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170th meeting

Friday, 16 April 1982, at 10.40 a.m.

President: Mr. A. ARIAS SCHREIBER (Peru)

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

STATEMENTS ON AMENDMENTS (*continued*)

1. Mr. CHAYET (France) said that it would be contrary to the real interests of all concerned to reopen discussions on those provisions of the draft convention which had been established through successive compromises over eight years. His delegation was therefore opposed to any amendments relating to Parts I to X of the draft convention. In particular, any amendment to article 21 would create a serious obstacle to participation in the convention by maritime Powers such as France or the United States.
2. The United Kingdom had introduced an amendment to article 60, paragraph 3 (C.2/Informal Meeting/66), which would allow the partial rather than the total removal of disused installations or structures. The result would be to leave in place undersea structures dangerous to shipping and to fishing gear. To remedy that situation, his delegation was proposing, in document A/CONF.62/L.106, an amendment which made the rules for dismantling such structures dependent on the depth of the sea-bed. The obligations of the parties concerned would be clearly defined: the owners of the installations would be required to dismantle them to a certain minimum extent and to maintain proper markings while the work was in progress; the coastal State would have to ensure that those requirements were met and to indicate on charts any remnants not removed; the competent international organization would have to serve as a data centre, devise practical procedures for dismantlement and give due publicity. The French amendment protected States whose resources were derived mainly from fishing, while not greatly increasing the expense to oil companies. The United Kingdom amendment would be acceptable if it took into account the specific points proposed by the French delegation.
3. France naturally supported the amendment proposed by Belgium in document A/CONF.62/L.119, relating to participation by the European Economic Community in the convention. It was opposed to the fifth Spanish amendment in document A/CONF.62/L.109 because it would change a compromise text, and also to the amendment to article 150 proposed by Australia and Canada in document A/CONF.62/L.98.
4. France had co-sponsored the amendments to the crucial Part XI of the draft convention contained in document A/CONF.62/L.121, which drew upon some of the judicious proposals by the group of 11 contained in document A/CONF.62/L.104. His delegation wished to make it clear, however, that France was not in favour of the amendment to article 151, paragraph 2, in document A/CONF.62/L.121 and had refrained from co-sponsoring that particular amendment. Moreover, since document A/CONF.62/L.121 did not address all the concerns of France, it was submitting in its own name two amendments, both contained in document A/CONF.62/L.106: one related to the anti-monopoly clause in annex III, and the other to draft resolution II, on the treatment of pioneer investors. Both amendments reflected France's desire to guarantee all States the right of access to all the resources that were part of the common heritage of mankind. Both the draft convention and the draft resolution on pioneer investors left an opening for a few countries to corner the available sites, which could impair the future prospects for developing countries once they had acquired the necessary technologies. The draft convention should establish that, in the allocation of sites, an application not yet possessing a site was to be given priority over one that had already obtained two or more. The draft resolution on preparatory investments must establish specific qualification standards for applicants, in the absence of a list. There again, the point was to prevent certain pioneer investors from taking advantage of their association with different partners to gain control, under different names, of all the promising areas for industrial development. That resolution should, in a departure from normal practice, be binding.
5. In his delegation's view, the statement made at the preceding meeting by the spokesman of the Group of 77 provided an opening for renewed negotiations and for a favourable outcome to the work of the Conference.
6. Mr. GOERNER (German Democratic Republic) said that most of the amendments under consideration contained proposals that had earlier failed to gain general approval. For instance, the proposal in document A/CONF.62/L.126 that paragraph 3 of article 121 should be deleted would entail a substantive change of the principles underlying the concepts of the exclusive economic zone and the continental shelf. Its effect would be to restrict the fishing rights of all States in large areas of the high seas and to place large parts of the Area under the national jurisdiction of a few coastal States. Such a proposal, being made by the very States which in any case were benefiting the most from the provisions on the exclusive economic zone and the continental shelf, was nothing short of astonishing to the land-locked and geographically disadvantaged States. Similarly, the amendment to article 76, paragraph 8, proposed in the same document would lead to a situation where the broad shelf States could virtually fix the outer limits of their continental shelves themselves. His delegation was absolutely opposed to the amendments proposed in document A/CONF.62/L.126.
7. It also rejected the amendment to article 63, paragraph 2, contained in document A/CONF.62/L.114 and Corr.1, which would extend the rights of certain coastal States in their exclusive economic zones to adjacent maritime areas, thereby restricting the fishing rights of third States on the high seas. The land-locked and geographically disadvantaged States, and others which were dependent on fisheries in distant waters, had already made far-reaching concessions on Part V, and his delegation therefore opposed any proposals aimed at widening the rights of coastal States in the maritime areas adjacent to their coasts.
8. His delegation rejected the amendments put forward in documents A/CONF.62/L.97, L.109, L.110, L.117 and L.118, since it was counter-productive to call in question the laboriously negotiated compromise formulae in articles 21, 39, 42, 121, 123, 221, 223 and other articles. The intensive discussions held in the framework of the Second and Third Committees had made it abundantly clear that those amendments did not command the necessary widespread support, and their sponsors should therefore follow the good example set by Greece and withdraw them.
9. The amendments put forward in documents A/CONF.62/L.121 and L.122 had on various occasions been resolutely opposed by the overwhelming majority of partici-

pants in the Conference because they would substantively change the provisions of Part XI of the draft convention. They were designed to benefit only a very few States, while ignoring the legitimate rights and interests of the majority. Notwithstanding protestations to the contrary, those amendments did not indicate any readiness for compromise. They reflected, with a few exceptions, the well-known United States commitment, reiterated only recently, to having the draft convention fundamentally altered to meet the six objectives set by the United States on 29 January 1982. Basically, the sponsors of the amendments were demanding that all States should guarantee them the right to explore and exploit the sea-bed before the convention entered into force: they were demanding basic conditions for sea-bed mining which would benefit only a few transnational corporations. Documents A/CONF.62/L.121 and L.122 were therefore entirely unsuitable as a basis for negotiations and could only impede the work of the Conference.

10. His delegation also opposed the proposal in document A/CONF.62/L.100 to enlarge the membership of the Council of the Authority by giving one additional seat each to the group of Western European and other States and to the developing countries. If such a proposal were accepted, the group of Eastern European States would unquestionably be under-represented and the relationship between the geographical and interest-group distribution of seats and the voting procedure in the Council would be disturbed, thus destroying one of the essential elements of Part XI.

11. His delegation was also not in a position to accept the proposal in document A/CONF.62/L.120 to delete article 309, which excluded reservations to the draft convention. If reservations were admissible, that would lead to a situation where each State party could, so to speak, pick out the plums for itself. Adoption of such an amendment would destroy the package of substantive provisions that had been so arduously put together. For the same reasons, the basic change in article 310 sought in document A/CONF.62/L.111 was unacceptable.

12. Along with the overwhelming majority of States participating in the Conference, the German Democratic Republic supported the present draft of the convention and the draft resolutions on the Preparatory Commission, the protection of preparatory investments and participation in the convention, which were the result of many years of intensive negotiations and took account of the legitimate rights and interests of all States.

13. Only a few of the amendments submitted were likely to improve the prospects of consensus. They included the proposal in document A/CONF.62/L.101 concerning the accession of national liberation movements to the convention. His delegation welcomed the President's decision that account should be taken of that amendment in reviewing the draft convention.

14. His delegation also supported the proposals contained in documents A/CONF.62/L.124 and L.125. Like the Council, which, pursuant to article 161, paragraph 7 (b), was to adopt its decisions by consensus, the Preparatory Commission should adopt by consensus the draft rules, regulations and procedures of the International Sea-Bed Authority; otherwise the entire functioning of the Authority might be hampered. His delegation also endorsed the reinforcement of the anti-monopoly clause and the non-discrimination provisions and therefore favoured the amendments proposed for that purpose to draft resolution II and to article 7 of annex III.

15. It supported the amendment to article 161, paragraph 2 (a), proposed in document A/CONF.62/L.103, which improved the wording of that provision to bring out more clearly the legitimate concern of the land-locked and geographically disadvantaged States.

16. Lastly, his delegation welcomed the President's decision to take account, in reviewing the draft convention, of the amendments to article 171 and to draft resolution I contained in document A/CONF.62/L.166, paragraphs 1 and 2.

17. It was essential for the Conference to adhere strictly to its programme of work in considering the proposed amendments. The withdrawal of any amendments which had not gained widespread support would therefore be welcome.

18. Mr. SUCHARITKUL (Thailand) recalled that the development of international law was progressive, requiring constant adjustments, so that an idea which was novel when it was first broached could in time become generally accepted. Thus, the concept that the sea and its resources were the common heritage of mankind, relatively novel when it had been declared by the representative of Thailand at the very first United Nations Conference on the Law of the Sea in 1958, had now become a basic principle of the law of the sea. The concept of "mankind" itself had fared less well; the right of all men, regardless of their condition or nationality, to share in the common heritage should be given greater safeguards in any future law of the sea. The draft convention as it stood was a well-balanced package; on the legal side, it codified existing rules and made provision for progressive development of new ones. Even those proposed amendments which did not now command the required consensus for inclusion in the convention could serve to indicate the direction the law of the sea might take in the future or at least the difficulties that stood in the way of such development.

19. Thailand was a food-exporting country and fishing was one of its important industries, including not only the catching of fish but the recycling, restocking and conservation of various species. Thailand would therefore readily support amendments such as those contained in documents A/CONF.62/L.114, L.96 and L.107. It had refrained from submitting its own amendments in the hope of expediting the work of the Conference and other delegations would be well advised to withdraw some of theirs, thus following the example set by Greece.

20. Amendments such as those contained in document A/CONF.62/L.97, for instance, were not without significance but had failed to garner the required support; current opinion appeared to favour freedom of navigation and the right of innocent passage by vessels of all kinds even through territorial waters, since that was vital to the national security of all countries, including Thailand. It was to be hoped that before the day was out most if not all of the amendments under consideration would have been withdrawn or at least set aside for possible action in the future.

21. Thailand appreciated the efforts that had been made by the United States to reduce its negotiating demands, as indicated in the amendments contained in documents A/CONF.62/L.121 and L.122; however, as the spokesman of the group of 11 had pointed out, the proposed amendments were not yet conducive to consensus and the United States must therefore make further constructive efforts to find a proper place for its concerns within the international régime set up by the draft convention. Thailand had taken an active part in the negotiations on Part XI, although it stood to derive little direct benefit, because Part XI was an essential part of the whole substantive package and should command as wide acceptance as possible. Thailand hoped that no country would seek to exclude itself from the universal system and that the continuing process of negotiation would soon yield positive results. No State, in its anxiety to preserve its national interests, should lose sight of the overriding general interests of humanity.

22. Mr. KOZYREV (Union of Soviet Socialist Republics) said that his delegation, like the overwhelming majority of participants in the Conference, supported the draft conven-

tion, which represented a compromise reached after years of negotiation. It was also favourably disposed, in general, to the proposals in the Collegium's memorandum (A/CONF.62/L.93 and Corr.1). It had repeatedly appealed to other delegations not to submit formal amendments which might risk reopening the "package" of compromise agreements and had expressed its willingness to submit no amendments of its own, although it was certainly not satisfied with everything in the draft convention. Most delegations had indeed refrained, which attested to the majority support commanded by the draft convention. Some, however, had put forward countless amendments affecting key provisions of the package. Many of the submissions were not new, having been previously presented and thoroughly discussed and rejected. Their reintroduction as formal amendments showed that certain countries were still determined to secure unilateral advantages at the expense of others.

23. His delegation had therefore decided also to submit a few proposals which, for the sake of consensus, it had not insisted on during the informal negotiations. They were set forth in documents A/CONF.62/L.124 and L.125. The Soviet delegation had repeatedly referred to the need to give substance to the anti-monopoly provisions, so as to prevent any one country, or group of countries or transnational concern from cornering the most promising portions of the sea-bed; if that possibility was not blocked, there was a real danger that the resources of the Area would be monopolized, rendering the principle of the "common heritage" meaningless. Annex III, article 6, of the draft convention would allow one State to obtain sites comprising up to 2 per cent of half the entire Area, or some 2 million square kilometres. His delegation's amendment would help to prevent such situations by specifying that no State could obtain sites amounting to more than 1 per cent of half the Area.

24. Some countries had tried to force the Conference to adopt a "first come, first served" approach to the award of contracts and production authorizations, with the aim of gaining an advantage for their biggest private companies and transnational consortia. The principle of "first come, first served" had been extensively applied in the period of colonial subjugation but was now rejected as a vestige of the colonial past. The draft convention was based on the principles of equality, non-discrimination between States or between different socio-economic systems and non-monopolization of the resources of the sea-bed. His delegation therefore proposed, in document A/CONF.62/L.124, that in case of competing applications for production in the Area, priority should be given to States or companies which had not previously received an authorization.

25. It was also essential to include a non-discrimination and anti-monopoly provision in draft resolution II on the protection of pioneer investors. The Soviet proposal in document A/CONF.62/L.125 was identical with the suggestion advanced by the working group of 21 in the First Committee (A/CONF.62/C.1/L.30). Draft resolution I, concerning the Preparatory Commission, was generally acceptable but left unresolved one of the major questions, namely, how the Commission would adopt the draft rules, regulations and procedures for the Authority and for activities in the Area. His delegation therefore proposed indicating in the resolution that the Commission should adopt such rules, regulations and procedures by consensus, a proposal entirely consistent with article 161 of the draft convention.

26. His delegation was concerned at some of the amendments submitted by other delegations, which would upset essential parts of the overall compromise on the draft convention. The amendments to article 21 proposed in documents A/CONF.62/L.97 and L.117 were unacceptable; the text of that article had been arrived at through lengthy negotiations and included in the draft convention as one of the major ele-

ments of the compromise on territorial waters, exclusive economic zones, archipelagic waters, the high seas and other issues, and it gave coastal States more extensive security guarantees than the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone.¹ He urged the sponsors of those amendments not to press for changes in so important an element of the package.

27. The Soviet Union was opposed to the amendment to article 63, paragraph 2, proposed by Australia and several other countries in document A/CONF.62/L.114 and Corr.1, which would have the effect of curtailing freedom to fish on the high seas and would undermine the compromises that had been reached. The amendments proposed in documents A/CONF.62/L.107, L.109, L.118 and L.126 regarding issues discussed in the Second Committee were also unacceptable because they too would destroy the compromises reached.

28. The greatest number of amendments submitted related to matters discussed in the First Committee. Their sponsors were still bent on radical changes in a number of basic provisions of Part XI of the draft convention, including those concerning the composition of the Council and the method by which it would take decisions. The proposals in document A/CONF.62/L.100, which would increase the membership of the Council and enlarge the representation of the group of Western European States, were unacceptable; they would benefit only the group of Western and other States, at the expense of the Group of 77 and the socialist States of Eastern Europe. Developing countries would be deprived of the ability to obtain a two-thirds majority in any vote, while the Western European group would in effect acquire the right to block decisions of the Council on basic questions requiring a three-fourths majority. The change was all the less warranted in that the group was already over-represented on the Council, holding one fourth of the seats while accounting for only one sixth of the number of States participating in the Conference.

29. The amendment to article 161, paragraph 7, proposed in document A/CONF.62/L.104 was equally unacceptable. It would give one group, the developed Western countries, the right to block decisions by the Council on financing the budget of the Authority, so that they could bring pressure to bear on other members of the Council in order to secure advantageous decisions on financial and other matters. The establishment of the Authority and all its activities depended on a solution to the problem of meeting its budget, and that was why attempts were being made to hold the Authority hostage to the nine Western countries whenever the Council was required to take decisions by a majority of three fourths plus one.

30. The United States, Japan and a number of Western European countries had put forward, in documents A/CONF.62/L.104 and L.121, a series of amendments to the compromise provisions of Part XI of the draft convention, many of which did not directly affect Soviet interests but appeared to create difficulties for the Group of 77 and to threaten the compromises reached on Part XI and on the draft convention as a whole. His delegation was sympathetic to the points made by the Chairman of the Group of 77 in his recent statement.

31. Regrettably, even the agreements reached in the Third Committee had not escaped attempts at amendment. The amendment to article 230 in document A/CONF.62/L.106 ran counter to the understandings on which Part XII had been drawn up, not only affecting but upsetting the balance of interests reflected in that part. He urged the French delegation to withdraw the proposal. Adoption of either of the

¹ United Nations, *Treaty Series*, vol. 516, No. 7477, p. 206.

amendments (A/CONF.62/L.108 and Corr.1; and L.120) relating to article 309, which prohibited reservations to the convention, would contradict the underlying principle that had guided the Conference in drafting the convention.

32. The Conference was master of its own procedure and had allowed delegations to submit formal amendments to the draft text. Nevertheless, its principal task was to avoid undoing the draft, which constituted a single package and, on the whole, conformed to the interests of all States. He appealed to all delegations not to insist on their amendments, so that the convention could be adopted without a vote and thus become a major instrument for ensuring equality among States in the use of the ocean and its resources.

33. Mr. VARVESI (Italy) said that arriving at an international convention which was acceptable to all parties represented at the Conference and could be adopted by consensus had always been his delegation's primary objective. At the same time, his delegation had repeatedly stressed that it would be unthinkable for the arduous negotiations on Part XI to have as their outcome arrangements which would not permit the actual exploitation of the common heritage to begin and be carried on in the mutual interest of industrialized and developing countries. Calculations and analyses which had never been contradicted confirmed that there was a real risk of that under Part XI of the draft convention. It was rash to suppose that enterprises would get involved in underwater exploitation activities under the parallel system if some of the current provisions were retained. That was why Italy and other industrialized countries had submitted the amendments contained in documents A/CONF.62/L.121 and L.122.

34. With regard to the proposals on matters other than Part XI, his delegation felt that the draft convention represented a prudent balance which had required sizeable concessions by all concerned, and that disrupting it would have most serious consequences. It was therefore opposed to any amendments, particularly those relating to article 21 proposed in documents A/CONF.62/L.97 and L.117. As another delegation had already pointed out, if the questions of navigation and overflight were to be reformulated a number of maritime countries, including the United States, would not sign the convention.

35. With respect to the proposed amendments concerning fishing, he associated himself with the statements made by the representative of Belgium on behalf of the 10 States members of the European Economic Community. He would, of course, support the amendment on the participation of international organizations in the convention contained in document A/CONF.62/L.119.

36. Mr. CALERO RODRIGUES (Brazil) said that for many years the prospect of individual amendments to the draft convention had haunted the Conference; now the Conference was hearing them. That was not, in his view, a disaster; it had always been clearly understood that amendments could be submitted.

37. As a member of the Group of 77, Brazil fully supported the position of the Group on the question of Part XI. Some of the amendments submitted appeared to have no serious chance of acceptance but had been submitted in order to place a position on record, while others might represent compromises. The proposals of the Group of 77 also reflected compromise positions. The Group had shown restraint by submitting amendments concerned primarily with draft resolution II. It could certainly have put forward its ideas on Part XI so as to make it clear that the existing draft convention represented the middle ground; it had refrained from doing so, but it must be understood that it too had a "bottom line". He hoped that the negotiations to be conducted by the President would lead to an acceptable set of provisions for inclusion in a universal convention.

38. Some of the amendments submitted seemed clearly acceptable, such as the one contained in document A/CONF.62/L.102, concerning article 305; the Conference should show that it regarded Namibia as a State. The Iraqi proposals (A/CONF.62/L.101) also represented an improvement and he would be prepared to support them if they were put to the vote. The proposal in document A/CONF.62/L.119 to delete article 4, paragraph 6, of annex IX was another matter. The paragraph was essential in order to indicate clearly that special arrangements for international organizations should be made only in so far as they were consistent with the provisions of the convention.

39. His delegation had no difficulties with the wording of draft resolution III used in document A/CONF.62/L.94, which the Spanish delegation, in document A/CONF.62/L.109, was now proposing to restore. Nevertheless, that current text represented a compromise and he was not sure that it would be wise to revert to the earlier version.

40. With regard to the two amendments concerning article 309, the Venezuelan proposal (A/CONF.62/L.108 and Corr.1) would allow reservations to certain articles, while the Turkish one (A/CONF.62/L.120) would permit such reservations under the general provisions of the Vienna Convention on the Law of Treaties.² His delegation favoured the Turkish proposal as allowing greater flexibility, although it found it regrettable that the Conference had not had time to consider which articles should be open to reservations and declarations of understanding. The Romanian amendment to article 310 (A/CONF.62/L.111) sought to simplify a provision which he believed was already clear and would make the text rather vague.

41. Amendments had been proposed to two articles concerning the territorial sea, including one dealing with the passage of warships under article 21. His delegation did not consider it essential to have a provision on that point in the convention, since it believed that States were already entitled under international law to adopt legislation regulating the passage of warships through their territorial sea, and the convention would not deprive them of that right. However, it would not object to the adoption of the provision proposed in document A/CONF.62/L.97. It could also accept the proposal, in document A/CONF.62/L.117, to include security among the subjects on which coastal States could adopt legislation and would vote for it if a vote was taken.

42. He disagreed with the proposal in document A/CONF.62/L.123 to replace "other" by "similar" in article 19, paragraph 2 (f). Such a change had been suggested, but not accepted, in the Second Committee; his delegation felt that it would undermine the entire notion of innocent passage and was strongly opposed to it.

43. With regard to the Spanish proposals in document A/CONF.62/L.109, his delegation would probably abstain on the amendment to article 39, paragraph 3 (a); it had always considered it unnecessary to go into the details of air navigation in the convention, although it had no strong objections to the proposal. The proposals regarding article 42, paragraph 1 (b), and article 233 were clearly improvements and should be accepted.

44. Most of the amendments relating to the exclusive economic zone could not be accepted. The concept of an exclusive economic zone had been thoroughly discussed and a delicately balanced compromise text had been worked out. The amendments in document A/CONF.62/L.115 to articles 56 and 82, concerning the Common Heritage Fund, were unfortunately incompatible with the concept of the exclusive economic zone. His delegation agreed with the idea of soli-

² See *Official Records of the United Nations Conference on the Law of Treaties, Documents of the Conference* (United Nations publication, Sales No. E.70.V.5).

clarity but did not believe that such an amendment should be introduced at the current stage; accordingly, if it was put to the vote it would vote against it. Other amendments would be harmful to the interests of the coastal States and the developing countries in the region concerned and his delegation could not, therefore, accept the proposals in documents A/CONF.62/L.99, L.107 and L.112.

45. With regard to the amendments proposed by France in document A/CONF.62/L.106, the Conference had already agreed to amend article 60 in response to a request by the United Kingdom. France was now proposing a more complicated text. His delegation believed that the present text was sufficient to ensure the safety of navigation but, since it had not had sufficient time to study the amendment, it would abstain if it was put to the vote.

46. His delegation had in the past indicated sympathy with the idea reflected in document A/CONF.62/L.114 and Corr.1, which sought to amend article 63, paragraph 2. However, he was not sure that such an amendment was generally acceptable at the present stage even though his delegation had no difficulty in agreeing to it.

47. The United Kingdom had submitted a reasonable proposal in document A/CONF.62/L.126, and his delegation would vote in favour if it was put to the vote.

48. While the wording of article 42, paragraph 1 (f), was not intended to limit the right of States to take measures against pollution, he agreed with the representative of Spain that it could be interpreted in that way and was therefore in favour of the amendment in document A/CONF.62/L.109.

49. Two amendments concerning uninhabited islets had been submitted, in documents A/CONF.62/L.118 and L.126. His delegation agreed with the United Kingdom that there was no logical explanation for paragraph 3 of article 121 and would therefore favour the United Kingdom proposal. The meaning of the Romanian proposal was not clear, and his delegation would abstain if it was put to the vote. For the same reason, it would abstain on the amendment to article 123 proposed by Iraq (A/CONF.62/L.110).

50. His delegation hoped that it would not be necessary to take votes on all the amendments proposed.

Mr. Andersen (Iceland), Vice-President, took the Chair.

51. Mr. VELLA (Malta) said that his delegation had co-sponsored the amendment in document A/CONF.62/L.117 because, as it had stated previously, it agreed with the interpretation that the present text on innocent passage in the draft convention recognized the right of coastal States to enact national legislation regulating the innocent passage of warships through the territorial sea in order to protect the coastal State's security. Experience had shown that others might have different views and that was why, in so important a matter which could give rise to serious disputes on interpretation of the convention, an amendment clarifying the text was necessary.

52. With regard to article 21, his delegation would support the amendment contained in document A/CONF.62/L.97 if it was pressed to a vote. However, it believed that the compromise proposed in document A/CONF.62/L.117 had very wide support and that enough time remained to work out a generally accepted compromise on that unfinished piece of business.

53. Since any progress at the present stage was welcome, his delegation wished to express its satisfaction at the President's announcement of the substantial support found for three amendments before the Conference, and in particular for the amendment in document A/CONF.62/L.101 submitted by Iraq.

54. Finally, his delegation was opposed to any changes in article 309 and to the amendment contained in document A/CONF.62/L.118.

55. Mr. MAHIOU (Algeria) said that the amendments submitted reflected a wide divergence of views and should therefore be inadmissible since they would in no way contribute to arriving at the consensus everyone was striving to attain. Some delegations were attempting to raise anew difficulties that had been painfully resolved at lengthy meetings. For example, the amendments proposed to Part XI and related annexes had caused great disquiet in the Conference. His delegation failed to understand the purpose behind the attempt by a certain group of countries to transform radically Part XI and related annexes. He pointed out that that part of the draft convention did not fully meet the wishes of his delegation and others. When the compromise had been reached on matters such as the Review Conference and the transfer of technology, his delegation had expressed dissatisfaction at a plenary meeting. The amendments now proposed were attempting to create a barrier to consensus; his delegation would have suspected their sponsors to appreciate the sacrifice already made by the developing countries and to understand that their amendments were not practical. They should realize the consequences of their proposals and the fact that they could not demand further compromise from the developing countries on a text that was already in their favour.

56. However, his delegation supported some of the other amendments, such as that concerning national liberation movements submitted by Iraq in document A/CONF.62/L.101, and the proposal in document A/CONF.62/L.102 for full participation in the convention by Namibia. It also supported the amendments contained in documents A/CONF.62/L.103, L.115, L.117, L.118 and L.127. It was opposed to the United Kingdom amendments in document A/CONF.62/L.126. Finally, it sympathized with the proposals made by Gabon (A/CONF.62/L.97) and by Lesotho (A/CONF.62/L.99).

57. Mr. TORRAS de la LUZ (Cuba) said that the Conference was at a decisive stage in its work, and his delegation fully agreed with the views expressed and the recommendations made by the representative of the United Republic of Tanzania. No more concessions could be expected from the Group of 77; it was time now for the capitalist developed countries, especially the sponsors of the amendments in documents A/CONF.62/L.121 and L.122, to make compromises. His delegation had submitted no amendments because it had accepted the draft convention which was the result of a compromise.

58. Cuba fully supported the amendments submitted by Peru on behalf of the Group of 77 in document A/CONF.62/L.116. The Group of 77 was not closing the door to further efforts for consensus but could not accept changes that would radically alter Part XI of the draft convention. Cuba believed that the wording of article 151 on production ceilings should be retained because it was the result of long negotiations in which both the United States and the European Economic Community had participated. The representative of the United States had suggested that his amendment to article 151 was a minor one; in fact, it was rather substantive and would prevent land-based producers from benefiting from marine production.

59. Cuba supported the amendments proposed by Iraq in document A/CONF.62/L.101 and by the United Nations Council for Namibia in document A/CONF.62/L.102. It accepted the text that had emerged from discussions in the Second Committee (A/CONF.62/L.87) in which all delegations had made sacrifices. Accordingly, it could not agree to the changes to article 21 proposed in documents A/CONF.62/L.97, L.117 and L.126. Finally, Cuba believed

that the wording of article 63, paragraph 2, should be retained since conservation of resources was already covered in Part VII, section 2. Accordingly, it objected to the proposals in document A/CONF.62/L.114 and Corr.1.

60. Mr. CHAN YOURAN (Democratic Kampuchea) said that, as stated in the past, his delegation could not agree to the right of passage for warships through the territorial sea unless satisfactory conditions were met, such as prior notification to and permission from the coastal State. That was to ensure the security of coastal States and the co-operation of all States parties to the convention. Article 21 should reaffirm the principle that use of the seas must be for peaceful purposes and in accordance with the Charter of the United Nations. Accordingly, his delegation could support the amendments to that article proposed in documents A/CONF.62/L.97 and L.117.

61. His delegation shared the view that the convention should leave States parties free to make reservations; rather than harming the convention, that would enhance and reinforce it. With regard to participation, his delegation supported the Iraqi proposal that national liberation movements should have the right to participate in the convention. Finally, his delegation reaffirmed its position that the draft convention should be adopted by consensus and hoped that all efforts would be made to avoid voting.

62. Mr. AL-KINDI (Oman) said that his delegation had refrained from introducing any formal amendments because it believed that, at the present stage, only amendments which were really necessary and had a real chance of adoption should be submitted. Amendments should not be introduced for their own sake, as that would clog the work of the Conference.

63. His delegation had joined in proposing an amendment to article 21 (A/CONF.62/L.117). It had previously expressed its position regarding the so-called innocent passage of foreign warships through the territorial waters of coastal States and it had called for an amendment that would permit coastal States to regulate such passage by permitting them to require foreign warships either to obtain prior authorization or to give prior notification consistent with existing international law and practice. His delegation believed that that clarification was necessary to ensure the security of coastal States, and it had said that it was prepared to consider any proposed draft article which would ensure that. The inclusion of the word "security" in article 21, paragraph 1 (h), did not introduce any terminology which was not already in the text of the draft convention; the definition of innocent passage of ships—which was a concession to the international community made by the coastal States—used the word "security". In that article as in others, the draft convention implicitly recognized the right of coastal States to regulate the exercise of innocent passage of all foreign ships through their respective territorial waters. That clarification was an important improvement to the text of article 21, and his delegation urged the Conference to accept it in the spirit in which it was offered. His delegation had no difficulty in supporting the amendment to the same article proposed by Gabon in document A/CONF.62/L.97 since it was aimed at achieving the same goal.

64. With regard to reservations, his delegation had stated that it would be unable to accept provisions such as those in article 309 of the draft convention. States should not be prevented from joining universally accepted multilateral treaties by a ban on the formulation of reservations which were consistent with the purposes and principles of such treaties. Making reservations was a method of solving unavoidable difficulties for States which desired to express their wish to be bound by a treaty. In the proposed convention there might be many provisions which could be harmful to certain interests of States, and it would not be in the interests of the convention that States should not be permitted to join it

because of the existence of a provision such as article 309. His delegation therefore favoured the proposal contained in document A/CONF.62/L.120. It was equally necessary to consider whether the restrictive nature of the proposed article 310 would really further the interests of the Conference since it appeared to be contrary in several ways to established international practice. The Romanian amendment (A/CONF.62/L.111) would go a long way towards correcting what was attempted in article 310.

65. His delegation fully subscribed to the views expressed by the representative of Peru on behalf of the Group of 77 on other matters, particularly those related to Part XI of the convention.

66. Mr. MURARGY (Mozambique) said that the strenuous effort of negotiation carried out in the Conference was now finally achieving its goal of establishing a new legal order for the seas. Several of the proposed amendments entailed innovations regarding subjects previously negotiated, as in the case of Part XI. In August 1980, a delicate balance of interest had been achieved in Geneva and a consensus had been reached on those important matters. Unfortunately, in 1981 the United States delegation had created a deadlock in the work of the Conference, which had culminated in the presentation of the so-called "Green Book" (WG.21/Informal Paper 18). While everyone appreciated the attitude of the United States in withdrawing that document, his delegation believed that the amendments submitted in document A/CONF.62/L.121 would disturb the balance of Part XI of the draft convention and feared that any consideration of those proposals would alter the programme of work established and approved for the current session. The sponsors of the amendments were unhappy with the draft convention, but so were the members of the Group of 77. However, in a spirit of compromise, the Group of 77 had accepted the draft convention as contained in document A/CONF.62/L.78³ and was opposed to any element that would disturb the delicate balance of that package.

67. His delegation also rejected document A/CONF.62/L.122 and endorsed the alternate amendments proposed by the Group of 77 in document A/CONF.62/L.116 which offered broad prospects for compromise.

68. His delegation was ready to support some amendments as contained in documents A/CONF.62/L.101, L.102 and L.118. It would like to see members of the national liberation movements, as well as all States participating in the Conference, sign the convention. It fully supported the participation of Namibia, represented by the United Nations Council for Namibia.

69. Since the main issues of the convention must be dealt with as a package, his delegation believed that no changes should be permitted to those elements, because that could lead to a drastic situation. On Second Committee matters, it believed that a consensus and a balance had already been achieved and did not see any reason to discuss them further.

70. As a matter of principle, his delegation did not accept that the sovereign rights of the coastal State must be challenged, as proposed in the amendments contained in documents A/CONF.62/L.96, L.99 and L.107. It believed that those questions could be resolved by regional or subregional agreements based on friendship and co-operation between States.

71. Finally, his delegation hoped that the consultations carried out by the President would lead to universal acceptance of the convention.

The meeting rose at 1 p.m.

³ See *Official Records of the Third United Nations Conference on the Law of the Sea* (United Nations publication, Sales No. E.83.V.4).