

Third United Nations Conference on the Law of the Sea

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

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A/CONF.62/SR.166

166th Plenary meeting

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suggested improvements did not detract from the basic objectives. Some accommodation must be found to protect investments currently being made by a limited number of companies and State enterprises. There should be no appearance of inviting an increase in the list of those already known because the result would be to make nonsense of the regulatory and institutional provisions in Part XI. There should also be no direct or indirect endorsement of selfish arrangements reported to be contemplated by certain industrial States to carry out activities in the Area outside the convention. There must be a direct link between interim protection and the provisions of the draft convention. Within such parameters there was still scope for encouraging genuine pioneer investors to launch activities consistent with the concept of the common heritage of mankind. His delegation welcomed the textual realization of the imperatives for a viable Enterprise in the parallel system.

140. His delegation also welcomed the statements by the five industrialized States regarding the negotiability of the proposals of the Group of 77 but did not understand the insistence by some of them that those proposals could not be considered on their own merit in a negotiating process. Proposals to continue an unproductive dialogue on non-negotiable subjects were frustrating.

141. Lastly, he reminded all interest groups, especially the industrialized countries, that the purpose of the Conference was not to protect the benefits of a few to the detriment of the many in the management of resources constituting the common heritage of mankind.

The meeting rose at 6.40 p.m.

166th meeting

Thursday, 1 April 1982, at 8.10 p.m.

President: Mr. F. ZEGERS (Chile)

Consideration of the subject-matter referred to in paragraph 3 of General Assembly resolution 3067 (XXVIII) of 16 November 1973 (*continued*)

1. Mr. ELFAKI (Sudan), commending the President on his strict adherence to the schedule, observed that the Conference was about to enter the important and critical stage of ensuring that provisions worked out over an entire decade would be applied and implemented on an objective and equitable basis in the general interest. It must be remembered that the draft convention was based on an accommodation rather than a conflict of the main interests at stake. Far from meeting all expectations, it merely provided a middle road. A genuine commitment to the basic principles and compromise formulas on which it was founded was therefore a prerequisite for the successful conclusion of the Conference.

2. On previous occasions, particularly during the informal meetings held by the Second Committee, his delegation had drawn attention to the importance of dealing with the innocent passage of foreign warships through territorial seas. Widespread concern over that fundamental matter had motivated the informal proposal submitted in document C.2/Informal Meeting/58/Rev.1 in response to the need for coastal States to enjoy full national sovereignty over their territorial seas and to ensure their peace and security, particularly in the case of coastal States with limited resources, by calling for prior notification and authorization of the passage of foreign warships through territorial seas.

3. Given the importance of adopting a unified and coordinated draft convention, care should be taken to avoid any confusion or misunderstanding as to the terminology used. For example, article 70 referred to "States with special geographical characteristics", while article 161 referred to "geographically disadvantaged States". It was in fact the latter expression which had been agreed on in the United Nations system and should therefore be used consistently throughout the convention.

4. His delegation fully supported the views expressed on the outstanding issues by the Chairman of the Group of 77, who represented the voice of moderation. In particular, those liberation movements which had participated in the Conference and were recognized by the United Nations and by regional organizations with the status of full membership on

the same footing as States were entitled to full participation in the results of the Conference, both in the convention and in all the institutions established, since they represented peoples who had the right to benefit fully from all the instruments and bodies governing the wealth and resources of the sea.

5. His delegation also endorsed the proposals put forward in document A/CONF.62/C.1/L.30 regarding the Preparatory Commission, the International Tribunal for the Law of the Sea and the preparatory investments in pioneer activities, which provided a good basis for a broad consensus between the Group of 77 and the industrialized countries. Sudan, having always been in sympathy with developing countries that were land-based producers of minerals extracted from the sea-bed, was satisfied that the draft resolution on the Preparatory Commission in annex I to that document, particularly operative paragraph 5 (i) relating to the undertaking of studies on problems encountered by land-based producers and the establishment of a compensation fund, fully reflected the concern of the Conference to take their economic difficulties into account.

6. It also welcomed the amendment proposed by the Group of 77 (A/CONF.62/L.116) to add a new paragraph to article 171 authorizing the Economic Planning Commission to institute a payment system for the compensation fund.

7. The final point which his delegation wished to stress was the fundamental importance in the ultimate stages of the Conference of understanding its true nature and complexity rather than considering it as a mere exercise to regulate the extraction of minerals. Full appreciation of the true context of the Conference was vital to its success.

8. Mr. THILAGADURAI (Malaysia) welcomed the concrete proposals in document A/CONF.62/C.1/L.30 relating to the Preparatory Commission and preparatory investments, as well as the proposals contained in the President's report (A/CONF.62/L.86) on participation, which provided a very useful framework for negotiations. However, his delegation felt that liberation movements recognized by the United Nations should participate fully in the convention.

9. His delegation concurred in the views expressed by the Chairman of the Second Committee (A/CONF.62/L.87) to the effect that the provisions of the draft convention concerning issues falling within the purview of that Committee

reflected a delicate balance which should not be upset at such a late stage, although the proposal by the United Kingdom relating to article 60 (C.2/Informal Meeting/66), paragraph 3, was acceptable since it had been extensively discussed.

10. It also considered that the proposal in document C.2/Informal Meeting/66 adequately met the requirements of the safety of navigation. However, since it had generally been agreed after considerable discussion that references to specific figures should be excluded, it unfortunately could not accept the informal proposal submitted by France (A/CONF.62/L.106).

11. As to the report of the Chairman of the Third Committee, it had no serious difficulties with the various drafting changes suggested in document A/CONF.62/L.88. He concluded by saying that in order for a universally acceptable convention to emerge by consensus by the end of the session, it was important to maintain the momentum and keep to the programme of work established.

12. Mr. DROUSSIOTIS (Cyprus) said that the draft convention was the outcome of great effort and that no substantial changes should be made which would disturb its delicate balance, but, as a universal convention adopted by consensus was desirable, further efforts for a mutually agreed text were not excluded provided that the fundamental principles already negotiated were not jeopardized.

13. On the outstanding issues of the Preparatory Commission, preparatory investment in pioneer activities and participation in the convention, Cyprus supported the position of the Group of 77. It considered that the President's proposals on participation offered a good basis for compromise. It was also satisfied with the results of the work of the Second and Third Committees as reported by their respective Chairmen. The compromises achieved by the Second Committee on delimitation (arts. 15, 74 and 83), on the régime of islands (art. 121) and on enclosed or semi-enclosed seas (art. 123) should not be upset, since they offered the best prospect of consensus. But the United Kingdom suggestions on disused or abandoned installations or structures in the exclusive economic zone were acceptable, since they met the requirements set forth in document A/CONF.62/62.¹

14. In principle, his delegation was against any reservations to the text of the convention. For that reason, and in accordance with article 309, it would be against any reservations to the articles he had specifically mentioned.

15. Mr. FARIS (Jordan) said that his delegation earnestly hoped for a consensus on points where differences of opinion still existed. It therefore welcomed the general framework of the draft convention but had a number of comments to make.

16. The document of the Group of 77 reflected a correct and sound attitude which would guarantee the interests of all participating countries. The participation of national liberation movements was a matter of great importance for the peoples whom they represented and for the defence of their rights and interests. It was important that those movements should participate as full members having responsibilities and commitments as well as rights. It was also important to have a consensus and full understanding for a convention guaranteeing the rights and interests of all States.

17. The President's proposals on participation (see A/CONF.62/L.86) could provide a framework for such a consensus, particularly if solutions could be found which allowed national liberation movements to sign the convention as well as the final act, to have full observer status, to take part in the Authority's discussions, to present proposals and receive all documents as within the United Nations system,

and to appear before the International Tribunal to defend the rights of their peoples.

18. So far as establishment of the Preparatory Commission and protection of preparatory investment were concerned, Jordan considered the President's proposals (See A/CONF.62/C.1/L.30) to be acceptable compromise documents. It also considered that the provisions of article 21 of the draft convention, concerning the laws and regulations of coastal States relating to innocent passage, maintained freedom of navigation and at the same time protected the rights of those States. Demands for prior notification of such passage amounted to a restriction of freedom of navigation and international co-operation, especially in cases where only one passage was available.

19. Mr. JHA (Nepal) welcomed the positive results achieved after the first three weeks of consultations and negotiations on the outstanding issues, which had clearly demonstrated that the vast majority of States supported the adoption of the convention at the current session. His delegation had read with interest the draft resolution on the establishment of the Preparatory Commission in document A/CONF.62/C.1/L.30, which reflected the results of the negotiations and constituted a fair compromise and a good basis for consensus. It believed that the proposals put forward by the President in document A/CONF.62/L.86 provided a framework for solving the problem of the participation in the convention of national liberation movements, intergovernmental organizations and self-governing Territories. As to the question of the sea-bed, his delegation endorsed the position of the Group of 77 and generally supported its efforts to reach a general agreement on the pending issues.

20. With regard to issues pertaining to the terms of reference of the Second Committee, his delegation had appealed on an earlier occasion in that Committee, on behalf of the 12 sponsors of the group for the common heritage fund, that due consideration be given to their proposal in document C.2/Informal Meeting/45/Rev.1 and Corr.1 on articles 56 and 82 for the establishment of a common heritage fund in order to redistribute among the developing countries a share of the proceeds derived by coastal States from the exploitation of the outer continental shelf and deep sea. It appealed once again to the Conference to improve the position of those countries that were at a disadvantage in terms of marine resources. Such an effort to strengthen the provisions of the draft convention which classified the oceans beyond national jurisdiction as the "common heritage of mankind" would help to attain the goal of a new international economic order and bridge the gap between rich and poor.

21. It was a matter for regret that the proposal, although supported by a considerable number of delegations, had not received all the attention it deserved. Its sponsors believed that the establishment of a common heritage fund could be regarded as a compromise aimed at meeting the aspirations and interests of the developing countries as far as the proceeds from the exploitation of the exclusive economic zone were concerned. His delegation strongly believed that the incorporation of the proposal in the draft convention would constitute a major step towards a new and more just economic and political order based on a redistribution of global resources.

22. The drafting changes proposed by the Chairman of the Third Committee (A/CONF.62/L.88) could help to make the text of the draft convention uniform, although it would have been preferable for the Chairman's proposals to have been discussed in the Committee itself.

23. Mr. ELLIOT (Belgium) observed that, although the texts drafted over the past few weeks made a valuable contribution to the solution of the outstanding issues, a number of important problems remained which would only be solved by

¹ 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).

intensive consultations during the fourth phase. His delegation had already expressed concern in the First Committee, long before the changes suggested by the United States (WG.21/Informal Paper 18) had been submitted, over the provisions of Part XI of the draft convention, particularly those on the Preparatory Commission and the protection of preparatory investments. It would be detrimental to the common interest to discourage the exploration and exploitation of the resources of the sea. Bearing in mind the need to promote the orderly and systematic development of such activities in the interest of all States and to reconcile the interests of both the developing and the industrialized countries, the Authority must be organized in such a way that its composition, competence and decision-making arrangements effectively reflected and protected the economic and political interests of all parties. In order to ensure the necessary continuity, the international régime should be amended only with the consent of all the parties to the original régime.

24. His delegation had consistently expressed its misgiving on the subject of production limitation. Although it fully sympathized with the concerns of the African producers and the need to protect their legitimate interests, it continued to believe that a system of compensation would provide the most effective solution. The increasingly important role to be played by the Preparatory Commission, as set forth in the latest texts submitted to the Conference, further strengthened its conviction that all signatories to the final acts must be entitled to full membership and that decisions must be taken by consensus.

25. In a spirit of compromise, it regarded the formulas proposed for the participation of national liberation movements and the transitional provision as acceptable. It also believed, with regard to preparatory investments, that it was in the general interest for those States and companies which had invested heavily to be given sufficient guarantees in order not to discourage future investment and production. There was some doubt in that connection as to whether the definition of pioneer investors in the draft convention or the formula on the granting of authorizations were adequate. Given a common resolve to overcome the remaining difficulties, it would be possible to achieve a universally accepted convention adopted by consensus.

26. Mr. ALJUFAIRI (Qatar) said that his delegation appreciated the efforts made by the Chairman of the Second Committee to reach consensus on article 21, on innocent passage, but felt that the existing text ignored the need for prior authorization and notification in respect of the passage of military vessels through the territorial sea. Provisions to that effect were required in order to guarantee the security and sovereignty of small coastal States.

27. Article 76, paragraphs 2, 4 and 6, on the continental shelf, served the interests of large coastal States exclusively. It was to be hoped that the existing text would be amended.

28. Similarly, he hoped that improvements could be made to the wording of articles 74 and 83, which were confusing and ambiguous.

29. It was well known that his Government had made every effort to ensure that national liberation movements were allowed to participate in the convention. In that respect the draft text proposed by the President of the Conference was satisfactory in that it provided the basis for a consensus. His delegation believed that national liberation movements should also be accorded the right to participate in the Preparatory Commission and the Sea-Bed Disputes Chamber.

30. In conclusion, he said that the compromise solutions in the report of the co-ordinators of the working group of 21 (A/CONF.62/C.1/L.30) were, despite certain positive aspects, in need of revision, and he hoped that the texts of the relevant articles of the convention could be improved in order to meet the needs of the developing countries.

31. Mr. KRYSOSIK (Poland) said that the draft text had reached such an advanced stage of preparation and agreement that there was every reason to look forward with confidence to the adoption of the draft convention by the end of April 1982. His delegation believed that there was still time to withdraw resubmitted amendments which had already been found unacceptable and which diminished the prospects for consensus and hoped that the United States would adopt a more realistic and constructive approach. The proposed convention would, as far as was possible, serve as the best instrument for promoting the national interests of all countries.

32. By accepting the existing draft as a basis for the future convention, his delegation was expressing its willingness to agree to a number of limitations and provisions unfavourable to the interests of Poland and its economy. In the first place, Poland's deep-sea fleet would, under the convention, lose its access to areas traditionally used by it for fishing. Furthermore, Poland's geographical situation made exploitation of the exclusive economic zone of 200 miles impossible, since its outside border would encroach on that of the Scandinavian peninsula. Nor did Poland expect to gain any benefit from the exploitation of the sea-bed outside the 200-mile zone. In addition, his delegation did not welcome certain provisions concerning transit rights which, he believed, should be identically formulated in respect of both geographically disadvantaged States and land-locked countries.

33. Despite those reservations, his delegation was prepared to support the draft convention, which was the result of many compromises and concessions in which it had played its part. The balance of that compromise was very delicate, and he could not agree with those who considered that non-acceptance of "minor" amendments slowed down the progress of the Conference. The problem was not, in fact, one of minor changes but rather of reopening discussion on formulations which had been reached as a result of long and complex negotiations.

34. His delegation was ready to accept the existing draft of the convention on the basis of consensus. Should that prove impossible, it could also accept adoption of the draft convention as a whole by a vote.

35. Mr. STEWART (Bahamas) said that, although he shared the optimistic view of a large number of delegations that the Conference would achieve its goal of adopting a convention by the end of April 1982, there were certain points on which his delegation wished to place its views on record.

36. Turning first to the Second Committee, he agreed with the conclusion of the Chairman of that Committee in document A/CONF.62/L.87, paragraph 13, that there was a real consensus on the need to preserve the fundamental elements of the parts of the draft convention which were within the competence of the Second Committee and that, with the exception of a very small number of issues, the existing text of Part VII of the draft convention constituted a satisfactory compromise solution.

37. An exception was the proposal of the United Kingdom concerning article 60, paragraph 3. He agreed with the Chairman of the Second Committee that the proposal met the requirements established in document A/CONF.62/62.¹ The amendment should be incorporated in the text of the convention: it was not a controversial proposal and did not affect the precarious balance of interests arrived at after many years of laborious negotiations in the Second Committee.

38. Nor would the proposed amendments concerning the "straddling stocks" referred to in article 63, paragraph 2 (C.2/Informal Meeting/54/Rev.1) substantively affect that balance. His delegation therefore supported the inclusion of the proposed amendment in the new revision of the text.

39. The question of the passage of warships through the territorial sea had engaged the Conference for many years. The

Bahamas met the requirements to be classified as a coastal State, an archipelago, a developing State, a straits State and, perhaps, a geographically disadvantaged State. None the less, his delegation accepted the text of article 21 in its existing form. In its view, articles 17 to 25 adequately reflected the interests of the coastal States and the international community. Similarly, his delegation's position was that article 123 should not be amended.

40. Although he felt that the text of articles 74 and 83 was not entirely satisfactory, he was prepared to go along with the existing wording in a spirit of compromise.

41. His delegation supported the recommendations of the Chairman of the Drafting Committee in documents A/CONF.62/L.89 and L.90 regarding the work of the Conference.

42. Referring to the letter from the Chairman of the Third Committee (A/CONF.62/L.88), he said that it would have been better if that Committee had met to consider the recommendations of its Chairman. His delegation had some difficulties with the changes suggested and reserved its right to speak on them at a later stage.

43. He shared the sentiments expressed by the Chairman of the Group of 77 (see A/CONF.62/L.116) on the issues raised in the reports of the co-ordinators of the working group of 21 in document A/CONF.62/C.1/L.30. It supported the proposed amendment (WG.21/Informal Paper 23) to article 163, paragraph 4, for the inclusion of at least two members from the land-based developing country producers of the minerals to be derived from the Area.

44. The draft resolution on preparatory investments (annex II) contained many positive elements, but there was still room for improvement. The proposals for pioneer investments should be drafted in such a way as to include resources other than polymetallic nodules, and those investments should, in general, fall within the framework of the convention. The suggested cut-off date of 1 January 1983 was discriminatory in that it would exclude developing countries which might, at a later date, wish to qualify for pioneer investor status. Some provision should therefore be made to accommodate the interests of the developing countries in that respect.

45. The report of the President on the question of participation in the convention (A/CONF.62/L.86) was useful in that it provided a basis for constructive compromise.

46. His delegation also wished to record its appreciation of the work of the group of 11, and recommended that the Conference should give serious consideration to the compromise proposals suggested by that group, without, however, prejudicing the delicate balance already achieved.

47. It was evident that the Jamaican Government was expeditiously preparing facilities for the Preparatory Commission, and the Conference had been given very adequate progress reports in recent weeks. Those efforts should be given full and sympathetic consideration, and his delegation expressed its gratitude to the Government of Jamaica for its efforts.

48. The proposals put forward by the United States remained a very serious impediment to the progress of the Conference, and he hoped that a spirit of compromise would prevail so that outstanding issues could be resolved.

49. Mr. BJEYA MBAKI (Zaire) said that the report to the First Committee (A/CONF.62/C.1/L.30) was a good basis for negotiation on outstanding issues. He welcomed the progress made on the protection of preparatory investments and understood the concern of some industrialized countries to protect their investments in sea-bed exploration, but could not admit that such protection should legitimize any effort on their part to avail themselves of sea-bed resources and the advantages of the convention without even an assurance that they would accede to it. That was why all pioneer activities

must take place in compliance with the convention and take due account of the interests of developing countries.

50. The draft resolution on preparatory investments called for certain comments. First, so far as resources were concerned, pioneer activities should cover all resources as defined in article 133 of the convention. Secondly, the definition of pioneer areas must meet the criterion of production limitation. The reference to an area of 150,000 km² must be removed from paragraph 1 (e) of the draft resolution so as to bring it more into line with paragraphs 4 and 9, and the Preparatory Commission should determine that area. Thirdly, paragraphs 13 and 14 were meaningless and must be reworded. As for the fee specified in paragraph 7 (a), the figure of \$US 500,000 was too low and should be raised to at least \$US 1 million, while the expenditures to be incurred annually should be even larger so as to discourage speculative occupation. His delegation favoured the principle of an open list for applications, to rule out discrimination, but thought that a small and definite number of pioneer investors would be better able to ensure orderly and controlled activities at the pioneer stage. Other applicants would comply with the provisions of the convention, in particular annex III, article 9, paragraph 4.

51. In the effort to protect preparatory investments, sight should not be lost of the need to protect the even larger and more crucial investments long since committed by land-based producers of the same materials as would be extracted from the sea-bed. Articles 140, 150 and 151 of the convention reiterated the principles on the basis of which sea-bed resources should be exploited so as to encourage the harmonious development of the world economy and protect developing States against harmful effects on their economies. His delegation and those of Gabon, Zambia, Zaire and Zimbabwe had opposed the production limitation referred to in article 151, paragraph 2 (b), because, being concerned with nickel alone, it offered no protection at all for the land-based production of cobalt and manganese, which was of greater importance to the developing countries. They had therefore suggested its replacement by a formula referring to nickel and cobalt, the effects of which would be somewhat less drastic for the industries concerned, and had at the same time proposed the establishment of effective compensation machinery.

52. His delegation supported the proposed amendment to article 171, paragraph (f), which indirectly established the principle of a compensation fund, in spite of its limitations. It likewise supported the proposal to set up a special sub-commission under the Preparatory Commission to seek ways and means of meeting the specific problems of developing producer countries liable to be seriously affected by exploitation of the sea-bed, including the establishment of a compensation fund, and to make appropriate recommendations to the Authority. But compensation was only a palliative, not a remedy. For developing country land-based producers, the solution lay in an overall approach to the problem of markets so as to safeguard the balance between supply deriving from exploitation of the sea-bed and supply from other sources. That was why all the implications of article 151, paragraph 2 (f), dealing with metals other than nickel, should be drawn and why those metals should be governed by a different régime. His delegation had submitted a draft amendment to the effect that the Authority should be enabled to determine production ceilings for them which would not necessarily be the same as those under article 151, paragraph 2 (b). Such questions would be dealt with by the Preparatory Commission's sub-commission responsible for finding solutions to the problems of land-based producers.

53. The stakes were crucial for developing land-based producer countries which derived most of their income from mineral exports and faced the threat of severe damage to their economies and insoluble financial problems in developing

their resources. The production ceiling set in article 151, paragraph 2 (b) of the draft convention was a makeshift but it also constituted a serious threat because, according to the study in document A/CONF.62/L.84, there was a danger of it producing an abundance of cobalt and manganese. Specific measures for those two metals must be provided under article 151, paragraph 2 (f).

54. It had been said that seven Powers should have a permanent seat on the Council as major producers, but the same argument could be used in favour of giving a permanent seat to land-based producers who would suffer seriously from the exploitation of polymetallic nodules. The harmful effects of the prospect of such exploitation had already begun to be felt, and developing countries were having increasing difficulty in finding capital for mining. Stocks were piling up and no danger of shortages was perceptible in either the short or the long term. Land-based producers had responded to the consumers' call by replenishing strategic reserves and by building up other stocks at their own expense. So why were investors in the sea-bed in such a hurry?

55. His delegation supported the proposal (WG.21/Informal Paper 20) to prohibit unfair economic practices which were likely to harm both the principle of equality of treatment and

the land-based producers of minerals in the developing countries. It would have liked the draft convention to reflect in precise terms the idea that sea-bed production should not receive more favourable treatment than land-based production, particularly in respect of financing and marketing.

56. As for Second Committee matters, he reiterated that article 21 should be amended to reinforce the security of coastal countries with respect to the passage of warships through their territorial seas, and articles 62, 69 and 70 to harmonize and affirm more clearly the rights of land-locked and geographically disadvantaged countries. His delegation also requested the deletion of article 71 and supported the criterion of distance for determining the outer limit of the continental shelf.

57. As for participation in the convention, it considered the compromise proposals in A/CONF.62/L.86 to be a valid basis for agreement, but thought that national liberation movements should be full participants, as proposed by the Organization of African Unity and the Group of 77.

The meeting rose at 9.30 p.m.

167th meeting

Wednesday, 7 April 1982, at 3.20 p.m.

President: Mr. T. T. B. KOH (Singapore)

Organization of work

1. The PRESIDENT said that in the third stage of its programme of work the Conference would have to decide the date on which rule 33 of the rules of procedure would become operative, i.e. the date on which amendments could be submitted to the secretariat. On behalf of the Collegium, he proposed that the rule should become operative as from Thursday, 8 April and that amendments should be submitted by 6 p.m. on Tuesday, 13 April. If there was no objection, he would take it that the Conference agreed to adopt those dates.

It was so decided.

2. The PRESIDENT recalled that the draft convention, the draft resolutions and the draft decision contained in documents A/CONF.62/L.78,¹ A/CONF.62/L.93 and Corr.1 and A/CONF.62/L.94 constituted the only proposals against which amendments could be moved. Furthermore, delegations should bear in mind that the problems of ocean space were closely interrelated and needed to be considered as a whole. Amendments to one part of the draft convention could have drastic implications for the whole. For that reason, work had been proceeding on the basis of a package deal. He also recalled that in accordance with the "Gentleman's Agreement" contained in the appendix to the rules of procedure, the Conference should make every effort to reach agreement on substantive matters by way of consensus and there should be no voting on such matters until all efforts at consensus had been exhausted. Accordingly, before the Conference could vote on any amendments it would have to decide that all efforts at reaching general agreement had been tried and proven unsuccessful.

¹ 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).

3. In accordance with the programme of work contained in document A/CONF.62/116,¹ delegations would be given an opportunity in the period between 14 and 21 April to make statements on the amendments. Following rule 37, paragraph 2 (a) of the rules of procedure, he would defer the taking of votes on any amendments submitted for a period of eight calendar days. During that period he would make every effort, with the assistance of the Collegium and of the General Committee, as appropriate, to facilitate the achievement of general agreement and would report to the Conference in plenary meeting with his recommendations. In accordance with rule 37, the Conference would have to determine no later than Friday, 23 April, whether all efforts at reaching general agreement with regard to the draft convention as a whole, i.e. including the draft resolutions and draft decision, had been exhausted. After that determination had been made, all the amendments which had been properly submitted and were still outstanding would be put to the vote following the numerical order of the articles of the draft convention or of the draft resolutions and draft decision before the Conference. The provisions of rule 44 would be applied in connection with that procedure. He felt confident that the Conference would be able to avoid voting on any amendments and that it would be possible to achieve the collective goal of adopting the draft convention by consensus by 30 April 1982.

4. Mr. MANANSALA (Philippines), referring to the decision just taken by the Conference concerning the application of rule 33, said that the 28 sponsors of the proposal dealing with the innocent passage of foreign warships through the territorial sea regretted that the Conference had been unable to solve that problem; over 80 delegations had expressed concern about the issue, which should be the focus of attention with a view to finding a final solution within the set time-limit.

5. Mr. MAZILU (Romania) said that there were some substantive matters which should be taken into consideration in