

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

1973-1982

Concluded at Montego Bay, Jamaica on 10 December 1982

Document:-

**A/CONF.62/SR.176**

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

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

# 176th meeting

Monday, 26 April 1982, at 6.25 p.m.

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

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

CONSIDERATION OF AMENDMENTS TO THE DRAFT CONVENTION

*Amendment contained in document A/CONF.62/L.117*

1. The PRESIDENT read out the following statement: "Although the sponsors of the amendment in document A/CONF.62/L.117 had proposed the amendment with a view to clarifying the text of the draft convention, in response to the President's appeal they have agreed not to press it to a vote. They would, however, like to reaffirm that their decision is without prejudice to the rights of coastal States to adopt measures to safeguard their security interests, in accordance with articles 19 and 25 of the draft convention."

*Amendments contained in documents A/CONF.62/L.115 and L.114*

2. The PRESIDENT announced that the sponsor of the amendment in document A/CONF.62/L.115 and the sponsors of the amendment in document A/CONF.62/L.114 were not pressing their amendments to a vote.

*Amendments contained in documents A/CONF.62/L.124 and L.125*

3. The PRESIDENT said that, in view of the fact that the sponsors of the amendments he had mentioned earlier were not pressing them to a vote, the Soviet Union delegation had agreed not to press for a vote on its amendments in documents A/CONF.62/L.124 and L.125. The sponsors of all amendments to Part XI and the related annexes were accordingly not pressing for a vote on their amendments.

*Amendment contained in document A/CONF.62/L.110*

4. The PRESIDENT announced that the sponsor of the amendment in document A/CONF.62/L.110 was not pressing it to a vote.

*Amendments of Spain contained in document A/CONF.62/L.109*

5. Mr. LACLETA MUNOZ (Spain) said that he regretted that instructions from his Government precluded him from withdrawing all the amendments in document A/CONF.62/L.109, the first two of which were being maintained.

6. Mgr. CHELI (Holy See) said that he regretted that the Conference had to resort to a vote to settle disputed points. The Holy See had agreed to participate in the Conference bearing in mind its role of defending ethical and moral values. His delegation would not take part in the voting on the amendments but reserved the right to vote on the text as a whole.

*First amendment of Spain contained in document A/CONF.62/L.109*

7. Mr. MALONE (United States of America) said that it was unfortunate that the first amendment of Spain should upset the balance achieved, following lengthy negotiations, in the formulation of article 39. His delegation was opposed to that amendment which, if it were adopted, might jeopardize the entire draft convention. His delegation would not in that event be able to vote in favour of the text as a whole.

*A recorded vote was taken on the first amendment of Spain contained in document A/CONF.62/L.109.*

*In favour:* Bolivia, Brazil, Burma, Costa Rica, Ecuador, Greece, Guyana, Indonesia, Iran, Lesotho, Liechtenstein, Madagascar, Morocco, Panama, Peru, Philippines, Seychelles, Spain, Uruguay, Yugoslavia, Zambia.

*Against:* Algeria, Angola, Argentina, Australia, Austria, Bahamas, Bahrain, Belgium, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Chad, Chile, Czechoslovakia, Democratic Yemen, Democratic People's Republic of Korea, Ethiopia, Finland, France, German Democratic Republic, Germany, Federal Republic of, Guinea, Hungary, Iceland, Iraq, Israel, Italy, Japan, Kenya, Lao People's Democratic Republic, Luxembourg, Mexico, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Poland, Qatar, Samoa, Senegal, Singapore, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United States of America, Viet Nam, Zimbabwe.

*Abstaining:* Bangladesh, Barbados, Bhutan, Burundi, Cape Verde, Central African Republic, China, Colombia, Congo, Cuba, Cyprus, Denmark, Djibouti, Dominican Republic, El Salvador, Fiji, Gabon, Guatemala, Guinea-Bissau, Honduras, India, Ireland, Jamaica, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malawi, Mali, Malta, Mauritius, Monaco, Mozambique, Namibia, Nauru, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Portugal, Republic of Korea, Romania, Rwanda, Sac Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, United Republic of Tanzania, Upper Volta, Venezuela, Zaire.

*The first amendment of Spain was rejected by 55 votes to 21, with 60 abstentions.*

*The second amendment of Spain contained in document A/CONF.62/L.109 to replace "applicable" by "generally accepted"*

8. Mr. JEANNEL (France) said that his delegation was opposed in principle to any amendment to the text adopted within the Second and Third Committees. It was not, however, opposed to the amendment under consideration inasmuch as it brought the wording of article 42 into line with that of other provisions, including those on the protection of the marine environment, and did not change the general meaning of the text. His delegation was therefore in favour of the amendment.

9. Mr. BEESLEY (Canada) said that Canada had not pressed its amendment, which it still deemed to be very important, to a vote. It would, however, vote in favour of the amendment under consideration.

*A recorded vote was taken on the second amendment of Spain contained in document A/CONF.62/L.109.*

*In favour:* Australia, Bahamas, Barbados, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Democratic People's Republic of Korea, Djibouti, El Salvador, Fiji, France, Germany, Federal Republic of, Guatemala, Guyana, Iceland, Indonesia, Iran, Italy, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malaysia, Malta, Mauritius, Mexico, Monaco, Morocco, Netherlands, New Zealand, Nicaragua, Panama, Papua New Guinea, Peru, Philippines, Portugal, Romania, Samoa, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, Spain, Sri Lanka, Suriname, Swaziland, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

*Against:* Argentina, Bahrain, Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Egypt, German Democratic Republic, Greece, Hungary, Iraq, Israel, Ivory Coast, Jamaica, Jordan, Kenya, Lao People's Democratic Republic, Lesotho, Mongolia, Nigeria, Poland, Qatar, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United States of America, Viet Nam, Zimbabwe.

*Abstaining:* Algeria, Angola, Austria, Bangladesh, Benin, Bhutan, Burundi, Cape Verde, Central African Republic, Chad, Congo, Democratic Yemen, Denmark, Dominican Republic, Ecuador, Ethiopia, Finland, Gabon, Guinea, Guinea-Bissau, Honduras, India, Ireland, Japan, Kuwait, Lebanon, Malawi, Mali, Mozambique, Namibia, Nauru, Nepal, Norway, Oman, Pakistan, Paraguay, Republic of Korea, Rwanda, Sao Tome and Principe, Saudi Arabia, Sudan, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Yugoslavia, Zaire, Zambia.

10. The PRESIDENT announced that, the voting on the second amendment of Spain (A/CONF.62/L.109, para. 2) having been 60 in favour and 29 against, with 51 abstentions, that amendment had not received the majority required in accordance with rule 39, paragraph 1, of the rules of procedure and had therefore not been adopted.

*Amendment of Turkey contained in document A/CONF.62/L.120*

11. Mr. AKYAMAC (Turkey) said that he regretted having to press his delegation's amendment (A/CONF.62/L.120) to a vote. He pointed out, however, that he was in a position to agree that the deletion of article 309 proposed in it did not affect Part XI.

12. Mr. ZEGERS (Chile) said that the deletion of article 309 would be contrary to the very principle of the draft convention; the negotiations had, after all, been based on two fundamental assumptions: that the draft convention, which dealt with problems of the seas and oceans which were closely interrelated at the physical, legal and political levels, was indivisible and that the negotiations should be based on the principle of consensus. That was why there was no question of being able to restrict, even partially, the application of certain parts of the draft convention. His delegation was accordingly opposed to the deletion of article 309, which had appeared in all successive versions of the draft convention right up to the text before the Conference. The Conference should therefore reject the amendment in document A/CONF.62/L.120 if it was to remain faithful to the position it had held throughout the 10 previous sessions. If the amendment was rejected, the corresponding foot-note would have to be removed because it was provisional, as was indeed stated in that foot-note itself.

His delegation would accordingly vote against the amendment.

13. Mr. CHARRY SAMPER (Colombia) said that he was opposed to the Turkish amendment. First of all, the two groups that had considered the question of reservations had produced a compromise text which had been embodied in the draft convention on the understanding that that provision would not be objected to. Secondly, account should be taken of the fact that other substantive articles of the draft convention were the subject of foot-notes comparable to that to article 309, yet there was no question of considering those articles as provisional. Finally, his delegation believed that both resolution 3067 (XXVIII) and the gentleman's agreement, together with the third preambular paragraph, excluded the possibility of adopting the proposed amendment inasmuch as it would jeopardize the principle of the indivisible and global nature of the text of the convention on which the negotiations had been based.

14. Mr. AGUILAR (Venezuela) said that he could support the adoption of the Turkish amendment as long as the amendment did not apply to Part XI and the related annexes. The proposed amendment did not affect the over-all structure of the draft convention and corresponded to the system already adopted in the overwhelming majority of multilateral conventions, as his delegation had noted in its letter addressed to the President of the Conference on 24 April 1982 (A/CONF.62/L.134). As a result of that amendment, his delegation would not have to press for a vote on its amendment (A/CONF.L.108). He therefore requested that a recorded vote be taken on the Turkish amendment, in accordance with rule 41 of the rules of procedure.

*A recorded vote was taken on the Turkish amendment contained in document A/CONF.62/L.120.*

*In favour:* Albania, Bolivia, China, Democratic Kampuchea, Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, Guatemala, Oman, Philippines, Romania, Saudi Arabia, Somalia, Turkey, Upper Volta, Venezuela, Yemen.

*Against:* Afghanistan, Angola, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Benin, Bhutan, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Ethiopia, Fiji, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Papua New Guinea, Poland, Republic of Korea, Samoa, Sao Tome and Principe, Senegal, Seychelles, Singapore, Solomon Islands, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Trinidad and Tobago, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

*Abstaining:* Algeria, Argentina, Bangladesh, Brazil, Central African Republic, Djibouti, Dominican Republic, Gabon, Indonesia, Lebanon, Morocco, Namibia, Pakistan, Panama, Paraguay, Peru, Portugal, Qatar, Rwanda, Sierra Leone, Swaziland, Syrian Arab Republic, Thailand, Tunisia, Uruguay, Zaire.

*The Turkish amendment contained in document A/CONF.62/L.120 was rejected by 100 votes to 18, with 26 abstentions.*

*The meeting was suspended at 7 p.m. and resumed at 7.10 p.m.*

*Amendment proposed in document A/CONF.62/L.137 on the participation of Namibia, represented by the United Nations Council for Namibia, in the convention*

15. The PRESIDENT stressed that the proposed amendment was the result of lengthy negotiations and suggested that the Conference adopt it by consensus.

*The amendment proposed in document A/CONF.62/L.137 was adopted by consensus.*

16. Mr. POWELL-JONES (United Kingdom) said that his delegation did not consider Namibia to be a sovereign State and therefore competent to assume international treaty obligations. Nor did his delegation consider the United Nations Council for Namibia to have such competence. When Namibia achieved full statehood, it could be represented by a duly elected Government and not by the United Nations Council for Namibia. His delegation believed that it was ill-advised to incorporate into the convention provisions which were by nature provisional and controversial, had no bearing on the issues before the Conference and would be obsolete even before the convention entered into force. The decision just taken by the Conference was premature, for the Western contact group was currently engaged, with the approval of the Security Council, in promising efforts to solve the Namibia problem. Despite its objections, however, his delegation had not opposed the consensus out of concern for the wider interests of the Conference and the convention.

17. Mr. ROSENNE (Israel) said that his delegation would have abstained had the amendment just adopted by consensus been put to the vote. He did not believe, however, that the amendment and compromise proposal put forward by the President contained in documents A/CONF.62/L.102 and L.137 created a precedent for any organ or entity for the purposes of signature of the convention or any other purpose.

18. Mr. JUNG (Federal Republic of Germany) said that, despite certain difficulties, his delegation had been able to support the amendment contained in document A/CONF.62/L.137 in a spirit of compromise.

19. Mr. TJIRIANGE (Observer, South West Africa People's Organization) expressed gratification that justice had finally prevailed. SWAPO recognized and supported the United Nations Council for Namibia, which had been set up by the international community. He wished to thank all delegations for having adopted by consensus the amendment contained in document A/CONF.62/L.137.

20. Mr. MALONE (United States of America) endorsed the comments made by the representatives of the United Kingdom, Israel and the Federal Republic of Germany regarding the amendment just adopted by consensus.

21. Mr. JEANNEL (France) endorsed the statement made by the representative of the United Kingdom. Like the representative of the Federal Republic of Germany, he had not wanted to oppose a consensus on the issue but believed that that gesture of goodwill should not create a precedent.

22. Mr. JANI (Zimbabwe) said that he had been instructed by his Government to urge the Conference to accept the amendment contained in document A/CONF.62/L.137. In his view, the decision just taken by the Conference was perfectly in keeping with the decisions and resolutions of the General Assembly and other United Nations organs and in no way ran counter to current efforts to find a lasting solution to the problem of Namibia.

He wished to thank the Conference for taking such an important decision.

23. Mr. MWANANG'ONZE (Zambia) said that he would not have spoken had not certain delegations made statements which created the impression that they neither approved of nor recognized the United Nations Council for Namibia, a United Nations organ none the less created by the General Assembly to replace South Africa as Namibia's Administering Authority until the Territory achieved independence. The difficulties which those delegations had with the amendment contained in document A/CONF.62/L.137 would tend to suggest that Namibia was to remain under the control of the illegal South African régime. His country was opposed to such support for the apartheid policy pursued in Namibia, especially when it came from members of the contact group which the United Nations had entrusted with finding a solution to the Namibian question. He would have hoped for more understanding and sympathy for the Namibian people.

24. Mr. KOROMA (Sierra Leone) recalled that the United Nations Council for Namibia had been established by the General Assembly which had given it a mandate to administer Namibia until the latter achieved independence. The convention which the Conference was currently engaged in drafting affected Namibia's interests, resources and concerns and it was only right that the United Nations Council for Namibia should protect the Territory's interests.

25. Mr. ENGO (United Republic of Cameroon) expressed deep concern at the continuing occupation of Namibia and the oppression of its heroic people who continued to be denied their legitimate right to participate in international life. The international community had provided for Namibia's representation and it would be irresponsible to overlook that fact. The United Nations Council for Namibia was responsible for looking after and safeguarding Namibia's interests. Legally speaking, it was perfectly normal for Namibia to be represented fully by the United Nations Council for Namibia and he therefore supported wholeheartedly the decision just taken by the Conference.

26. Mr. BEESLEY (Canada) said that the difficulties which the amendment contained in document A/CONF.62/L.137 had created for his delegation arose from the fact that Canada was a member of the Western contact group and believed firmly that the question of Namibia could be resolved peacefully. He would therefore have preferred not to create the impression of endorsing the present situation. In a spirit of goodwill and like other members of the contact group, however, his delegation had not opposed the consensus.

27. Mr. STARCEVIC (United Nations Council for Namibia) said that the Council for Namibia had considered the original formulation of article 305 to be unacceptable: it appeared that neither the Council nor Namibia had been taken into consideration when that article had been drafted and that was why the Council had seen fit to submit an amendment. He was gratified that all those who had participated in the consultations had been able to agree on the proposal contained in document A/CONF.62/L.137, and was deeply grateful to them. The amendment just adopted was entirely satisfactory to the Council and he believed that the reservations expressed to it were attributable to the particular position of certain countries.

*Amendment contained in document A/CONF.62/L.111*

28. In response to an appeal by the PRESIDENT, Mr. MAZILU (Romania) said that he would not press for a vote on his amendment (A/CONF.62/L.111).

*The meeting rose at 7.30 p.m.*