned to the First Committee. I do not say this out of mere formality. It is clearly to the various delegations, especially members of the working group of 21, and those 11 Western countries who volunteered a mediating role, that my greatest thanks are due for the dedication and personal sacrifices made in the pursuit of our common goal. I sincerely hope that our labours, stretched over eight years, will result in the adoption of a convention on the law of the sea at the end of this session. Last but not least, my thanks are due to the officers of the First Committee whose friendship and guidance continue to mean so much to me.

DOCUMENT A/CONF.62/L.92

Report of the Chairman of the Third Committee

[Original: English]
[30 March 1982]

1. I wish briefly to inform the Conference on the work which has been done by the Third Committee with regard to Parts XII, XIII and XIV of the draft convention, particularly on some drafting changes. Let me reiterate for the record that the substantive negotiations of these parts of the convention, namely on the protection and preservation of the marine environment, marine scientific research and transfer of technology, were completed as I had the honour to report to the Conference at its tenth session in my report contained in document A/CONF.62/L.71.²⁴ Consequently, no meetings of the Third Committee were held at the current session.

2. At this session, we examined the recommendations of the Drafting Committee relating to specific articles within the terms of reference of the Third Committee, and put forward some drafting changes with a view to achieving the necessary harmony and uniformity of the text. As stated in my letter addressed to the President of the Conference and to the Chairman of the Drafting Committee contained in document A/CONF.62/L.88, a number of drafting changes were suggested. Some of them reflect directly the recommendations of the Drafting Committee regarding articles 194, 196, 201 and 242 while others were amendments suggested by the Chair-

man of the Third Committee after considering the recommendations of the Drafting Committee relating to articles 204, 207, 209, 210, 211, 212, 213, 214, 216, 217, 222 and 226.

3. It should be recommended further that, in order to attain harmonization amongst the different parts of the draft convention when referring to the protection and preservation of the marine environment, the phrase "protection and preservation of the marine environment" be used in the relevant provisions of Part XI, articles 145, 155 and 165, and annex III, articles 2, 13, 14 and 17.

4. With respect to article 212, paragraph 1, and article 216, paragraph 1 (b), the expression "vessels or aircraft flying their flag or of their registry" should be substituted by "vessels flying their flag or vessels or aircraft of their registry". In our view this drafting change corresponds to the fact that while aircraft are only registered in accordance with the Chicago Convention on International Civil Aviation,²⁵ vessels are identified by the flag and the registry. Such distinction may be relevant particularly in some cases when vessels are not required to fly a flag but nevertheless need a registration.

5. There might be some other matters of a drafting nature which should be considered in order to attain harmonization

²⁴ See *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XV (United Nations publication, Sales No. E.83.V.4).

²⁵ United Nations, *Treaty Series*, vol. 15, No. 102, p. 295.

and uniformity of the text throughout the convention. In this connection, it should be pointed out that while in some parts of the draft convention within the terms of reference of the Second Committee, the term "ship" in English is used, in Parts XII and XIII, for instance, the term "vessel" is used. This question has been considered at an early stage of the Conference, and after consultations with some experts, including the Inter-Governmental Maritime Consultative Organization (IMCO), it was the understanding of the Third Committee that the broader term "vessel" was more appropriate, for it would cover not only ships but also other floating structures whose use or operation might cause pollution of the marine environment. For this reason, in all international multilateral treaties, in the field of the protection and preservation of the marine environment and especially those adopted under the auspices of IMCO, the broader term "vessel" has been used.

6. There might be some other questions of a drafting nature which should be considered with the Chairmen of the other Committees and the Chairman of the Drafting Committee at an appropriate time.

7. I wish to take this opportunity to reiterate my appreciation of the excellent work done by the Drafting Committee under the Chairmanship of Mr. Beesley. The recommendations put forward by the Drafting Committee constitute a distinct improvement of the text and their later examination gave us the opportunity to clarify some matters with a view to achieving the necessary harmony and uniformity of the text.

8. Finally, I should like to express my gratitude to the secretariat for their exemplary diligence and most valuable assistance extended to me in the discharge of my duties.

DOCUMENT A/CONF.62/L.93*

Memorandum issued by the Collegium on changes incorporated in the draft convention

[Original: English]
[2 April 1982]

1. The programme of work for the eleventh session was adopted by the Conference at its 154th plenary meeting on 28 August 1981 (A/CONF.62/L.116).²⁶ The programme provides that during the second stage, after the conclusion of the plenary consideration of the results of the consultations and negotiations, in the light of the plenary debate and taking into account the criteria established in A/CONF.62/62,²⁶ the Collegium would decide on the incorporation of the results into the draft convention. To enable delegations to prepare themselves for the third stage of the programme, the Collegium would issue a memorandum containing all the changes to be so incorporated.

2. The plenary debate commenced on 30 March and concluded on 1 April 1982. The Collegium met thereafter, on 2 April, for the purpose of making the relevant determination.

3. The plenary had before it the following reports:

(a) Report of the President on the question of participation in the Convention (A/CONF.62/L.86 and Corr.1);

(b) Report by the Chairman of the First Committee (A/CONF.62/L.91), incorporating the report of the President and the Chairman of the First Committee, as Co-Chairmen of the working group of 21 (A/CONF.62/C.1/L.30);

(c) Report by the Chairman of the Second Committee (A/CONF.62/L.87);

(d) Report by the Chairman of the Third Committee (A/CONF.62/L.92);

(e) Report on the recommendations of the Drafting Committee presented by the Chairman of the Drafting Committee on behalf of the President and the Chairman of the First Committee (A/CONF.62/L.90) together with the addenda to A/CONF.62/L.85.

4. In considering the reports and the views expressed in the general debate the Collegium had to determine whether, in accordance with the decision in document A/CONF.62/62, the proposals received widespread and substantial support and therefore offered a substantially improved prospect of consensus.

5. In accordance with the criteria referred to in the preceding paragraph, the Collegium decided the following:

(a) The proposed draft articles and draft annex IX in A/CONF.62/L.86 are incorporated in the draft convention (annex I to this memorandum). The proposed draft resolution and draft decision in that document will form part of the draft final act;

(b) The proposed draft resolution contained in annex I of A/CONF.62/C.1/L.30 will form part of the draft final act;

(c) The proposed draft resolution contained in annex II of A/CONF.62/C.1/L.30 will form part of the draft final act with the following changes:

(i) At the end of operative paragraph 2 replace "allocate to it the pioneer area applied for if the application" by "allocate to it the pioneer area if the application".

(ii) In operative paragraph 13 replace the existing text by the following: "13. The Authority and its organs shall act in accordance with the provisions of this resolution and the decisions of the Preparatory Commission taken pursuant to it."

(iii) In operative paragraph 14 replace the existing text by the following: "14. This resolution shall have effect until the entry into force of the Convention."

(iv) Add a new paragraph 5 to article 308 of the draft convention to read as follows: "5. The Authority and its organs shall act in accordance with the resolution governing preparatory investment in pioneer activities relating to polymetallic nodules, and decisions of the Preparatory Commission, taken pursuant to it."

(d) The proposal contained in paragraph 16 of A/CONF.62/L.91 as redrafted below is incorporated in the draft convention as a change to article 164, paragraph 1:

Add a new sentence to article 164, paragraph 1 to read as follows:

"The membership of the Commission shall include at least two members from developing countries whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies."

(e) The proposal contained in C.2/Informal Meeting/66 and referred to in paragraphs 6 and 8 of A/CONF.62/L.87 is incorporated in the draft convention (annex II to this memorandum).

6. The draft resolutions referred to in paragraph 5, subparagraphs (a), (b) and (c) above, and the draft decision referred to in subparagraph (d) of the same paragraph are

*Incorporating document A/CONF.62/L.93/Corr.1 of 5 April 1982.

²⁶ See *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).