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177th meeting

Wednesday, 28 April 1982, at 11 a.m.

President: Mr. B. RABETAFIKA (Madagascar)

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

STATEMENTS ON THE REPORT OF THE PRESIDENT IN ACCORDANCE WITH RULE 37 OF THE RULES OF PROCEDURE

1. Mr. de SOTO (Peru), speaking as Chairman of the Group of 77, said that he wished to comment in particular on the proposals contained in annexes IV and V of the report of the President (A/CONF.62/L.132). The Group of 77 was willing in principle to accept those proposals, although to do so would mean making concessions, the magnitude of which should be recognized by other members. The draft resolution in annex IV was not in the Group's interests, and the Group would like to see it brought further into line with the basic parameters of the convention. Its main concerns, which had already been expressed directly to the President, related to the size of the pioneer area (para. 1 (*e*) of draft resolution II) and the status of the Enterprise, as outlined in paragraph 9 (*a*) and (*b*).

2. Turning to annex V, he observed that any amendment to article 150 needed careful consideration, because that article contained the guidelines under which the Authority would exercise its discretionary powers for the management of the Area—powers which, incidentally, were much narrower than the Group of 77 would like them to be. Efforts had been made throughout the years to reflect in the draft convention the complex assemblage of interests, objectives and safeguards needed to make the Authority's policy consistent with the concept that the Area and its resources were the common heritage of mankind. The Group of 77 did not wish to consider any amendment which might change the Authority into a mere instrument for promoting productivity, and felt that the proposed amendments to article 150 gave undue weight to productivity at the expense of safeguards and precautions. With regard to the reformulation of article 155, he said that the Group of 77 attached much importance to that article and would resist any substantive change; the amendment in question, however, did not affect the fundamental provisions of the convention and should cause no serious concern. As for the amendment to article 161, it merely put into words what had always been the intention of the developing countries, namely that the largest consumer should be a member of the Council.

3. In conclusion, he said that the Group of 77 might be prepared to accept all the proposed amendments to which he had referred, but only if its own remaining problems in regard to the convention could be satisfactorily solved.

4. Mr. KOROMA (Sierra Leone) said that his delegation had understood that the so-called parallel system of exploration and exploitation laid down in the convention would place the Enterprise on an equal footing with other entities involved in sea-bed mining. The new draft resolution II in annex IV of the report of the President (A/CONF.62/L.132), however, would create an unbalanced and inequitable régime. Its legal effect would be to restore legitimacy to the unilateral national legislation already enacted by certain countries, namely France, the United Kingdom, the United States and the Federal Republic of Germany, authorizing and regulating the mining of polymetallic nodules outside the provisions of the convention. That legislation called for the reciprocal recognition of authorizations issued by the States concerned, and also dealt with the resolution of potential conflicts concerning the size and shape of unexplored areas. The Conference had declared all such legislation illegal, but the proposed draft resolution II, by implication, recognized and legitimized it. The draft resolution also made provision for exploration before the entry into force of the convention and for the resolution of conflicts with respect to overlapping claims. It would thus place certain countries in a privileged position and prevent the parallel system from coming into effect, at least for many years, and perhaps for ever if the privileged countries decided to set up a cartel against which the Enterprise would not be able to compete. Paragraphs 1 and 9, in particular, were weighted against the Enterprise. Moreover, no provision had been made forbidding the use of flags of convenience.

5. In short, his delegation thought that the draft resolution was fraught with undesirable consequences for the Sea-Bed Authority, and that its adoption would be too high a price to pay for consensus on the convention.

6. Mr. CALERO RODRIGUES (Brazil) said that his delegation supported the position taken by the Group of 77 on annexes IV and V of document A/CONF.62/L.132. It shared the Group's doubts about the proposed changes, but believed that if other problems were resolved it could accept them as part of the high price which had to be paid for consensus on the convention. The words "the development of the resources of the Area", which were proposed as a new subparagraph (*a*) for article 150 (annex V) should be understood as a clarification of the existing text of the article. The proposal to apply to the Review Conference the decision-making procedure used in the Third United Nations Conference on the Law of the Sea itself (annex V, amendment to article 155, para. 3) might be acceptable since the experience at the current session was proving that the procedure did in fact work. The amendment to article 161 really made no difference, because no one had doubted that the largest consumer of minerals from the Area would be represented on the Council.

7. His delegation had no difficulty with the modifications proposed in annex III, since they only served to make more explicit the idea that help should be given to any developing countries affected by changes in world mineral prices. The amendments in annexes I and II related to participation. Those in annex I were not significantly different from the original texts but the proposal, originally submitted by Belgium, to delete paragraph 6 of annex IX, article 4, of the draft convention would require a substantial change. That paragraph was very important to his delegation. The paragraph could perhaps be better phrased, but it was in an essential provision and he doubted whether there was really widespread support for its deletion, as the President argued in his report. His delegation objected strongly, but would not protest further if the proposed change was a necessary condition for the achievement of consensus.

8. Mr. KOZYREV (Union of Soviet Socialist Republics) said that his delegation normally shared the views of the Group of 77 and therefore had no difficulty in accepting the proposals in A/CONF.62/L.132, annex III. The proposals should allay the concern of those developing countries which were land-based producers, including a number of African

countries, and thus make it easier for them to sign the convention.

9. Draft resolution II (A/CONF.62/L.132, annex IV) on preparatory investment protection was a different matter. His delegation had repeatedly stated that it saw no justification for such a proposal, since State's access to the resources of the Area was adequately protected by Part XI and the related annexes of the draft convention. However, in response to requests from the United States and other Western nations, the USSR had agreed that it would not object to discussing the matter if the document which emerged was compatible with the provisions of the draft convention concerning the exploitation of mineral resources in the international Area. That reservation had been made because of fears that the adoption of such a proposal would have the effect of exempting a small group of States from the provisions of the convention, so that the rights and obligations of those States under the convention would be different from their rights and obligations under the draft resolution.

10. The text of the convention made a clear connection between the rights and the obligations of States which desired, whether or not through appointed agents, to obtain contracts for exploration and exploitation of the common heritage. But the States whose capital investments would be protected under the draft resolution in annex IV would also have the rights granted to them in accordance with the convention. Moreover, the new draft resolution appeared to countenance a situation in which some States might be able to obtain rights even if they had not signed the convention. Exploration rights should be granted on the basis of a contract, and it would be only fair to insist that States which wished to receive exceptional rights under the convention should sign it, though he agreed that signature was not the same thing as ratification.

11. The effect of the draft resolution would be that some States, including the Soviet Union, France and India, would have to sign the convention, whereas others, such as the United States, the Federal Republic of Germany, Japan and the United Kingdom would not have to sign. Such a provision discriminated against States which were protected only if they signed the convention. It was true that paragraph 8 (*c*) of the draft resolution provided that no plan of work for exploration and exploitation could be approved unless the certifying State was a party to the convention. Belgium and the Netherlands, for example, could certainly become parties, but the trouble was that their contributions as set by the scale of assessments would be insufficient and their plans would therefore not be certified. The likelihood was, therefore, that the Federal Republic of Germany, France, Japan, the United Kingdom and the United States of America did not intend to establish the Authority or to recognize the Area as the common heritage of mankind. If that was incorrect, he hoped that the representatives of those States would tell him so, and confirm that their Governments intended to sign the convention and submit it to their parliaments for ratification. The delegation of the Soviet Union would thereupon declare that its Government would sign the convention and submit it to the Supreme Soviet for ratification. It should then not be difficult to find a formula which would put all parties concerned in preparatory investment protection procedures on an equal footing.

12. In a memorandum of 21 April 1982 (A/CONF.62/L.133, annex) the Legal Counsel had replied to the request of the Special Representative of the Secretary-General for a legal opinion on certain matters connected with the designation of pioneer investors. As indicated in his own memorandum to the President (A/CONF.62/L.133), he found that reply unsatisfactory. He had also asked in that memorandum that the reply of the Secretariat to the questions posed in it should be issued as a document of the Conference and he hoped that that document would be forthcoming.

13. Annex V of the President's report proposed an amendment to Part XI of the convention. Although in principle he was opposed to amendments to the convention, he would in a spirit of compromise not object to the proposed amendments to articles 150, 155 and 161.

14. Mr. ZULETA (Special Representative of the Secretary-General), speaking in reply to the representative of the Soviet Union, said that the Legal Counsel had indicated that a reply to the letter dated 22 April 1982 addressed by the delegation of the Soviet Union to the President (A/CONF.62/L.133) would be sent during the course of the day; it would be distributed as a Conference document.

15. Mr. MWANANG'ONZE (Zambia) said that an issue which had not yet been resolved concerned the size of the pioneer area. The industrial countries continued to insist that 150,000 km^2 was the minimum which they could accept, allowing for a risk factor of 20 per cent that the investor might not find a commercially viable mine site on a smaller area. However, studies made in the United Kingdom and by the United States Geological Survey had indicated that 40,000 km^2 was adequate for an exploitable mine. Unilateral United States legislation on the law of the sea stipulated that such an area should not exceed 80,000 km^2. The Japanese delegation had suggested to the Conference an area of 60,000 km^2 plus a 20 per cent risk factor, making a total of 72,000 km^2. His delegation therefore failed to understand why the representatives of certain industrial countries should continue to support an indefensible figure unless their true intention was to monopolize prime areas of the ocean floor with high abundances of manganese concentrates. Under paragraph 9 (*a*) of draft resolution II (A/CONF.62/L.132, annex IV) five Western consortia would have access to such areas. For that reason and because such a development would provide momentum for a cartel of the developed countries with which the land-based developing countries would not be able to complete in setting the prices of the metals produced, his delegation was opposed to a size of 150,000 km^2 for pioneer areas.

16. Moreover, it seemed strange that there should be such haste to start production at a time when there was no shortage of the metals in question. In addition, the provisions for surrender of portions of the pioneer area meant that the relinquishment of 50 per cent of the pioneer area need not be completed until eight years from the date of allocation. That period was too long and would strengthen the position of those who wished to retain their hold on the resources of the sea which were the common heritage of mankind.

17. His delegation's understanding of paragraph 9 (*a*) was that it would suspend or freeze the parallel system, which might therefore not come into operation until the twenty-eighth year when, if all went well, the Enterprise would have its eighth mine site. Such a provision was unfair.

18. His delegation had noted that the amendments in documents A/CONF.62/L.104, L.121 and L.122 had been withdrawn. Certain of those amendments were, however, being revived during the current consultations. His delegation would not entertain further discussion of any amendment which had been withdrawn.

19. Mr. TIWARI (Singapore) said that his delegation, like many others, was not satisfied with the draft convention as it stood but nevertheless supported it out of a desire to see order and peace in the oceans and a reduction of friction and violence. It was for that reason that delegations had subordinated their national interest to the common good.

20. Viewed in that context, the annexes to the President's report (A/CONF.62/L.132) should bring the Conference closer to its goal. There was no need for further discussion of annexes I, II and III, as they represented compromises which improved the prospects for consensus. He was in full agreement with what the Chairman of the Group of 77 had said on

annex IV, the effect of which would be to bring everything within the framework of the convention. That was a positive development. The Conference had always opposed any unilateral régime for sea-bed mining development. If free enterprise were to be permitted to operate outside the convention the land-based producers would be adversely affected; production limitations were essential for those countries. His delegation did not like the concept of preparatory investment, but it was the price which had to be paid to persuade a group of countries to sign the convention. The changes made in annex IV, however, advanced the work of the Conference. The figure relating to the size of the pioneer area had come from studies made by the Secretariat. The provisions in paragraph 12 of draft resolution II, relating to training and technology, were important.

21. The modifications to document A/CONF.62/L.78[1] proposed in annex V were not so drastic as to be outside the parameters laid down by the Conference. Those relating to article 150 did not unbalance the article. Similarly, it was not asking too much to require that the consensus procedure should apply at the Review Conference, as proposed in the reformulation of article 155, paragraph 3. As for the proposed change to article 161, there was no doubt that the United States would be a member of the Council.

22. In conclusion, he observed that while Part XI had occupied an inordinate amount of the Conference's time, there were many other provisions which were equally important to delegations, such as, for example, the right of transit specified in Part X.

23. Mr. AL-ATASSI (Syrian Arab Republic) said that the results achieved at the current session were not universally satisfactory to delegations. Nevertheless, acceptable formulas covering many issues had been found.

24. The issues of security and sovereignty were of capital importance to his country. It was for that reason that it had been a sponsor of document A/CONF.62/L.117 concerning article 21, paragraph 1 (*h*). The sponsors had agreed not to press for a vote on it as their contribution to an over-all agreement. His delegation still considered, however, that the rights of coastal States to take needed measures in accordance with article 19 to preserve their security and sovereignty in accordance with international custom and the spirit of international law would not be affected. He hoped that the President would attach importance to that aspect in his concluding statement.

25. The formula proposed for the participation of national liberation movements did not meet the aspirations of most of the participants in the Conference but nevertheless represented an important step in the direction of the victory of the peoples those movements represented over foreign domination and exploitation. It was the hope of his delegation that the convention would be equitable to all mankind and a step towards the institution of a new international economic order.

26. Mr. BALLAH (Trinidad and Tobago) said that, in the view of his delegation, the question of the treatment to be accorded to preparatory investment in pioneer activities relating to polymetallic nodules was the last outstanding issue. Acceptance of annex IV of document A/CONF.62/L.132 by the Group of 77 would be a major concession inasmuch as it would amount to recognizing investments and claims made prior to the adoption of the convention—and, in all but one case, following unilateral national legislation and pursuant to assertions that freedom of the high seas meant freedom to mine deep sea-bed polymetallic nodules: the vast majority of States held otherwise. Activities carried out pursuant to unilateral legislation were illegal; such activities could be validly undertaken only within an internationally agreed framework.

27. His delegation considered that the following rewording of the last two sentences of paragraph 7 (*b*) of annex IV would express more clearly what seemed to be intended:

> "Every registered pioneer investor shall pay, upon the approval of his plan of work for exploration and exploitation, an annual fee of $US 1 million commencing from the date of the allocation of the pioneer area."

28. With regard to paragraph 8 (*a*) of annex IV, his delegation considered that the link between the last sentence and what had preceded it should be more specific. He therefore suggested the following wording for the last sentence:

> "If the Authority is satisfied that the application for the plan of work meets these requirements, it shall approve the application."

29. Further, in order to correct what appeared to be an imbalance in the development of the parallel system, it might be necessary to make certain changes in paragraph 9 (*a*) so as to ensure that exploitation of reserved areas could take place during the interim period whenever fewer reserved sites than non-reserved sites were under exploitation.

30. His delegation supported in principle the position of the Group of 77 as stated by its Chairman. It might therefore be prepared to compromise by accepting the President's proposal in document A/CONF.62/L.132—although that proposal amounted to a retreat from a position of principle of the Group of 77—on condition that no further changes, or, in the extreme, only minimal changes were made to Part XI and annex III of document A/CONF.62/L.78.

31. Mr. HYERA (United Republic of Tanzania) said that his delegation did not support the proposals for preparatory investment protection in annex IV to the President's report (A/CONF.62/L.132), given the adequate guarantees provided to the industrialized States in the convention itself. Only recently, in connection with a decree enacted in the Soviet Union, the Group of 77 had restated its position on unilateral national legislation concerning the international sea-bed area; it had protested against the decree because it considered that such legislation and the activities encouraged by it were in violation of international law. If the Group were to accept the provisions on preparatory investment it would be reversing its own stand, and not only legalizing violations of the law but rewarding the violators.

32. The original purpose of preparatory investment protection had been to compensate those who had spent large sums on technological development and preliminary exploration of resources, but as drafted, the preparatory investment protection provisions of annex IV simply allocated rights to States by name, and all that the States had to do was to certify that their entities fulfilled the requisite conditions. He pointed out that it had originally been stated that only six mine sites would be available for exploitation, but new data had been produced purporting to show that it would be possible to have 20 or more mine sites, each of 150,000 km^2 allegedly without affecting the production ceiling. He doubted very much whether, after the eight mine sites currently envisaged had been allocated, there would be room for any other operators, and in his view, the purpose of preparatory investment protection was not to protect preparatory investments, but to give privileges to a few powers.

33. He saw little value in the suggestion that as part of the compromise package, the rules of procedure of the Third United Nations Conference on the Law of the Sea should be imposed on the Review Conference.

34. He hoped that his pessimistic view of the implications of the proposals to which he had referred would be proved

[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).

wrong, since that would mean that the Conference would have achieved its goal.

35. Mr. SCOTLAND (Guyana) said that the provisions on the treatment of observers in annex I of the President's report were an improvement on the previous text and acceptable to his delegation. In that annex the provisions concerning national liberation movements in the proposed draft resolution IV did not fully meet his expectations but were nevertheless also acceptable.

36. He understood that the amendment proposed in annex II would facilitate participation in the convention by international organizations. He could well understand that land-based producers needed reassurance about their future after sea-bed operations began, and therefore supported the amendment to draft resolution I (A/CONF.62/L.132, annex III) contained in document A/CONF.62/L.94.

37. He noted the proposal in annex V to add a subparagraph (*a*) to article 150. He thought that the proposed subparagraph was covered by the existing subparagraph (*h*). A number of delegations had expressed reservations regarding the formulation of article 155, paragraph 3; the text proposed in annex V was certainly not the most desirable, though it might well be the best attainable. He was not convinced of the need for the proposed amendment to article 161, since the effect would be to give one State a permanent seat on the Council.

38. He was also unhappy about the preparatory investment protection provisions; in his view, draft resolution II (A/CONF.62/L.132, annex IV) did not give the Enterprise the competitive edge which it should have by right. The draft resolution gave little encouragement to those States which considered that the majority of mankind in the developing countries were represented by the Enterprise, because the Enterprise would have only one mine site while the few States in the other groups would certainly have six or seven. However, he understood that what was practically attainable might not be acceptable to all; that was the case with draft resolution II, but he would not raise any formal objection to the President's proposals.

39. Mr. KRAL (Czechoslovakia) said that he had no difficulties with annexes I, II, III and V to the President's report, but he did have misgivings about draft resolution II (annex IV), which divided States into groups, one of which, made up of Belgium, Canada, the Federal Republic of Germany, Italy, the Netherlands, the United Kingdom and the United States, could, under paragraph 1 (*a*) of the draft resolution, enjoy certain rights even without signing the convention, while Japan had the privilege of choosing to operate in category (i) or category (ii), or both, of pioneer investors. The developing States, on the other hand, had to sign the convention in order to acquire preparatory investment protection status. He understood the reason why the categories in paragraph 1 (*a*) had been devised but he did not understand how some States could enjoy rights, and protection for their companies, without signing the convention; the consequence would be that those States could continue exploiting the sea-bed resources without any obligation to the international community, even though what they were exploiting was the common heritage of mankind.

40. He found the provisions in paragraph 12 (*b*) of draft resolution II regarding the obligation of the certifying State to provide funds for the Enterprise contradictory and ambiguous. The funds should be provided by all States whose companies were the entities mentioned in paragraph 1 (*a*) (ii). He was concerned that the effect of the resolution would be to create difficulties for the future when the Authority started functioning. Many delegations had made it clear that they wanted the Authority to start operating as soon as possible; however, without the States mentioned in paragraph 1 (*a*) (ii), which could continue exploitation without signing the convention, the Authority would not be able to function, and those States would be able to postpone their decision on signing the convention until they were actually ready to start mining. They might hold the international community to ransom and demand special privileges as a reward for signing the convention. He remembered the representatives of some States saying that they did not need the convention to start sea-bed mining and that their navies were strong enough to protect their interests. The Conference should give States an incentive to sign and ratify the convention as soon as possible. All States, whether industrialized or developing, should be in the same position and should have to sign the convention in order to enjoy its protection; loopholes such as flags of convenience should be eliminated.

41. Mr. ROSENNE (Israel) said that his delegation could not accept the statement in paragraph 9 of the President's report (A/CONF.62/L.132) that there was substantial support for the amendments proposed in document A/CONF.62/L.101, or that their incorporation in the final documents of the Conference would offer a better prospect of general agreement in the long run. The draft resolution in that document would permit the so-called Palestine Liberation Organization (PLO), under the guise of a national liberation movement, to sign the final act. That would be wrong and unjustified. The draft resolution was extraneous to the law of the sea and could not be regarded as part of any package dealing with any aspect of that law, or of the convention.

42. If the PLO was permitted to sign the final act, it would benefit by the amendment to article 156 of the convention also proposed in document A/CONF.62/L.101. That again was completely unacceptable; it was improper for such a body to participate in the Authority in any manner whatsoever.

43. His delegation accordingly reserved its entire freedom of action in that respect. In conclusion, he drew attention to his formal communication to the President on the subject (A/CONF.62/L.138).

44. Mr. ZINCHENKO (Ukrainian Soviet Socialist Republic) said that he found it difficult to accept the draft resolution proposed in annex IV to the President's report (A/CONF.62/L.132). Under that resolution, the socialist States of Eastern Europe would be discriminated against not only *vis-à-vis* Western countries, but also in relation to the private companies of those countries. What was more, those companies would be able to take advantage of flag-of-convenience provisions, so that two or three large United States firms might become pioneer investors with all the rights which that involved, and the United States might then refuse to sign the convention, and thus evade its obligations, including its contribution to the budget of Authority. All that those companies would have to do to safeguard their status as pioneer investors would be to use as a flag of convenience the flag of any other Western State mentioned in paragraph 1 (*a*) (ii) of the draft resolution. It was true that in market-economy countries it was not easy for private companies to change their nationality, and that paragraph 8 (*c*) expressly provided that no plan of work for exploration and exploitation should be approved unless the certifying State was a party to the convention. What was not clear, however, was who would certify the plan if the Authority had not been established; moreover, private companies were not likely to ask for certification if they already had access to the sea-bed. He could find nothing in the draft resolution to dispel his misgivings about such questions.

45. He shared the views expressed by the representative of the Soviet Union, and hoped that the matters raised would be taken into account in the final version of the draft resolution which, he understood, the President was preparing in intensive consultations.

46. He found it unacceptable that private corporations should be referred to by name in an international document adopted by an international conference. The decision regard-

ing the status to be given to individual companies was one for States and not for conferences.

47. Mr. POWELL-JONES (United Kingdom) rejected the suggestion by the representative of the Soviet Union that the United Kingdom did not intend to sign the convention. His Government had taken no final position, and would not do so until the convention had been completed. His Government believed that the adoption by consensus of a generally agreed convention would be greatly facilitated by the President's technique of reporting the results of negotiations undertaken in accordance with rule 37. He noticed that negotiations were continuing on a number of matters.

48. He could accept the provisions on participation set out in annexes I and II of the President's report (A/CONF.62/L.132), although he considered it essential that satisfactory arrangements should be made for the protection of preparatory investment. The draft resolution in annex IV of the President's report was the fruit of long and difficult negotiations but still contained some provisions which his delegation found to be unnecessarily restrictive. However, in a spirit of compromise and in the interest of reaching over-all agreement on a convention, he was ready to accept it and hoped it would be accepted by other delegations in the same spirit.

49. Annex V proposed three amendments to Part XI of the convention which he could accept, although he believed that further changes were still needed. He hoped that the discussions which the President was holding would result in further improvements, particularly in relation to the transfer of technology, and that the draft convention would thus become acceptable to all delegations.

50. Mr. AL-WITRI (Iraq), speaking in exercise of the right of reply, said that a letter circulated as a document of the Conference (A/CONF.62/L.138) mentioned the amendments proposed by Iraq in document A/CONF.62/L.101, which had been adopted by consensus. The initial proposal of the Group of 77 had been to consider national liberation movements as parties to the convention and to give them all the rights of States, because the sea-bed was the common heritage of mankind, but the Group had accepted a compromise which would give national liberation movements observer status in the Authority with the right to sign the final act as observers. That had been approved by the entire Conference. The letter in document A/CONF.62/L.138 was not part of the will of the Conference, and the entity which had produced it did not represent a peace-loving country; on the contrary, it had been condemned by the international community as a violator of the principles of the United Nations. That entity had therefore no right to become a party to the convention or to be a member of the Authority.

51. Mr. ROSENNE (Israel), speaking in exercise of the right of reply, said that, as for peace-loving States, it was Iraq which had unleashed an atrocious war on one of its neighbours. He referred representatives to the statement on peace-loving qualities being made in the General Assembly at that very moment by the representative of Israel.

The meeting rose at 1.10 p.m.

178th meeting

Wednesday, 28 April 1982, at 3.35 p.m.

President: Mr. A. DJALAL (Indonesia)

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

STATEMENTS ON THE REPORT OF THE PRESIDENT IN ACCORDANCE WITH RULE 37 OF THE RULES OF PROCEDURE (*continued*)

1. Mr. NAKAGAWA (Japan), referring to annex IV of document A/CONF.62/L.132, on the treatment of preparatory investment, said that his delegation was satisfied with the content of the annex as a whole but was not convinced of the necessity or wisdom of allocating an area of 150,000 km² to pioneer investors; a much smaller area, for example 60,000 or 80,000 km², would be sufficient to enable the pioneer investors to engage in exploration and exploitation of sea-bed minerals and would enable a greater number of entities to engage in mining activities from the early stage.

2. His delegation supported the three amendments proposed in annex V of the document. However, it hoped that the informal negotiations would result in further amelioration of the text of Part XI. The question of the obligatory transfer of technology owned by a third party was particularly worrying; such an obligation was not easy to sustain from a legal viewpoint and should be changed into a more practical formula, such as that provided for in document A/CONF.62/L.104.

3. It was to be hoped that the results of the informal negotiations, together with other proposals already included in annexes I, II, III and IV, could be embodied in the existing text of document A/CONF.62/L.78[1] and that the Conference could adopt the final text as a whole by consensus on 30 April.

4. Mr. GOERNER (German Democratic Republic) said that the existing text of the draft convention on the law of the sea, together with documents A/CONF.62/L.93 and L.94, embodied a compromise which took account of the legitimate rights and interests of all States. The fate of most of the amendments proposed during the final negotiations had clearly shown that the overwhelming majority of States supported the results achieved in many years of negotiations and was not prepared to permit substantive changes to the draft convention or the documents pertaining to it.

5. There was widespread support among delegations for the amendments submitted in documents A/CONF.62/L.101 and L.119. National liberation movements recognized by the United Nations and the regional intergovernmental organizations concerned had the right, both on political and moral and on international legal grounds, to be parties to the new convention. Paragraph 10 of the report to the President (A/CONF.62/L.132) was a step in the right direction. The draft convention should be improved on the lines proposed in document A/CONF.62/L.101.

6. His delegation did not object to the proposal made in document A/CONF.62/L.119 to the effect that article 4,

[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).